

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES  
DIETARY PROGRAM SERVICES  
ISSUED BY DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF  
SUBSTANCE ABUSE AND MENTAL HEALTH  
CONTRACT NUMBER HSS-19-053**

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**I. Overview**

The State of Delaware Department of Health and Social Services, Division of Substance Abuse and Mental Health, seeks professional services to Dietary Program Services. 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: 07/16/2019
Deadline for Questions	Date: 08/06/2019
Response to Questions Posted by:	Date: 08/13/2019
Deadline for Receipt of Proposals	Date: 08/27/2019 at 11:00 AM (Local Time)
Estimated Notification of Award	Date: 09/15/2019

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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.

**PREBID MEETING**

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

**II. Scope of Services**

**ADMINISTRATIVE BACKGROUND**

Delaware Department of Health and Social Services (DHSS), the largest cabinet department, was created in 1970. Its mission is to improve the quality of life for Delaware's citizens by promoting health and well-being, fostering self-sufficiency, and protecting vulnerable populations. There are 11 Divisions within DHSS plus the Office of the Secretary, which integrates the activities of separate Divisions/units

The Division of Substance Abuse and Mental Health (DSAMH) serves the adult population (age 18 and older) in need of publicly funded behavioral health services. DSAMH's mission is to promote health and recovery by ensuring Delawareans have access to quality prevention and treatment for mental health, substance use, and gambling conditions.

The Dietary department at DPC consists of a main kitchen where all of the food is prepared. There are three satellite sites where the food is reheated if necessary and served to clients. The satellite sites are: The Jane E. Mitchell Forensic Building, Kent and Sussex Building, and the Terry Children's Psychiatric Center. The Terry Center is a children's inpatient mental health hospital located on DHSS campus. DSAMH has developed a Scope of Services (SOW) for Dietary Services that is included **Appendix B** of this RFP.

**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.

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**A. Minimum Requirements**

1. Vendor shall provide responses to the Request for Proposal (RFP) scope of work, as found in appendix A of this document, and clearly identify capabilities as presented in the General Evaluation Requirements below.
2. Complete all appropriate attachments and forms as identified within the RFP (specified below).
3. Vendors shall provide proposal packages in the following formats:
  - Six (6) 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.
  - Five (5) electronic copy 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 DVD media disk)

In the proposal this section should be labeled "Section 1: Transmittal/Cover Letter and Required Documents."

4. **Title Page** [*In Hard Copy Format*]. The Title Page shall include:
  - a. The RFP number;
  - b. The RFP subject;
  - c. The name of the applicant;
  - d. The applicant's full address;
  - e. The applicant's telephone number;
  - f. The name and title of the designated contact person;
  - g. The bid opening date (**due date: August 27, 2019, at 11:00 A.M. EDT**).
5. **Transmittal/Cover Letter** [*In Hard Copy Format*]. Must have original signatures (as stated in Page 1 of this RFP).
6. **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 documents or initiate the process of application where required.
7. **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 D, Item 7, subsection g (insurance).
8. **Provide proof of active registry to System for Award Management.** Information about System for Award Management can be found at: <https://www.sam.gov>.

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- 9. Provide proof of valid Data Universal Number System (DUNS) Number.**  
Information about obtaining a DUNS number can be found at: <http://www.dnb.com>.
- 10. Provide proof of Delaware eSupplier Portal registration.** Information on supplier portal registry can be found at: [https://accounting.delaware.gov/w9\\_notice.shtml](https://accounting.delaware.gov/w9_notice.shtml).
- 11. 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.
- 12. One (1) completed RFP Exception form (See Attachment 3) –** please check box if no information – Form must be included.
- 13. One (1) completed Confidentiality Form (See Attachment 4) –** please check if no information is deemed confidential – Form must be included.
- 14. Business References (Attachment 5).** Bidders must complete both Attachments, 5A and 5B.
- a. **Business References (Attachment 5A).** Please provide three references other than State of Delaware contacts and those who will receive no financial gain and are not members of the agency's board.
  - b. **Past and Present Performance Questionnaire (PPQ) (Attachment 5B).** The applicant must:
    - i. Complete the PPQ Cover Letter and Sections A and B of the PPQ for each Business Reference listed in the Attachment 5A.
    - ii. Send copies to the PPQ respondents identified in the Attachment 5A before bid opening date **August 27, 2019**. It is the responsibility of the **applicant** to follow up with the respondents specified in Attachment 5A and ensure that the Department of Health and Social Services, Division of Substance Abuse and Mental Health receives the completed PPQs no later than bid opening date **August 27, 2019**.
- The Applicant shall include Attachment 5A with its proposal; however, the PPQ respondent will send the completed questionnaire directly to the person identified in the PPQ Cover Letter.
- 15. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment 6) for each subcontractor –** only provide if applicable.
- 16. Office of Supplier Diversity (OSD) Certification Application (Attachment 10).** Only provide if applicable.
- 17. List of Contracts with State of Delaware (Attachment 9).** Please check box if no contracts have been awarded by the State of Delaware during the last ten (10) years. Otherwise, Applicant shall list all contracts awarded to it or its predecessor firm(s) by the State of Delaware; during the last three years, by State Department, Division, Contact Person (with address/phone number), period of performance and amount. In

