

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
External Quality Review Organization (EQRO)
ISSUED BY: Division of Medicaid and Medical Assistance
CONTRACT NUMBER HSS-20-009

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I. Overview

The State of Delaware Department of Health and Social Services, Division of Medicaid and Medical Assistance releases this request for proposals (RFP) to obtain a qualified vendor to perform External Quality Review Organization (EQRO) services, related to Performance Evaluation and Improvement that consists of mandatory and optional activities. This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ [6981 and 6982](#).

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: 1/8/2020
Deadline for Questions	Date: 1/22/2020
Response to Questions Posted by:	Date: 1/29/2020
Deadline for Receipt of Proposals	Date: 2/21/2020 at 11:00 AM (Local Time)
Oral Presentations	Date: 3/9/2020 – 3/13/2020
Estimated Notification of Award	Date: 3/16/2020

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 3).

Furthermore, the transmittal letter must attest to the fact, at a minimum, that the Vendor shall not store or transfer non-public State of Delaware data outside of the United States. For technology related solicitations, Vendors may refer to the Delaware Department of Technology and Information identified terms and conditions included in this solicitation.

The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

Purpose:

The purpose of this Request for Proposal (RFP) for the State of Delaware, Department of Health and Social Services, Division of Medicaid and Medical Assistance (DMMA) is to obtain a highly qualified and experienced External Quality Review Organization (EQRO) to provide analysis and evaluation of aggregated information on quality, timeliness, and access to health care services furnished by a Managed Care Organization (MCO) to Delaware's Medicaid recipients.

The selected vendor will also provide Delaware and its contracted health plans with technical assistance, national expertise, and other support to improve the overall performance of the managed care delivery system.

Pursuant to 42 CFR 438.358, the selected EQRO will perform mandatory activities including reviewing MCO compliance, validating; performance improvement projects,

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performance measures, and network adequacy for each Managed Care Organization (MCO). The EQRO may also be asked to perform optional activities described in 42 CFR 438.358 or comparable activities that assess the quality or utilization of services in the participating MCOs during the contract period.

One EQRO will be selected for providing services statewide.

The vendor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DMMA.

Background: State of Delaware Medicaid Program

Delaware's Diamond State Health Plan (DSHP) 1115 Demonstration Waiver was initially approved in 1995, and implemented beginning on January 1, 1996. The original goal of the demonstration was to improve the health status of low-income Delawareans by expanding access to healthcare to more individuals throughout the State; creating and maintaining a managed care delivery system with an emphasis on primary care; and controlling the growth of healthcare expenditures for the Medicaid population. The DSHP 1115 Demonstration was designed to mandatorily enroll eligible Medicaid and Children's Health Insurance Program (CHIP) recipients into managed care organizations (MCOs) and create cost efficiencies in the Medicaid program that could be used to expand coverage. Delaware achieved its objective of implementation of mandatory managed care focused on primary care in 1996 and invested the resulting waiver savings in Delaware's Medicaid eligibility coverage expansion to uninsured adults up to 100% of the federal poverty level (FPL). Long before Medicaid expansion under the Affordable Care Act, Delaware was a pioneer in coverage expansion for individuals who would otherwise not be eligible for Medicaid. Delaware built upon this success with the eventual expansion of coverage for family planning services, leading up to participating in Medicaid expansion under the Affordable Care Act (ACA) in 2014.

The demonstration was previously renewed on June 29, 2000, December 12, 2003, December 21, 2006, January 31, 2011, and September 30, 2013.

Through an amendment approved by CMS in 2012, Delaware was authorized to the create the Diamond State Health Plan Plus (DSHP-Plus), Delaware's managed long term services and supports (MLTSS) program, and require additional state plan populations to receive services through MCOs, including (1) individuals receiving care at nursing facilities (NF) other than intermediate care facilities for the mentally retarded (ICF/MR); (2) children in pediatric nursing facilities; (3) individuals who receive benefits from both Medicaid and Medicare (dual eligible); and (4) workers with disabilities who buy-in for coverage. This amendment also added eligibility for the following new demonstration populations: (1) individuals who would previously have been enrolled through the 1915(c) home and community based services (HCBS) waiver program for the Elderly and Disabled - including those receiving services under the Money Follows the Person demonstration; (2) individuals who would previously have been enrolled through the 1915(c) HCBS waiver for Individuals with Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS) Related Diseases; (3) individuals residing in NF who no longer meet the current medical necessity criteria for NF services; and (4) adults and children with incomes below 250 percent of the Supplemental Security Income Federal Benefit Rate who are at risk for

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institutionalization. Additionally, this amendment expanded HCBS to include: (1) cost-effective and medically necessary home modifications; (2) chore services; and (3) home delivered meals.

In 2013, the demonstration was renewed and amended to provide authority to extend the low-income adult demonstration population to individuals with incomes up to 100 percent of the FPL until December 31, 2013. After that date, the demonstration population was not necessary because it was included under the approved state plan as the new adult eligibility group authorized under the ACA. The new adult group, for individuals with incomes up to 133 percent of the FPL, receive medical assistance through enrollment in MCOs pursuant to this demonstration. In addition, Delaware's authority for the family planning expansion program under this demonstration expired December 31, 2013, when individuals became eligible for Medicaid expansion or Marketplace coverage options.

The demonstration was amended in 2014 to authorize coverage for enhanced behavioral health services and supports for targeted Medicaid beneficiaries through a voluntary program called Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE) starting in 2015. PROMISE enrollees include Medicaid beneficiaries who have a severe and persistent mental illness (SPMI) and/or a substance use disorder (SUD) and require HCBS to live and work in integrated settings.

Technical changes were incorporated into the demonstration in October 2017 and an amendment was approved in December 2017 to add coverage for out-of-state former foster care youth.

In June 2018, Delaware submitted a five year demonstration extension and an amendment to provide the state with authority to provide high-quality, clinically appropriate SUD treatment services for short-term residents in residential and inpatient treatment settings that qualify as an Institution for Mental Diseases (IMD).

Delaware's goals in operating the demonstration are to improve the health status of low-income Delawareans by:

- Improving access to health care for the Medicaid population, including increasing options for those who need long-term care (LTC) by expanding access to HCBS;
- Rebalancing Delaware's LTC system in favor of HCBS;
- Promoting early intervention for individuals with, or at-risk, for having, LTC needs;
- Increasing coordination of care and supports;
- Expanding consumer choices;
- Improving the quality of health services, including LTC services, delivered to all Delawareans;
- Creating a payment structure that provides incentives for resources to shift from institutions to community-based LTSS services where appropriate;
- Improving coordination and integration of Medicare and Medicaid benefits for full-benefit dual eligible;
- Improving overall health status and quality of life of individuals enrolled in PROMISE;
- Increasing and strengthening overall coverage of former foster care youth to improve health outcomes for this population; and
- Increase enrollee access and utilization of appropriate SUD treatment services; decrease use of medically inappropriate and avoidable high-cost emergency and hospital services; increase initiation of follow-up SUD treatment after emergency

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department discharge; and reduce SUD readmission rates.

The DSHP demonstration includes five distinct components: 1) The DSHP Medicaid managed care program provides Medicaid state plan benefits through a comprehensive managed care delivery system to most recipients eligible under the state plan; 2) The DSHP Plus program provides long-term care services and supports (LTSS) to certain individuals under the State Plan, and to certain demonstration populations. Further details on these programs are provided in Table A, Sections V through X of the STCs; 3) The PROMISE program provides enhanced behavioral health services fee-for-service (FFS) to Medicaid beneficiaries with a higher level of behavioral health needs and functional limitations who need HCBS to live and work in integrated settings; 4) Coverage for former foster care youth under age 26 who were in foster care under the responsibility of another state or tribe when they “aged out” of foster care at age 18 (or such higher age as elected by the state), were enrolled in Medicaid at that time, and are now residents in Delaware applying for Medicaid; and (5) Coverage for high-quality, clinically appropriate SUD treatment services for short-term residents in residential and inpatient treatment settings that qualify as IMDs.

Delaware’s external quality review (EQR) process currently includes mandatory activities and optional activities specified in 42 CFR 438.358. Delaware’s EQR evaluation is used to produce the federally required annual technical report that aggregates and analyzes data to draw conclusions about the timeliness, accessibility, and quality of services furnished by the two contracted MCOs, which includes an assessment of the plans’ performance with respect to the three aforementioned areas; comparative information about plans when appropriate; recommendations for improving the quality of health care furnished to the State of Delaware Medicaid enrollees, and an assessment of the degree to which each plan has effectively addressed the prior years’ EQR recommendations. Results from all EQR activities are used to monitor plans’ compliance with state and federal regulations, to evaluate the effectiveness and impact of the Quality Strategy and to enhance the administration of the Medicaid Managed Care Program.

MANDATORY PREBID MEETING

A mandatory pre-bid meeting has not been established for this Request for Proposal.

II. Scope of Services

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The selected vendor for this project will be required to perform the external quality review activities as outlined in 42 CFR 438.358 for the Delaware Medicaid Managed Care Program. Specifically, the services to be provided under the resulting contract include multiple tasks and deliverables that are consistent with applicable federal EQR regulations and protocols for MCOs. The contract will allow Delaware to be compliant with federal EQR regulations and rules. The specifications for tasks and deliverables required under this RFP may evolve from year to year in response to program changes and federal mandates. Proposed contract modifications will be defined and agreed upon in writing by both the State and the EQRO through an allowable amendment. The Vendor will need to complete the tasks and deliverables in accordance with expectations specified in this RFP to assure adequate oversight of the Delaware Medicaid Managed Care program. These tasks may include, but are not limited to the following:

- Annual Managed Care Compliance Review
- Validation of Performance Measures (PM)
- Validation of Performance Improvement Projects
- Validating network adequacy
- MCO encounter data validation.
- Information Systems Capabilities Assessment (ISCA)
- Technical Assistance
- Quality Strategy

The selected vendor will also be required to assist and collaborate with the State on various special projects during the duration of the contract. Examples of these special projects include:

- Template development and implementation
- Conducting Focus Studies
- Readiness reviews and/or implementation assistance.

For detailed information related to the Scope of Services, please refer to Appendix B.

III. Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

A. Minimum Requirements

1. Provide Delaware license(s) and/or certification(s) necessary to perform services as identified in the scope of work.

Prior to the execution of an award document, the successful Vendor shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required.

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2. Vendor shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below. The Vendor's technical response shall adhere to the following outline:

- Executive Summary;
- Corporate Background and Experience;
- Project Organization and Staffing;
- Methodology;
- Work Plan

Requirements to be included under each of these headings are identified in the paragraphs below. Each section of the response should include all items listed in the paragraphs below. A format that easily follows the requirements and order of the RFP should be used.

Executive Summary: This section shall contain a short summary of the Vendor's organization, a summary of the proposed technical approach and staffing structure, including:

- An overview of the proposed work plan;
- A high-level summary of the staff organizational structure; and,
- A brief discussion of the Vendor's understanding of the objectives and expectations of this RFP.

The Executive Summary should be no more than five (5) single-spaced typed pages in length.

Corporate Background and Experience: This section shall include details about the background of the Vendor's company, its size and resources, details of corporate experience relevant to the proposed scope of work, and a list of all current or recent Medicaid or related projects. This section must also present the details of the Vendor's experience with the type of service to be provided through this RFP and its Medicaid experience. The Vendor's response shall identify the projects for which a reference is being submitted in Attachment 5.

Project Organization and Staffing: This section shall include a description of the vendor's proposed project team organization, charts of proposed personnel and positions, and résumés of all executive leadership, including the Project Director. The Vendor shall describe:

- The experience and qualifications of its key staff proposed to work on this project;
- How the Vendor will train, educate, and supervise project staff; and
- The Vendor's relationship with any proposed subcontractors, including how it will monitor these subcontractors; and its experience working with any proposed subcontractors. The Vendor shall specifically state the subcontractors to be used for this project, provide references and qualifications of all proposed subcontractors, and biographies of any subcontractor staff proposed to work on this project.

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Methodology: The methodology section shall describe the Vendor's approach to providing the services described in Appendix B: Scope of Work. This section should contain a comprehensive description of the proposed work plan and specify how the Vendor will provide quality EQR services. The description must include the following:

- The requirements of this RFP as outlined in the Appendix B: Scope of Work.
- The methodology to be followed in accomplishing each requirement outlined in the Scope of Work in sufficient detail to demonstrate the vendor's direction and understanding of this RFP.
- Information about past performance results and a plan for continuous quality improvement.

Work Plan: This section must include a work plan for completing the project. The work plan must reflect the requirements specified in Appendix B: Scope of Work. The work plan must be submitted in Microsoft Excel format.

3. Complete all appropriate attachments and forms as identified within the RFP.
4. Proof of insurance and amount of insurance shall be furnished to the Agency prior to the start of the contract period and shall be no less than as identified in the bid solicitation, Section V, Item 8, subsection g (insurance).

B. General Evaluation Requirements

1. Experience and Reputation
2. Expertise in Medicaid and CMS requirements
3. Capacity to meet requirements (size, financial condition, etc.)
4. Location (geographical)
5. Demonstrated ability
6. Distribution of work to individuals and firms or economic considerations
7. Other criteria necessary for a quality cost-effective project

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Public Notice

Public notice has been provided in accordance with 29 Del. C. [§6981](#).

2. Obtaining Copies of the RFP

This RFP is available in electronic form through the State of Delaware Procurement website at www.bids.delaware.gov . Paper copies of this RFP will not be available.

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more

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information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Cheryl McDonough
Sr. Social Services Administrator
1901 N. DuPont Highway
New Castle, DE 19720
Lewis Building
Cheryl.McDonough@delaware.gov

Christina Hales
Sr. Medical Social Work Consultant
1901 N. DuPont Highway
New Castle, DE 19720
Lewis Building
Christina.Hales@delaware.gov

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact the State's consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract:
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or

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- other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor:
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
 - d. Has violated contract provisions such as;
 - 1) Known failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
 - e. Has violated ethical standards set out in law or regulation; and
 - f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with ten (10) paper copies and ten (10) electronic copy on CD or DVD media disk. Please provide a separate electronic pricing file from the rest of the RFP proposal responses.

HARD COPIES

Each required copy must contain the following sections:

- 1. Technical Proposal
- 2. Business Proposal/Budget – Budget must not be included in or attached to the Technical Proposal.

ELECTRONIC COPIES

Each required CD or DVD must contain a minimum of two files as follows:

- 1. Technical Proposal – One document in PDF or Word Format
- 2. Business Proposal – In Excel or Word

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than **11:00 AM (Local Time) on February 21st, 2020**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

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Kimberly Jones
Purchasing Services Administrator
Department of Health and Social Services
Procurement Branch
Main Admin Bldg., Sullivan Street
2nd floor –Room #257
1901 N. DuPont Hwy
Herman Holloway Campus
New Castle, DE 19720
dhss_dms_dmsprocure@delaware.gov

Bidders are directed to clearly print “BID ENCLOSED” and “CONTRACT NO. HSS-20-009” on the outside of the bid submission package. Bidder’s name should also be clearly visible on the outside of the package.

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery and any costs for returned proposals. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

The State of Delaware will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor’s conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through July 1, 2020. The State of Delaware reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after

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the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

7. Proposal Opening

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened in the presence of State of Delaware personnel. Any unopened proposals will be returned to the submitting Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed in accordance with [Executive Order # 31](#) and Title 29, Delaware Code, [Chapter 100](#).

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

9. Concise Proposals

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq. \("FOIA"\)](#). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject

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to inspection and copying by any person upon a written request. Once a proposal is received by the State of Delaware and a decision on contract award is made, the content of selected and non-selected vendor proposals will likely become subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the State to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

12. Price Not Confidential

Vendors shall be advised that as a publicly bid contract, no Vendor shall retain the right to declare their pricing confidential.

13. Multi-Vendor Solutions (Joint Ventures)

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for the State of Delaware and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendor systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the State

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of Delaware, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each vendor.

a. Primary Vendor

The State of Delaware expects to negotiate and contract with only one “prime vendor”. The State of Delaware will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the State as a result of this procurement. The State will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.18 regarding multiple source contracting.

b. Sub-contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any sub-contractors must be approved by State of Delaware.

c. Multiple Proposals

A primary vendor may not participate in more than one proposal in any form. Sub-contracting vendors may participate in multiple joint venture proposals.

14. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by State of Delaware.

15. Discrepancies and Omissions

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Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least ten (10) calendar days prior to the time set for opening of the proposals.

a. RFP Question and Answer Process

The State of Delaware will allow written requests for clarification of the RFP. All questions shall be received no later than **January 22, 2020**. All questions will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov by the date of **January 29, 2020**. Vendor names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

16. State's Right to Reject Proposals

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

17. State's Right to Cancel Solicitation

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

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This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

18. State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* [§ 6986](#), the State of Delaware may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

19. Potential Contract Overlap

Vendors shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

20. Supplemental Solicitation

The State reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State.

21. Notification of Withdrawal of Proposal

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

22. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at www.bids.delaware.gov. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

23. Exceptions to the RFP

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be recorded on Attachment 3. Acceptance of exceptions is within the sole discretion of the evaluation committee.

24. Business References

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Attachment 5. Include business name,

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mailing address, contact name and phone number, number of years doing business with, and type of work performed. Personal references cannot be considered.

25. Award of Contract

The final award of a contract is subject to approval by the State of Delaware. The State of Delaware has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the State of Delaware; remaining vendors will be notified in writing of their selection status.

26. Cooperatives

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation. **State of Delaware terms will take precedence.**

C. RFP Evaluation Process

An evaluation team composed of representatives of the State of Delaware will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware. The Team shall determine which vendors meet the minimum requirements

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pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ [6981 and 6982](#). Professional services for this solicitation are considered under 29 *Del. C.* §6982(b). The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Director of the Division of Medicaid and Medical Assistance, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § [6982\(b\)](#), to award a contract to the successful vendor in the best interests of the State of Delaware.

2. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C.* §[6986](#). Such selection will be based on the following criteria:

Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
Executive Summary: Understanding of the project requirements.	5
Corporate Background and Experience in EQRO services.	20

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Criteria	Weight
Project Organization and Staffing: Appropriateness of project organization, qualifications and experience of persons to be assigned to the project, including subcontractors.	20
References	10
Methodology: Ability to meet performance standards and contract requirements.	25
Work Plan: Project implementation.	10
Pricing	10
Total	100%

Bidders must circle Yes or No to the following questions and include the answers in their response.	
1) Does the bidder have a Supplier Diversity plan currently in place?	Yes/No
2) Does the bidder have any diverse sub-contractors as outlined in Attachment 8 Tier II Sub-contractors?	Yes/No
3) Does the bidder have a written inclusion policy in place? If yes, attach a clearly identifiable copy of the inclusion plan to your proposal.	Yes/No
Answers to these 3 questions are mandatory and do not affect the weighted evaluation of this proposal. However, an affirmative answer to question 2 may directly impact quarterly sub-contracting reporting as illustrated in Attachment 8 in those instances where an awarded contract includes subcontracting activity.	