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addition, Applicant shall list any contract awarded to it or its predecessor firm(s) by the State of Delaware during the past ten (10) years if such contract was terminated by the State for cause, and shall include an explanation of the circumstances of such termination **(Attachment 9)**. The Evaluation/Selection Review Committee will consider these additional references and may contact each of these sources. Failure to list any contract as required by this paragraph may be grounds for immediate rejection of the bid.

**A. General Evaluation Requirements**

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. In the proposal this section should be labeled **"Section 2: Technical Proposal."**

**1. Bidder Qualifications**

The following areas must be addressed:

- a. Education and Work Experience
- b. Expertise
- c. Demonstrated ability to provide services to Geriatric Psychiatric Patients
- d. Identify the number and type of staff involved in the project, including identification of the bidder's project manager and summarize staff qualifications related to specific requirements of this project (See Appendix B-Education and Work Experience Requirements);
- e. Include résumés of all the professional staff whose salaries will be paid by program funds. Usually these are the staff members (and/or subcontractors) whose salaries are fifty to one hundred percent paid by program funds and the professional positions that are mandatory for receiving the program funds. Please redact private identifiers such as home addresses, home phones, and social security numbers; and
- f. Business References and PPQ (Attachment 5a & 5b);
- g. Provide evidence that bidder has the capability to administer all financial and programmatic aspects of this program service; for example, federal, state, local government oversight reports and audits.
  - i. If agency has current or previous contracts with the State of Delaware (Attachment 9), the Evaluation/Selection Review Committee will consider these additional references and may contact each of these sources. Information regarding bidder performance gathered from these sources may be included in the Committee's deliberations and factored in the final scoring of the bid.

**2. Budget Proposal Evaluation Requirements** 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. In the proposal this section should be labeled: **"Section 3: Business Proposal."** Please note prohibited activities in Appendix A.

Vendor shall also provide responses in accordance with Business Proposal requirements outlined in **Appendix C**

**Required submissions for Business Proposal:**

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**\*See Appendix C-1 for Budget workbook instructions.**

**Appendix C-2: Budget Workbook**

**Appendix C-3: RFP Financial Survey**

The contract shall be awarded to the bidder whose proposal is deemed to be the most advantageous to the State, considering the criteria set forth in the RFP. Modifications to the budget after the award must be approved by the Department of Health and Social Services, Division of Substance Abuse and Mental Health.

**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](http://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 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.

**Dominique Puleio  
1901 N. DuPont Highway  
Springer Building  
New Castle, DE 19720**

**[DHSS\\_DSAMHCONTRACTS@STATE.DE.US](mailto:DHSS_DSAMHCONTRACTS@STATE.DE.US)**

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.

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**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 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.

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**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 **SIX (6)** paper copies and **FIVE(5)** electronic copy on CD or DVD media disk..

**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 August 27, 2019.** The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Kimberly Jones**  
**Purchasing Services Administrator**  
**Department of Health and Social Services**  
**Procurement Branch**  
**Main Admin Bldg., Sullivan Street**  
**2<sup>nd</sup> floor –Room #257**  
**1901 N. DuPont Hwy**  
**Herman Holloway Campus**  
**New Castle, DE 19720**  
[dhss\\_dms\\_dmsprocure@delaware.gov](mailto:dhss_dms_dmsprocure@delaware.gov)

**Vendors are directed to clearly print “BID ENCLOSED” and “CONTRACT NO. HSS-19-053.” on the outside of the bid submission package.**

**Bidder name should also be clearly visible on the outside of 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



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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 **September 30<sup>th</sup> 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 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.