Vendors are encouraged to review the evaluation criteria and to provide a response that addresses each of the scored items. Evaluators will not be able to make assumptions about a vendor's capabilities so the responding vendor should be detailed in their proposal responses.

3. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

4. References

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

5. Oral Presentations

After initial scoring and a determination that vendor(s) are qualified to perform the required services, selected vendors may be invited to make oral presentations to the Evaluation Team. All vendor(s) selected will be given an opportunity to present to the Evaluation Team.

The selected vendors will have their presentations scored or ranked based on their ability to successfully meet the needs of the contract requirements, successfully demonstrate their product and/or service, and respond to questions about the solution capabilities.

The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components. All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor's responsibility.

V. Contract Terms and Conditions

1. Contract Use by Other Agencies

REF: Title 29, Chapter [6904\(e\)](#) Delaware Code. If no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

2. Cooperative Use of Award

As a publicly competed contract awarded in compliance with 29 DE Code Chapter 69, this contract is available for use by other states and/or governmental entities through a participating addendum. Interested parties should contact the State Contract Procurement Officer identified in the contract for instruction. Final approval for permitting participation in this contract resides with the Director of Government Support Services and in no way places any obligation upon the awarded vendor(s).

3. As a Service Subscription

As a Service subscription license costs shall be incurred at the individual license level only as the individual license is utilized within a fully functioning solution. Subscription costs will not be applicable during periods of implementation and

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solution development prior to the State's full acceptance of a working solution. Additional subscription license requests above actual utilization may not exceed 5% of the total and are subject to Delaware budget and technical review.

4. General Information

- a. The term of the contract between the successful bidder and the State shall be for two (2) years with five (5) optional extensions for a period of one (1) year for each extension.
- b. The selected vendor will be required to enter into a written agreement with the State of Delaware. The State of Delaware reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the State of Delaware. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with the State of Delaware, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. The State of Delaware's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt of a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.
- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.
- g. The State reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.
- h. Vendors are not restricted from offering lower pricing at any time during the contract term.

5. Collusion or Fraud

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud;

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that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

6. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

7. Solicitation of State Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

8. General Contract Terms

a. Independent Contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other

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similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the State of Delaware's discretion as to the location of work for the contractual support personnel during the project period. The State of Delaware may provide working space and sufficient supplies and material to augment the Contractor's services.

b. Temporary Personnel are Not State Employees Unless and Until They are Hired

Vendor agrees that any individual or group of temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the State pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State's intention to hire.

c. ACA Safe Harbor

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

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The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor, but does not state the required amount of the fee. The State requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The State will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

d. Licenses and Permits

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § [2502](#).

Prior to receiving an award, the successful vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

e. Notice

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

**Division of Medicaid and Medical Assistance
Cheryl McDonough
Sr. Social Service Administrator
1901 N. DuPont Highway
Lewis Building
New Castle, DE 19720**

f. Indemnification

1. General Indemnification

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the

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vendor's, its agents and employees' performance work or services in connection with the contract.

2. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- a. Procure the right for the State of Delaware to continue using the Product(s);
- b. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- c. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

g. Insurance

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
3. As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the type of service or product being delivered.

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- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b. Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate.
- c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:
 - 1. \$1,000,000 combined single limit each accident, for bodily injury;
 - 2. \$250,000 for property damage to others;
 - 3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
 - 4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. §2118; and
 - 5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

The successful vendor must carry at least one of the following depending on the scope of work being performed.

- a. Medical/Professional Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- b. Miscellaneous Errors and Omissions - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- c. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate

Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

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Department of Health and Social Services
Division of Medicaid and Medical Assistance
Contract No: HSS-20-009
State of Delaware
1901 N. DuPont Highway
Lewis Building
New Castle, DE 19720

Nothing contained herein shall restrict or limit the Vendor's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the Vendor procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.

To the extent that Vendor has complied with the terms of this Agreement and has procured insurance coverage for all vehicles Leased and/or operated by Vendor as part of this Agreement, the State of Delaware's self-insured insurance program shall not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

4. The vendor shall provide a Certificate of Insurance (COI) as proof that the vendor has the required insurance. The COI shall be provided to agency contact prior to any work being completed by the awarded vendor(s).
5. The State of Delaware shall not be named as an additional insured.
6. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

h. Performance Requirements

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

i. BID BOND

There is no Bid Bond Requirement.

j. PERFORMANCE BOND

There is no Performance Bond requirement.

k. Vendor Emergency Response Point of Contact

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The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

l. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

m. Costs and Payment Schedules

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the State of Delaware. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The State of Delaware will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The State of Delaware may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

n. Price Adjustment

The Vendor is not prohibited from offering a price reduction on its services or materiel offered under the contract. The State is not prohibited from requesting a price reduction on those services or materiel during the initial term or any subsequent options that the State may agree to exercise.

o. Liquidated Damages

The State of Delaware may include in the final contract liquidated damages provisions for non-performance.

p. Dispute Resolution

At the option of, and in the manner prescribed by the Department of Health and Social Services, Division of Medicaid and Medical Assistance, the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers,

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promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, the Department of Health and Social Services, Division of Medicaid and Medical Assistance elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to mediation by a mediator selected by the parties. If the matter is not resolved through mediation, it may be submitted for arbitration or litigation. The Department of Health and Social Services, Division of Medicaid and Medical Assistance reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by Delaware law and venue shall be in Delaware. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

q. Remedies

Except as otherwise provided in this solicitation, including but not limited to Section 8.o above, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Contractor arising out of, or relating to, this solicitation, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

r. Termination of Contract

The contract resulting from this RFP may be terminated as follows by the Division of Medicaid and Medical Assistance.

1. Termination for Cause

If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

On receipt of the contract cancellation notice from the State, the Vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the Vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the

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State's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

2. Termination for Convenience

The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.

3. Termination for Non-Appropriations

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

s. Non-discrimination

In performing the services subject to this RFP the vendor, as set forth in Title 19 Delaware Code Chapter 7 section [711](#), will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

t. Covenant against Contingent Fees

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the State of Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

u. Vendor Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

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v. Vendor Responsibility

The State will enter into a contract with the successful Vendor(s). The successful Vendor(s) shall be responsible for all products and services as required by this RFP whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor's proposal by completing Attachment 6, and are subject the approval and acceptance of the Department of Health and Social Services, Division of Medicaid and Medical Assistance.

w. Personnel, Equipment and Services

1. The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
2. All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
3. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the State. Only those subcontractors identified in Attachment 6 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 6 must be approved in writing by the State.

x. Fair Background Check Practices

Pursuant to 29 Del. C. [§6909B](#), the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. [§711\(g\)](#) for applicable established provisions.

y. Vendor Background Check Requirements

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:
<https://sexoffender.dsp.delaware.gov/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be

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immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

z. Drug Testing Requirements for Large Public Works

Pursuant to 29 Del.C. [§6908\(a\)\(6\)](#), effective as of January 1, 2016, OMB has established regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations establish the mechanism, standards and requirements of a Mandatory Drug Testing Program that will be incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del.C. [§6962](#).

Final publication of the identified regulations can be found at the following:
[4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects](#)

aa. Work Product

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

bb. Contract Documents

The RFP, the purchase order, the executed contract and any supplemental documents between the State of Delaware and the successful vendor shall constitute the contract between the State of Delaware and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, State of Delaware's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the State of Delaware and the vendor.

cc. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

1. the laws of the State of Delaware;
2. the applicable portion of the Federal Civil Rights Act of 1964;

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3. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
4. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

dd. Severability

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

ee. Assignment Of Antitrust Claims

As consideration for the award and execution of this contract by the State, the Vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State pursuant to this contract. Upon either the State's or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State and Vendor shall meet and confer about coordination of representation in such action.

ff. Scope of Agreement

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

gg. Affirmation

The Vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred

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and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

hh. Audit Access to Records

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

ii. IRS 1075 Publication (If Applicable)

1. Performance

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the contractor or the contractor's responsible employees.

The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or Federal tax return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

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The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

The contractor shall comply with agency incident response policies and procedures for reporting unauthorized disclosures of agency data.

2. Criminal/Civil Sanctions

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a

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contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

3. Inspection

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

jj. Other General Conditions

- 1. Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- 2. Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.
- 3. Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
- 4. Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.

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5. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
6. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
7. **Assignment** – Any resulting contract shall not be assigned except by express prior written consent from the Agency.
8. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
9. **Billing** – The successful vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.
10. **Payment** – The State reserves the right to pay by Automated Clearing House (ACH), Purchase Card (P-Card), or check. The agencies will authorize and process for payment of each invoice within thirty (30) days after the date of receipt of a correct invoice. Vendors are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated as invoiced.
11. **W-9** - The State of Delaware requires completion of the [Delaware Substitute Form W-9](https://esupplier.erp.delaware.gov) through the Supplier Public Portal at <https://esupplier.erp.delaware.gov> to make payments to vendors. Successful completion of this form enables the creation of a State of Delaware vendor record.
12. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number HS-20-009 on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.
13. **Purchase Card** – The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally there shall be no minimum or maximum limits on any P-Card transaction under the contract.
14. **Additional Terms and Conditions** – The State of Delaware reserves the right to add terms and conditions during the contract negotiations.

VI. RFP Miscellaneous Information

1. No Press Releases or Public Disclosure

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the State of Delaware.

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The State will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State's seal or imply preference for the solution or goods provided.

2. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

3. Production Environment Requirements

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

VII. Attachments

The following attachments and appendixes shall be considered part of the solicitation:

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2nd Tier Spend) Report
- Attachment 9 – Office of Supplier Diversity Application
- Attachment 10 – HIPAA Business Associate Agreement
- Attachment 11 – Delaware Data Usage Terms and Conditions Agreement
- Attachment 12 – Delaware Cloud Services Terms and Conditions Agreement
- Appendix A – Minimum Response Requirements
- Appendix B – Scope of Work / Technical Requirements
- Appendix C – Cost Proposal Forms/Worksheet
- Appendix D – Letter of Interest
- Appendix E - Bidders Signature Form
- Appendix F - Certification Sheet
- Appendix G – Statement of Compliance Form
- Appendix H - Federal Acquisition Regulation 52.209-5
- Appendix I - Transmittal Letter
- Appendix J - Definitions

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IMPORTANT – PLEASE NOTE

- **Attachments 2, 3, 4, and 5 must be included in your proposal**
- Attachment 6 must be included in your proposal if subcontractors will be involved
- Attachments 7 and 8 represent required reporting on the part of awarded vendors. Those bidders receiving an award will be provided with active spreadsheets for reporting.

REQUIRED REPORTING

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

A complete and accurate Usage Report (Attachment 7) shall be furnished in an Excel format and submitted electronically, no later than the 15th (or next business day after the 15th day) of each month, detailing the purchasing of all items and/or services on this contract. The reports shall be completed in Excel format, using the template provided, and submitted as an attachment to Loretta Simmons at DMMA, with a copy going to the contract officer identified as your point of contact. Submitted reports shall cover the full month (Report due by January 15th will cover the period of December 1 – 31.), contain accurate descriptions of the products, goods or services procured, purchasing agency information, quantities procured and prices paid. Reports are required monthly, including those with “no spend”. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including the possible cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, Vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

In accordance with Executive Order 44, the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women’s Business Enterprise Council, VetBiz.gov). The format used for Subcontracting 2nd Tier report is shown as in Attachment 8.

Accurate 2nd tier reports shall be submitted to the contracting Agency’s Office of Supplier Diversity at vendorausage@delaware.gov on the 15th (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spend during the covered periods shall result in a report even if the contract has expired by the report due date.

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Attachment 1

NO PROPOSAL REPLY FORM

Contract No. HSS-20-009 Contract Title: External Quality Review Organization

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:

- _____ 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.
- _____ 5. We do not wish to sell to the State. Our objections are:

- _____ 6. We do not sell the items/services on which Proposals are requested.
- _____ 7. Other: _____

FIRM NAME

SIGNATURE

_____ 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.**

PLEASE FORWARD NO PROPOSAL REPLY FORM TO THE CONTRACT OFFICER IDENTIFIED.

CONTRACT NO.: HSS-20-009
CONTRACT TITLE: External Quality Review Organization (EQRO)
DEADLINE TO RESPOND: 2/21/2020 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-contractor 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, Department of Health and Social Services, Division of Medicaid and Medical Assistance.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 3, 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, Department of Health and Social Services, Division of Medicaid and Medical Assistance.

COMPANY NAME _____ Check one)

NAME OF AUTHORIZED REPRESENTATIVE
(Please type or print) _____

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____

STATE OF DELAWARE
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

EXCEPTION FORM

Contract No. HSS-20-009
Contract Title: External Quality Review Organization (EQRO)

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.

Confidentiality and Proprietary Information

Note: Vendor may use additional pages as necessary, but the format shall be the same as provided above.

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Attachment 5

Contract No. HSS-20-009
Contract Title: External Quality Review Organization (EQRO)

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 of Delaware Employee as a business reference. If you have held a State of Delaware contract within the last 5 years, please provide a separate list of the contract(s).

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:**

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.

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

Attachment 6

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. HSS-20-009	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number: _____	
b. Mailing Address:	<div style="display: flex; justify-content: space-between;"> <div>4d. Women Business Enterprise</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> <div style="display: flex; justify-content: space-between;"> <div>4e. Minority Business Enterprise</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> <div style="display: flex; justify-content: space-between;"> <div>4f. Disadvantaged Business Enterprise</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> <div style="display: flex; justify-content: space-between;"> <div>4g. Veteran Owned Business Enterprise</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> <div style="display: flex; justify-content: space-between;"> <div>4h. Service Disabled Veteran Owned Business Enterprise</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div>	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

*** Use a separate form for each subcontractor**

Attachment 7

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

Attachment 8

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 Subcontractor*	Work Performed by Subcontractor 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	

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@delaware.gov



**The Office of Supplier Diversity (OSD) has moved to the
Division of Small Business (DSB)**

Supplier Diversity Applications can be found here:
<https://gss.omb.delaware.gov/osd/>

Completed Applications can be emailed to: OSD@Delaware.gov

For more information, please send an email to OSD:
OSD@Delaware.gov or call 302-577-8477

Self-Register to receive business development information here:
<http://directory.osd.gss.omb.delaware.gov/self-registration.shtml>

New Address for OSD:

Office of Supplier Diversity (OSD)
State of Delaware
Division of Small Business
820 N. French Street, 10th Floor
Wilmington, DE 19801

Telephone: 302-577-8477 Fax: 302-736-7915
Email: OSD@Delaware.gov
Web site: <https://gss.omb.delaware.gov/osd/>

Dover address for the Division of Small Business

Local applicants may drop off applications here:

Division of Small Business
99 Kings Highway
Dover, DE 19901
Phone: 302-739-4271

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

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**”).

VIII. 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 either (a) 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”), or (b) health information relating to substance abuse and treatment (“Part 2 PHI”) protected under the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “Part 2”), 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 and Part 2 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 PHI or Part 2 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, Business Associate is also a Qualified Service Organization (“QSO”) under Part 2 and must agree to certain mandatory provisions regarding the use and disclosure Part 2 PHI;

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:

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

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.

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(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

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applicability and enforcement established by the HITECH Act and any subsequent regulations issued thereunder.

(l) Part 2 OSO Compliance.

(i) To the extent that in performing its services for or on behalf of Covered Entity, Business Associate uses, discloses, maintains, or transmits Part 2 PHI, Business Associate acknowledges and agrees that it is a QSO for the purpose of such federal law; acknowledges and agrees that in receiving, storing, processing or otherwise dealing with any such patient records, it is fully bound by the Part 2 regulations; and, if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

(ii) Notwithstanding any other language in this Agreement, Business Associate acknowledges and agrees that any patient information it receives from Covered Entity that is protected by Part 2 is subject to protections that may prohibit Business Associate from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

(iii) Business Associate acknowledges that any unauthorized disclosure of information under this section is a federal criminal offense.

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.** 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 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 nonseverable, the Master Agreement.

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(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 workpapers 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

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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: _____

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

Attachment 11



STATE OF DELAWARE
DEPARTMENT OF TECHNOLOGY AND INFORMATION
801 Silver Lake Blvd., Dover, Delaware 19904

DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT

PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE

Contract/Agreement #/name _____, Appendix _____

between State of Delaware and _____ dated _____

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU1	✓	✓	Data Ownership	The State of Delaware shall own all right, title and interest in its data that is related to the services provided by this contract. The PROVIDER shall not access State of Delaware user accounts, or State of Delaware data, except (i) in the course of data center operations, (ii) response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at State of Delaware's written request. All information obtained or generated by the PROVIDER under this contract shall become and remain property of the State of Delaware.
DU2	✓	✓	Data Usage	<p>PROVIDER shall comply with the following conditions. At no time will any information, belonging to or intended for the State of Delaware, be copied, disclosed, or retained by PROVIDER or any party related to PROVIDER for subsequent use in any transaction. The PROVIDER will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data to the minimum necessary to accomplish the intended purpose under this agreement. PROVIDER may not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service. Protection of Personally Identifiable Information (PII, as defined in the State's <i>Terms & Conditions Governing Cloud Services</i> policy), privacy, and sensitive data shall be an integral part of the business activities of the PROVIDER to ensure that there is no inappropriate or unauthorized use of State of Delaware information at any time. The PROVIDER shall safeguard the confidentiality, integrity, and availability of State information.</p> <p>Only duly authorized PROVIDER staff will have access to the State of Delaware data and may be required to obtain security clearance from the State. No party related to the PROVIDER may retain any data for subsequent use in any transaction that has not been expressly authorized by the State of Delaware.</p>

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance



STATE OF DELAWARE
DEPARTMENT OF TECHNOLOGY AND INFORMATION
801 Silver Lake Blvd., Dover, Delaware 19904

DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT

PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU3	✓	✓	Termination and Suspension of Service	<p>In the event of termination of the contract, the PROVIDER shall implement an orderly return (in CSV or XML or another mutually agreeable format), or shall guarantee secure disposal of State of Delaware data.</p> <p><i>Suspension of services:</i> During any period of suspension or contract negotiation or disputes, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data.</p> <p><i>Termination of any services or agreement in entirety:</i> In the event of termination of any services or agreement in entirety, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data for a period of 90 days after the effective date of the termination. Within this 90-day timeframe, vendor will continue to secure and back up State of Delaware data covered under the contract. After such 90-day period, the PROVIDER shall have no obligation to maintain or provide any State of Delaware data. Thereafter, unless legally prohibited, the PROVIDER shall dispose securely of all State of Delaware data in its systems or otherwise in its possession or control, as specified herein.</p> <p>Post-Termination Assistance: The State of Delaware shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangement has been established as part of the Service Level Agreement.</p>
DU4		✓	Data Disposition	<p>At the end of this engagement, PROVIDER will account for and return all State data in all of its forms, disk, CD / DVD, tape, paper, for example. At no time shall any data or processes that either belong to or are intended for the use of State of Delaware or its officers, agents, or employees, be copied, disclosed, or retained by the PROVIDER.</p> <p>When required by the State of Delaware, the PROVIDER shall destroy all requested data in all of its forms (e.g., disk, CD/DVD, backup tape, paper). Data shall be permanently deleted, and shall not be recoverable, in accordance with National Institute of Standards and Technology (NIST) approved methods. The PROVIDER shall provide written certificates of destruction to the State of Delaware.</p>

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	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU5		√	Data Location	The PROVIDER shall not store, process, or transfer any non-public State of Delaware data outside of the United States, including for back-up and disaster recovery purposes. The PROVIDER will permit its personnel and subcontractors to access State of Delaware data remotely only as required to provide technical or call center support.
DU6		√	Breach Notification and Recovery	<p>The PROVIDER must notify the State of Delaware immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Delaware data. If data is not encrypted (<i>see DU7, below</i>), Delaware Code (6 Del. C. §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of Delawareans' Personally Identifiable Information (PII, as defined in Delaware's <i>Terms and Conditions Governing Cloud Services</i> policy) by PROVIDER or its subcontractors. The PROVIDER will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State of Delaware. Should the PROVIDER or its contractors be liable for the breach, the PROVIDER shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State of Delaware shall not agree to any limitation on liability that relieves the PROVIDER or its subcontractors from its</p>

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU7		√	Data Encryption	The PROVIDER shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where the PROVIDER stores Personally Identifiable Information (PII) or other sensitive, confidential information, it shall encrypt this non-public data at rest. The PROVIDER's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security requirements guidelines. The PROVIDER and State of Delaware will negotiate mutually acceptable key location and key management details. Should the PROVIDER not be able to provide encryption at rest, it must maintain cyber security liability insurance coverage for the duration of the contract. Coverage must meet the State of Delaware's standard in accordance with the <i>Terms and Conditions Governing Cloud Services</i> policy.

The terms of this Agreement shall be incorporated into the aforementioned contract. Any conflict between this Agreement and the aforementioned contract shall be resolved by giving priority to this Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

FOR OFFICIAL USE ONLY ☐ **DU 1 - DU 3 (Public Data Only)** OR ☐ **DU 1 - DU 7 (Non-public Data)**

[check one]:


PROVIDER Name/Address (*print*): _____

PROVIDER Authorizing Official Name (*print*): _____

PROVIDER Authorizing Official Signature: _____ Date:

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

Attachment 12

	<p>STATE OF DELAWARE</p> <p>DEPARTMENT OF TECHNOLOGY AND INFORMATION</p> <p>801 Silver Lake Blvd., Dover, Delaware 19904</p>
<p>DELAWARE CLOUD SERVICES TERMS AND CONDITIONS AGREEMENT</p>	
<p><i>PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE</i></p>	

XaaS Contract # _____, Appendix _____
between State of Delaware and _____ dated _____

	Public Data	Non Public Data	Cloud Services (CS) Terms
			PROVIDER must satisfy Clause CS1-A OR Clauses CS1-B and CS1-C, AND Clause CS4 for all engagements involving non-public data. Clause CS2 is mandatory for all engagements involving non-public data. Clause CS3 is only mandatory for SaaS or PaaS engagements involving non-public data.
CS1-A		✓	Security Standard Compliance Certifications: The PROVIDER shall meet, and provide proof of, one or more of the following Security Certifications. <ul style="list-style-type: none"> CSA STAR – Cloud Security Alliance – Security, Trust & Assurance Registry (Level Two or higher) FedRAMP - Federal Risk and Authorization Management Program
CS1-B		✓	Background Checks: The PROVIDER must warrant that they will only assign employees and subcontractors who have passed a state-approved criminal background checks. The background checks must demonstrate that staff, including subcontractors, utilized to fulfill the obligations of the contract, have no convictions, pending criminal charges, or civil suits related to any crime of dishonesty. This includes but is not limited to criminal fraud, or any conviction for any felony or misdemeanor offense for which incarceration for a minimum of 1 year is an authorized penalty. The PROVIDER shall promote and maintain an awareness of the importance of securing the State's information among the Service Provider's employees and agents. Failure to obtain and maintain all required criminal history may be deemed a material breach of the contract and grounds for immediate termination and denial of further work with the State of Delaware.
CS1-C		✓	Sub-contractor Flowdown: The PROVIDER shall be responsible for ensuring its subcontractors' compliance with the security requirements stated herein.

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CS2		✓	<p>Breach Notification and Recovery: The PROVIDER must notify the State of Delaware immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Delaware data. If data is not encrypted (see CS3, below), Delaware Code (6 Del. C. §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of Delawareans' Personally Identifiable Information (PII, as defined in Delaware's <i>Terms and Conditions Governing Cloud Services</i> policy) by PROVIDER or its subcontractors. The PROVIDER will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State of Delaware. Should the PROVIDER or its contractors be liable for the breach, the PROVIDER shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State of Delaware shall not agree to any limitation on liability that relieves the PROVIDER or its subcontractors from its own negligence, or to the extent that it creates an obligation on the part of the State to hold a PROVIDER harmless.</p>
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	Public Data	Non Public Data	Cloud Services (CS) Terms
			<p>PROVIDER must satisfy Clause CS1-A OR Clauses CS1-B and CS1-C, AND Clause CS4 for all engagements involving non-public data.</p> <p>Clause CS2 is mandatory for all engagements involving non-public data.</p> <p>Clause CS3 is only mandatory for SaaS or PaaS engagements involving non-public data.</p>
CS3		✓	<p>Data Encryption: The PROVIDER shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where the PROVIDER stores Personally Identifiable Information (PII) or other sensitive, confidential information, it shall encrypt this non-public data at rest. The PROVIDER's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security requirements guidelines. The PROVIDER and State of Delaware will negotiate mutually acceptable key location and key management details. Should the PROVIDER not be able to provide encryption at rest, it must maintain cyber security liability insurance coverage for the duration of the contract. Coverage must meet the State of Delaware's standard in accordance with the <i>Terms and Conditions Governing Cloud Services</i> policy.</p>
CS4	✓	✓	<p>Notification of Legal Requests: The PROVIDER shall contact the State of Delaware upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of the State. With regard to State of Delaware data and processes, the PROVIDER shall not respond to subpoenas, service of process, and other legal requests without first notifying the State unless prohibited by law from providing such notice.</p>

The terms of this Agreement shall be incorporated into the aforementioned contract. Any conflict between this Agreement and the aforementioned contract shall be resolved by giving priority to this Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions:

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Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions:

FOR OFFICIAL USE ONLY	<input type="checkbox"/> CS4 (Public Data)
	<input type="checkbox"/> CS1-A and CS4 (Non-Public Data) OR <input type="checkbox"/> CS1-B and CS1-C and CS4 (Non-Public Data)
	<input type="checkbox"/> CS2 (Non-public Data) <input type="checkbox"/> CS3 (SaaS, PaaS – Non-public data)

PROVIDER Name/Address (*print*): _____

PROVIDER Authorizing Official Name (*print*): _____

PROVIDER Authorizing Official Signature: _____ Date:

Appendix A - MINIMUM MANDATORY SUBMISSION REQUIREMENTS

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

1. Transmittal Letter as specified in Appendix I. The transmittal letter must also attest to the fact, at a minimum, that the Vendor shall not store or transfer non-public State of Delaware data outside of the United States.
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 5) – please provide references other than State of Delaware contacts – Form must be included.
8. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment 6) for each subcontractor – only provide if applicable.
9. One (1) complete OSD application (See link on Attachment 9) – 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. Ten (10) 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. Ten (10) electronic copies of the vendor proposal saved to CD or DVD media disk. 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 - SCOPE OF WORK AND TECHNICAL REQUIREMENTS

1.0 GENERAL INFORMATION

The purpose of this Section is to describe the scope of services the successful External Quality Review Organization (EQRO) will perform. The Contractor will provide analysis and evaluation of aggregated information on quality, timeliness, and access to the health care services provided by the Managed Care Organizations (MCOs) with members in Diamond State Health Plan and Diamond State Health Plan Plus. The Contractor will conduct mandatory activities in accordance with CMS EQR Protocols and 42 CFR 438.358 as well as optional activities as determined by the State. When submitting responses to this RFP, the Contractor must provide a detailed narrative, exhibits and detailed information specifically tailored to demonstrate its ability to meet the EQR requirements. Explain the methodology used and provide examples of work completed in other states, who contract with Managed Care Organizations, as it pertains to the tasks and responsibilities outlined throughout this Scope of Work.

2.0 EXPERIENCE AND QUALIFICATIONS

The Contractor must meet the following requirements to perform EQR tasks and responsibilities.

2.1 Competence. The EQRO must have, at a minimum, the following:

- a. Staff with demonstrated experience and knowledge of:
 - i. Medicaid beneficiaries, policies, data systems and processes.
 - ii. Managed care delivery systems, organizations and financing
 - iii. Quality assessment and improvement methods
 - iv. Research design and methodology, including statistical analysis.
- b. Sufficient physical, technological, and financial resources to conduct an EQR or EQR-related activity.
- c. Other clinical and non-clinical skills necessary to carry out EQR or EQR-related activities and to oversee the work of any subcontractors.

2.2 Independence. The EQRO and its subcontractors must be independent from the State Medicaid and from the Managed Care Organizations that they review. To qualify as “independent”:

- a. A State agency, department, university, or other entity may not have Medicaid purchasing or managed care licensing authority.
- b. A state agency, department, university, or other State entity must be governed by a Board or

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similar body the majority of whose members are not government employees.

- c. The EQRO may not:
- i. Review a particular MCO if either the EQRO or the MCO exerts control over the other through stock ownership, stock options and convertible debentures, voting trusts, common management including interlocking management, and contractual relationship.
 - ii. Deliver any health care services to Medicaid beneficiaries.
 - iii. Conduct, on the state's behalf, ongoing Medicaid managed care program operations related to oversight of the quality of MCO services, except for the related activities specified in 42 CFR 438.358.
 - iv. Have a present or known future, direct or indirect financial relationship with an MCO that it will review as an MCO.
 - v. Review any MCO for which it is conducting an accreditation review within the previous three (3) years.

The State of Delaware will be looking for a Contractor with overall knowledge and expertise in the areas listed below. The proposal submitted must demonstrate that the individuals assigned to work on the various components of the project have such knowledge and/or direct experience pertinent to the particular aspect(s) of the project for which they are responsible.

2.3 Qualifications:

- a. Three (3) years' experience as an EQRO
- b. Knowledge of Medicaid Managed Care
- c. Knowledge of both Social and Medical Models of Care
- d. Knowledge of service evaluation of populations with Acute and Chronic Illnesses, including Behavioral Health and Intellectual and Developmental Disabilities (IDD).
- e. Experience with, and knowledge of, the Medicaid and CHIP programs and Federal rules and regulations as they relate to medically and categorically needy program
- f. Understanding of the Delaware Medicaid Environment
- g. Knowledge of Quality Assurance Methodology and Standards for Managed Care
- h. Knowledge and understanding of Protocols for External Quality Review of Medicaid Managed Care Organizations.
- i. Knowledge and experience with Value Based Contracting and purchasing strategies, and Quality Performance Measurements with Risk Mitigation.
- j. Knowledge and experience with Managed Care Social Determinants of Health models, including evaluation and validation.

2.4 Vendors must provide:

- a. Description of all prior Government related experience within the past five (5) years.
- b. A primary point of contact, for all work examples provided, including name, title, address, email, and phone number.
- c. Disclosure of any legal or disciplinary actions against the vendor for provision of services similar to those being requested in this RFP.

3.0 CONTRACTOR RESPONSIBILITIES

3.1 Assessment of Compliance with Medicaid Managed Care Regulations

Pursuant to 42 CFR 438.358 and CMS EQR Protocol #1, the Contractor must conduct reviews to determine the MCO's compliance with federal quality standards mandated by the Balanced Budget Act of 1997 (BBA) and the contract between the MCOs and the state. The State requires that the Contractor conduct a comprehensive review every three (3) years as well as additional annual reviews. The activities associated with the reviews may include:

- a. Establishing compliance thresholds
- b. Performing the preliminary review
- c. MCO onsite evaluations
- d. Compiling and analyzing findings
- e. Reporting results to the State

3.2 Validation of Network Adequacy

Each Calendar Year, Contractor shall perform a network adequacy review in accordance with the current CMS protocols in effect at the time of the validation and as specified in 42 C.F.R. § 438.358.

- a. Geoaccess/time and distance validation and reporting bi annually as defined in the MCO contract.
- b. Validate each MCO meets the defined network adequacy standards for availability and accessibility outlined in terms of the MCO contract.
- c. Determine compliance with Federal and State network and access requirements.

- d. Upon completion of the review, Contractor shall analyze the results and identify areas of compliance and non-compliance. For each MCO, Contractor shall submit the MCO findings and results in the Annual MCO Performance Report.
- e. Contractor shall collaborate as needed with the State to develop a provider survey including, survey design, sampling methodologies, and analysis methodologies.

3.3 Validation of MCO Performance Measures (PM)

The State requires MCOs to report standardized measures of quality, access, and utilization. The Contractor will work with the State to develop and update as needed technical specifications for each of the performance measures, and develop and maintain a repository of State requirements for performance measure reporting (e.g., report template, electronic submission format, etc.). The Contractor shall validate the performance measures submitted by the MCOs. This validation shall comply with the CMS EQR Protocol #2. The Contractor shall validate select measures per year for each MCO. The Contractor should plan to validate scores for the same measures for each MCO.

3.4 Validation of Performance Improvement Projects (PIP)

The purpose of a PIP is to assess and improve the processes and outcomes of health care provided by an MCO. At this time, the State has mandated that each MCO conduct five PIPs annually in accordance with 42 CFR 438.330. Per the CMS EQR Protocol #3, the Contractor will assess aspects annually and may be required to produce additional reporting per the State's request of the PIP such as:

- a. Methodology
- b. Findings
- c. Overall validity and reliability of the results as reported by the MCOs.

3.5 Technical Assistance

The Contractor shall, at the State's direction, provide technical guidance to assist the MCOs in conducting activities related to the mandatory and optional activities described in 42 CFR 438.358 such as:

- a. Program integrity performance and reporting
- b. Technical assistance for all aspects of pay for value
- c. Quality reporting requirements and standards
- d. Developing and updating performance improvement plans.

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- e. Designing and administering performance improvement projects prior to the submission of the annual MCO Quality Assessment and Performance Improvement program to the State
- f. Contractor shall provide technical assistance and training to any MCO new to the Delaware Medicaid Managed Care

3.6 Quality Strategy Development and Evaluation

The Contractor must assist the State in the development and annual evaluation of the effectiveness of the DHSS Quality Strategy. In partnership with the State, the Contractor may be asked to assist with tasks such as:

- a. Developing evaluation methodology and tools.
- b. Narrative Report of Findings
- c. The selected Contractor may be asked to assist the State with any/all CMS updates required to the quality strategy.

3.7 Evaluation and validation of Quality Performance Measures with Risk Mitigation and evaluation of Value Based Contracts and Purchasing Strategies

3.8 Information Systems Capabilities Assessment (ISCA)

The purpose of the ISCA is to determine where an MCO's information systems may be vulnerable to incomplete or inaccurate data capture, integration, storage, or reporting:

- a. Each calendar year, Contractor shall conduct an onsite review at the MCO systems hub of the information system capabilities utilizing the Information Systems Capabilities Assessment (ISCA) in Appendix V of the CMS protocol.
- b. Contractor shall review the completed ISCA and accompanying documents and assess the adequacy of the MCO's policies and procedures. The MCO's responses shall be evaluated against the standards established and provided to the Contractor by the State for:
 - i. MCO information systems;
 - ii. Calculating and reporting specific plan level performance measures; and
 - iii. Collecting and submitting encounter data to the State. Where an answer seems incomplete, or indicates an inadequate process, Contractor shall note that section for follow-up and further review during the onsite activities.

3.9 Validation of Encounter Data reported by the MCOs

In accordance with the CMS EQR Protocol #4, the Contractor shall review State requirements for collecting and submitting encounter data, review each MCO's capacity to produce accurate and

complete encounter data, analyze MCO encounter data for accuracy and completeness, review medical records for confirmation of analysis findings, and submit the findings.

3.10 Readiness review and/or implementation assistance

As outlined in 42 CFR 438.66, readiness reviews are required when a new MCO contracts with the State and when any MCO currently contracted with the State will provide or arrange for the provision of covered benefits to new eligibility groups, or delegation of service change such as Accountable Care Organizations (ACO). Readiness reviews must be completed in a timeframe that is sufficient to ensure smooth implementation of the new MCO and/or program. The chosen Contractor may be required to:

- a. Identify strengths and opportunities in preparation of service delivery
- b. Assess the ability and capacity to perform in areas such as:
 - i. Operations/Administration
 - ii. Service Delivery
 - iii. Financial Management
 - iv. Systems Management
- c. Pre-implementation activities, which must include a desk review and an onsite review.
- d. Post-integration onsite review and evaluation.

3.11 Validation of member and/or provider satisfaction surveys

The validation of these surveys shall comply with the process outlined in the CMS EQR Protocol #5. These surveys include:

- a. NCI-AD

3.12 Conduct studies on quality and oversight that focus on an aspect of clinical or non-clinical services

The focus studies shall be done to ensure, at a minimum, that services provided to Medicaid members are medically necessary, appropriate, and provided at the most efficient level of care. Requirements for completing these studies may include:

- a. Creating the methodology and tools to administer quality studies, which must be approved by DMMA.
- b. Analyzing and interpreting data.
- c. Reporting findings to the State.

3.13 Project Management

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The Contractor, at any given time, may be asked to provide EQR and/or quality related services as needed by the State, not outlined within the specifications of this solicitation.

3.14 Public and Internal Reporting

The Contractor will assist with efforts to provide more internal and public reporting of Delaware's managed Medicaid program. The Contractor must have a secure repository for this reporting and document sharing.

Please provide two (2) examples of external facing and two (2) examples of internal reports completed for other states.

3.15 Meeting Requirements

- a. Jointly conduct onsite meetings with DMMA staff and the MCO's to review MCO work plans and timelines annually
- b. The Contractor shall complete annual EQR onsite reviews with each MCO
- c. Monthly telephonic and/or quarterly onsite meetings may be required at the State's discretion.
- d. DMMA may require the Contractor to participate in the QII (Quality Improvement Task Force).

4.0 Deliverables

- a. An executive summary of the objective of the EQR
- b. Annual Technical Report – following the completion of the EQR, an annual report will be completed and submitted that meets standards set forth in 42 CFR 438.364 including, but not limited to:
 - i. A description of the EQR process including tools and methodology utilized.
 - ii. A summary of findings and the conclusions drawn from the data.
 - iii. An assessment of each MCO's strengths and weaknesses with respect to quality, timeliness and access to health care services furnished to Medicaid beneficiaries.
 - iv. Recommendations for improving quality of the services performed by each MCO.
 - v. Methodologically appropriate, comparative information for all MCOs, and align with the states standards for quality strategy
 - vi. An assessment of the degree to which the MCOs effectively addressed recommendations for improvement as identified in the previous year's EQR.
- c. In addition to the Annual Technical Report, the Contractor will provide a Corrective Action Plan (CAP) for each MCO to address if appropriate.
 - i. The Contractor will work with the MCO to re-mediate the Corrective Action Plan until all items have been satisfied.
 - ii. The Contractor will provide this information when completed in order for DMMA to review.

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- iii. The Contractor will ensure that CAP items are reviewed specifically during the Annual EQR.
- d. The Contractor must produce reports using the MCO's self-reported, audited HEDIS data that include MCO-specific and statewide results, and national benchmarks, per program, and MCO compliance with performance standards per Delaware DMMA specifications. Report formats will be developed in consultation with, and approved by DMMA.
- e. The Contractor will be responsible for producing one (1) report annually for the Delaware Medicaid and Medical Assistance Managed Care Program that contains MCO-specific statewide performance measure results.
- f. The Contractor will be responsible for producing the Annual CMS EQRO Report.
- g. The Contractor shall prepare and submit any other reports as required and requested by the State as it pertains to the Contractor's duties and obligations under the contract.
- h. Pending final guidance from CMS, the Contractor will assist DMMA with implementing a Medicaid managed care Quality Rating System (QRS) developed by CMS to evaluate and apply a rating to represent the quality of care provided by the managed care organizations. The Contractor will utilize the CMS framework, methodology and identified performance measures in accordance with 42 CFR §438.334 that align with the summary indicators of the qualified health plan QRS developed per 45 CFR §156.1120. DMMA reserves the right to add additional performance measures to the QRS to ensure alignment with the Quality Management Strategy.
 - i. Establish a work plan for producing the Delaware Medicaid Quality Rating System, considering applicable national requirements from CMS including compliance with new CMS guidelines and innovative approaches used by other state Medicaid programs and/or the health care industry.
 - ii. Support as necessary any data collection from the MCOs and data submission to CMS as required for specified QRS performance measures.
 - iii. Produce any associated reference materials (e.g., score calculation and data source documentation), as specified and approved by DMMA, on an annual basis.
 - iv. Develop and maintain the Delaware Medicaid QRS methodology documents and revise annually in collaboration with DMMA.
 - v. Integrate new measures as CMS and industry measurement sets evolve and as requested by DMMA.
 - vi. Modify/enhance the MCO Quality Rating System as specified by DMMA in response to and in alignment with DMMA's changing business requirements (e.g., DMMA branding, changes in federal regulations, revisions to the contracts between the State and MCOs) and/or changes to report card measure specifications (e.g., HEDIS, CAHPS).
 - vii. Modify and/or enhance the QRS tools (analytics, reporting, and/or reference materials) as needed, to align with DMMA's changing business requirements.
 - viii. Provide assistance to the plans on how to read, interpret, and use the system as part of a performance improvement strategy.

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Appendix C – COST PROPOSAL FORMS/WORKSHEETS

THIS IS FOR ILLUSTRATIVE PURPOSES ONLY.

BUDGET MUST BE SUBMITTED USING EXCEL.(File electronically provided with RFP).

EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 1 – Conduct annual compliance reviews for each MCO including onsite evaluations and detailed reporting of findings. Validation of MCO provider Network Adequacy will be included in the annual compliance review.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 2 – Validation of Performance Measures (PM) of quality, access, and utilization as reported by each MCO, as well as validation of Performance Improvement Projects (PIP) conducted by the MCOs in order to assess and improve processes and outcomes of the health care they provide.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 3 – Provide technical assistance to the MCOs. Assist the State with Quality Strategy Development and Evaluation, evaluation and validation of quality performance measures with risk mitigation, and evaluation of value-based contracts and purchasing strategies.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 4 – Conduct an onsite Information Systems Capabilities Assessment (ISCA) and provide detailed reporting of the findings, including corrective action plan for each MCO. Conduct validation of encounter data reported by each MCO.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 5 – Provide readiness review and/or implementation assistance to the State for new MCO contracts, provision of covered benefits to new eligibility groups, or delegation of service change such as Accountable Care Organizations (ACO).						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 6 – Conduct validation of satisfaction surveys. Conduct clinical or non-clinical focus studies.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Form						
Bidder:						
	Position Title	Person Hours	Hourly Rate	Staff Costs (Hrs x Rate)	Miscellaneous Costs	Total Costs
Task # 7 – At any point in the duration of the contract, additional Project Management EQR and/or quality related services/tasks may be required of the Contractor. This may include, but is not limited to, ad hoc reporting, reviews, and analysis.						
List Below the Information regarding individuals who will Be Assigned to This Task						
Staff SubTotal						
Miscellaneous Costs:						
Travel						
Operating & Administrative						
Sub-Contracted Costs*						
Other Costs						
Miscellaneous Sub Total						
Total Task Costs						

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EQRO Services Project Cost Proposal Summary Form

		Total Person Hours	Total Staff Costs	Total Miscellaneous Costs	Total Task Costs	
Task # 1						
Task # 2						
Task # 3						
Task # 4						
Task # 5						
Task # 6						
Task # 7						
Totals						

Note: The bidder should add formulas as necessary for totals.
The bidder must submit the cost proposal using Excel.

Appendix D – LETTER OF INTEREST

DATE: _____

Kimberly Jones
Department of Health and Social Services
Division of Management Services, Procurement Branch
Herman M. Holloway, Sr. Health and Social Services Campus
1901 N. DuPont Highway
Sullivan Street
Administration Bldg., 2nd Floor
New Castle, Delaware 19720

Dear Ms. Jones:

Please consider this as the brief letter of interest to submit a proposal for RFP HSS-20-009 External Quality Review for the State of Delaware.

Sincerely,

Proposer's Authorized Representative
Proposer Organization
Proposer's Address

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Appendix E - BIDDERS SIGNATURE FORM
STATE OF DELAWARE
DELAWARE HEALTH AND SOCIAL SERVICES

Name of Bidder _____
Signature of Authorized Person _____
Type in Name of Authorized Person _____
Title of Authorized Person _____
Street Name/Number _____
City, State, and Zip Code _____
Contact Person _____
Telephone Number _____
Fax Number _____
Date _____
Bidder's Federal Employers Identification No. _____
Delivery Day/Completion Time _____
F.O.B. _____
Terms _____

THE FOLLOWING MUST BE COMPLETED BY THE VENDOR

AS CONSIDERATION FOR THE AWARD AND EXECUTION BY DELAWARE HEALTH AND SOCIAL SERVICES OF THIS CONTRACT, THE (COMPANY NAME) _____ HEREBY GRANTS, CONVEYS, SELLS, ASSIGNS, AND TRANSFERS TO THE STATE OF DELAWARE ALL OF ITS RIGHTS, TITLE AND INTEREST IN AND TO ALL KNOWN OR UNKNOWN CAUSES OF ACTION IT PRESENTLY HAS OR MAY NOW HEREAFTER ACQUIRE UNDER THE ANTITRUST LAWS OF THE UNITED STATES AND THE STATE OF DELAWARE, RELATING THE PARTICULAR GOODS OR SERVICES PURCHASES OR ACQUIRED BY THE DELAWARE HEALTH AND SOCIAL SERVICES DEPARTMENT, PURSUANT TO THIS CONTRACT.

Appendix F - CERTIFICATION SHEET
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DELAWARE HEALTH AND SOCIAL SERVICES
Certification Sheet

As the official representative for the proposer, I certify on behalf of the agency that:

- a. They are a regular dealer in the services being procured.
- b. They have the ability to fulfill all requirements specified for development within this RFP.
- c. They have independently determined their prices.
- d. They are accurately representing their type of business and affiliations.
- e. They will secure a Delaware Business License.
- f. They have acknowledged that no contingency fees have been paid to obtain award of this contract.
- g. The Prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other contractor or with any competitor;
- h. Unless otherwise required by Law, the prices which have been quoted in this offer have not been knowingly disclosed by the vendor and prior to the award in the case of a negotiated procurement, directly or indirectly to any other contractor or to any competitor; and
- i. No attempt has been made or will be made by the vendor in part to other persons or firm to submit or not to submit an offer for the purpose of restricting competition.
- j. They have not employed or retained any company or person (other than a full-time bona fide employee working solely for the vendor) to solicit or secure this contract, and they have not paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the vendor) any fee, commission percentage or brokerage fee contingent upon or resulting from the award of this contract.
- k. They (check one) operate ___an individual; ___a Partnership ___a non-profit (501 C-3) organization; ___a not-for-profit organization; or ___for Profit Corporation, incorporated under the laws of the State of_____.
- l. The referenced proposer has neither directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to Delaware Health and Social Services
- m. The referenced bidder agrees that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this invitation to bid including all specifications and special provisions.
- n. They (check one): _____are; _____are not owned or controlled by a parent company. If owned or controlled by a parent company, enter name and address of parent company:

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Violations and Penalties:

Each contract entered into by an agency for professional services shall contain a prohibition against contingency fees as follows:

1. The firm offering professional services swears that it has not employed or retained any company or person working primarily for the firm offering professional services, to solicit or secure this agreement by improperly influencing the agency or any of its employees in the professional service procurement process.
2. The firm offering the professional services has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working primarily for the firm offering professional services, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this agreement; and
3. For the violation of this provision, the agency shall have the right to terminate the agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

The following conditions are understood and agreed to:

- a. No charges, other than those specified in the cost proposal, are to be levied upon the State as a result of a contract.
- b. The State will have exclusive ownership of all products of this contract unless mutually agreed to in writing at the time a binding contract is executed.

Date

Signature & Title of Official Representative

Type Name of Official Representative

Appendix G - STATEMENT OF COMPLIANCE FORM
STATE OF DELAWARE
DELAWARE HEALTH AND SOCIAL SERVICES

Statement of Compliance Form

As the official representative for the CONTRACTOR, I certify on behalf of the agency that:

They will comply with all Federal and Delaware laws and regulations pertaining to equal employment opportunity and affirmative action. In addition, compliance will be assured in regard to Federal and Delaware laws and regulations relating to confidentiality and individual and family privacy in the collection and reporting of data.

Authorized Signature _____

Title_____

Date_____

Appendix H - FEDERAL ACQUISITION REGULATION 52.209-5
Certification Regarding Debarment, Suspension, Proposed Debarment, and Other
Responsibility Matters
(March 1996)

- (1) The Offeror certifies, to the best of its knowledge and belief, that—
- (i) The Offeror and/or any of its Principals—
- A. Are ___ are not ___ presently debarred, suspended, proposed for debarment, or declared ineligible for award of contracts by any Federal agency;
 - B. Have ___ have not ___ within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, evasion, or receiving stolen property; and
 - C. Are ___ are not ___ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.
- (ii) The Offeror has has not within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an Agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

Offeror:

By: _____
Signature

Date

Name and Title

Appendix I - TRANSMITTAL LETTER

The Transmittal Letter shall be in the form of a standard business letter and shall be marked "Appendix I: Transmittal Letter." It shall be signed by an individual authorized to legally bind the bidder. It shall include, at a minimum:

- ◆ A statement indicating that the bidder is a corporation or other legal entity and satisfied all licensing requirements of the State or Federal Law.
- ◆ A statement that no attempt has been made or will be made by the bidder to induce any other person or firm to submit a proposal.
- ◆ A statement that the services proposed will satisfy the requirements established in the Request for Proposal (RFP).
- ◆ A statement of affirmative action that the bidder does not discriminate in its employment practice with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or handicap.
- ◆ A statement that the bidder certifies as to its own organization that: (a) the costs proposed have been arrived at independently without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (b) unless otherwise required by law, the costs quoted have not been knowingly disclosed by the bidder prior to award, directly or indirectly, to any other bidder or any competitor.
- ◆ A statement that the bidder will comply with all terms and conditions as indicated in the RFP and the Model Contract included as part of this RFP, except as to modifications mutually agreed upon by the vendor and Department.
- ◆ A statement that the bidder has the capability to provide the services requested through this RFP.
- ◆ A statement identifying any objections to the DHSS boilerplate to include: the problem with a specific provision; the consequences/impact, to include cost of implementing the provision on the vendor; other stated options to the provision (if any); and any other comments.
- ◆ A statement that the Offeror is a certified small or minority business, if applicable.
- ◆ A statement by the Offeror indicating that neither the vendor 's principal officers (President, Vice President, Treasurer, Chairperson of the Board of Directors, and other executive officers) nor any individuals with an ownership interest in the entity have been terminated previously from the Medicare Program, Medicaid Program, or been convicted of Medicare or Medicaid.
- ◆ A statement that the person signing this proposal certified that he/she is the person in the Offeror's organization responsible for, or authorized, to make decisions as to the prices quoted and that the Offeror is firm and binding and that he/she has not participated, and will not participate, in any action contrary to the above conditions.

STATE OF DELAWARE
Department of Health and Social Services, Division of Medicaid and Medical Assistance

- ◆ A statement that the Offeror has read, understands, and agrees to all provisions of this RFP.
- ◆ A statement identifying all amendments to this RFP issued by DMMA and received by the Offeror. If no amendments have been received, a statement that the bid will meet the requirements set forth in this RFP.
- ◆ A statement of compliance with Americans with Disabilities Act that the Offeror does not discriminate against a qualified individual with a disability because of the disability in regard to any term, condition or privilege of employment.
- ◆ A statement from each subcontractor, if the use of subcontractor(s) is proposed, appended to the transmittal letter signed by an individual authorized to legally bind the subcontractor and stating:
 1. The general scope of work to be performed by the subcontractor;
 2. The subcontractor's willingness to perform the work indicated;
 3. Indicating the subcontractor is a certified small or minority business;
 4. The subcontractor does not discriminate in its employment practices with regard to race, color, religion, age, sex, marital status, political affiliation, national origin, handicap, except as provided by law;
 5. Agreement to sign a Drug Free Workplace Certificate; and
 6. Agreement to sign the certification regarding debarment, suspension.If the proposal deviates from the detailed requirements of this RFP, the transmittal letter must identify and explain these deviations. The State reserves the right to reject any proposal containing such deviations or to require modifications before acceptance.

Appendix J – DEFINITIONS

Throughout this RFP, the following definitions are applicable:

1. **Centers for Medicare and Medicaid Services (CMS):** The agency within the Federal Department of Health and Human Services that has primary responsibility for the overall administration and coordination of the Medicare and Medicaid programs.
2. **Children’s Health Insurance Program (CHIP):** A low cost health insurance program for Delaware’s uninsured children.
3. **Contract:** Written and signed agreement between State of Delaware and the vendor which will include by reference, the RFP, any and all appendices, attachments and amendments and the terms of the vendors proposal.
4. **Contract Award Date:** The date the Department publishes the Notice of Award to the Interactive Purchasing System.
5. **Contract Term:** The period which the contract is in effect.
6. **Contractor:** The Offeror awarded the Contract to perform the services and requirements defined therein. The Contractor is an EQRO
7. **Code of Federal Regulations (CFR):** The codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States
8. **Deliverable:** Anything submitted to DHSS/DMMA by the vendor to fulfill requirements of the contract.
9. **Department of Health and Social Services:** Department that manages the State of Delaware’s Medicaid program.
10. **Division of Medicaid and Medical Assistance:** Division of the Department of Health and Social Services for the State of Delaware.
11. **Encounter Data:** All data captured during the course of a single healthcare encounter
12. **External Quality Review (EQR):** The analysis and evaluation, by an EQRO, of aggregated information on quality, timeliness, and access to the health care services that a PHP, or their subcontractors, furnish to Medicaid recipients
13. **External Quality Review Organization (EQRO):** An entity that meets Federal competence and independence criteria for the performance of the EQR and EQR-related activities. 42 C.F.R. Part 438, Subpart E.

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14. **Informational Systems Capabilities Assessment (ISCA):** An information collection tool to determine where the MCO's may be vulnerable to incomplete to inaccurate data capture, integration, storage and reporting
15. **Mandatory Activities:** Activities which must be performed to comply with Federal EQR requirements.
16. **Managed Care Organization:** An entity that has, or is seeking to qualify for a comprehensive risk contract that meets the requirements of 42 CFR 438.2
17. **Medicaid Managed Care:** State of Delaware program providing Medicaid covered services to enrollees through select MCO's
18. **Network Adequacy:** Refers to the ability of a MCO to provide members and Potential Members with timely access to all covered services, including primary and specialty care providers. MCOs must maintain a provider network in accordance with defined standards on number, type, geographic distribution, and wait-times
19. **Offeror:** Supplier, bidder, proposer, firm, company, corporation, partnership, individual or other entity submitting an offer in response to this RFP
20. **Performance Improvement Projects:** Projects designed to achieve, through ongoing measurements and interventions, significant improvement.
21. **Program Integrity (PI):** Has the same meaning as PI as described in 42 C.F.R. Part 455.
22. **Protected Health Information (PHI):** Has the same meaning as PHI as defined by 45 C.F.R. § 160.103
23. **Quality:** As it pertains to external quality review, means the degree to which a MCO increases the likelihood of desired health outcomes of its members through its structural and operational characteristics and through the provision of health services that are consistent with current professional knowledge
24. **Request for Proposals (RFP):** As it relates to the EQRO, the process by which Delaware invites proposals to interested parties for the procurement of specified services.
25. **Validation:** The review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias, and in accord with standards for data collection and analysis.
26. **Vendor:** A company, firm, entity, or individual, other than the Contractor, with whom the Department has contracted for goods or services.