The Agency will conduct a public opening of proposals and complete a public log 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.

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**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 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.

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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 publically 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 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

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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**

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**

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The State of Delaware will allow written requests for clarification of the RFP. All questions shall be received no later than **August 6, 2019**. All questions will be consolidated into a single set of responses and posted on the State's website at [www.bids.delaware.gov](http://www.bids.delaware.gov) by the date of **August 13, 2019**. 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.

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

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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](http://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, 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.

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**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 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 Division of Substance Abuse and Mental Health Director, 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.

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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
Work Experience and Expertise	25
Demonstrated Ability to operate a food service program	20
Planning Capabilities	25
References & Past Performance Questionnaire	10
Quality Improvement Plan	5
Business Proposal	15
Total	100%
Criteria	Weight



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<b>Bidders must circle Yes or No to the following questions and include the answers in their response.</b>	
<b>1) Does the bidder have a Supplier Diversity plan currently in place?</b>	<b>Yes/No</b>
<b>2) Does the bidder have any diverse sub-contractors as outlined in Attachment 8 Tier II Sub-contractors?</b>	<b>Yes/No</b>
<b>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.</b>	<b>Yes/No</b>
<b>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.</b>	

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.

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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 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 one (1) year with four (4) 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.

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- 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; 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

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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 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**

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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.

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.

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**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:

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CONTRACTS UNIT  
1901 N. DUPONT HIGHWAY  
SPRINGER 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 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

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(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. During the term of this contract, the vendor shall, at its own expense, also carry insurance minimum limits as follows:
  - a. Vendor shall in all instances maintain the following insurance during the term of this Agreement.
    - i. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
    - ii. Commercial General Liability  
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
  - b. The successful vendor must carry at least one of the following depending on the scope of work being delivered.
    - i. Medical/Professional Liability  
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate

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- ii. Miscellaneous Errors and Omissions  
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate
  - iii. Product Liability  
\$1,000,000 per occurrence/\$3,000,000 aggregate
- c. If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage's, secure at its own expense the following coverage.
  - i. Automotive Liability Insurance (Bodily Injury) covering all automotive units transporting departmental clients or staff used in the work with limits of not less than \$100,000 each person and \$300,000 each accident.
  - ii. Automotive Property Damage (to others) - \$25,000
- 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**

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



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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.

**I. 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.

If agreement is reached to extend this contract beyond the initial One (1) year period, Department of Health and Social Services, Division of Substance Abuse and Mental Health shall have the option of offering a determined price adjustment that shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

**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 Substance Abuse and Mental Health, 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, 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

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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, Agency 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 Agency, and if the matter is not resolved through mediation, then it shall be submitted, in the sole discretion of the Agency Director, for final and binding arbitration. Agency 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. The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

**q. Termination of Contract**

The contract resulting from this RFP may be terminated as follows Department of Health and Social Services, Division of Substance Abuse and Mental Health.

**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 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

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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.

**r. 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.

**s. 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.

**t. 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.

**u. 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

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Department of Health and Social Services, Division of Substance Abuse and Mental Health

**v. 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.

**w. 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.

**x. 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 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.

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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.

**y. 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](#)

**z. 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.

**aa. 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.

**bb. 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;
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

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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.

**cc. 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.

**dd. 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.

**ee. 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.

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

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**gg. 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.

**hh. IRS 1075 Publication (If Applicable)**

**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.

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.

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

**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 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



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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.

### **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.

### **ii. 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.
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

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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 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 **HSS-19-053** 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.

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

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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 5A – Business References
- Attachment 5B – Past Performance Questionnaire
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2<sup>nd</sup> Tier Spend) Report
- Attachment 9 – State Contracts List
- Attachment 10- Office of Supplier Diversity Application
- Appendix A – Minimum Mandatory Submission Requirements
- Appendix B – Scope of Work / Technical Requirements
- Appendix C- Business Proposal Requirements
- Appendix C-1 – Budget Workbook Instructions
- Appendix C-2 – Budget Workbook
- Appendix C-3 - RFP financial Survey
- Appendix D- Divisional Requirements
- Appendix E- Professional Services Agreement

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**IMPORTANT – PLEASE NOTE**

- **Attachments 2, 3, 4, and 5a & 5b 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 15<sup>th</sup> (or next business day after the 15<sup>th</sup> day) of each month, detailing the purchasing of all items and/or services on this contract. The reports shall Department of Health and Social Services, Division of Substance Abuse and Mental Health, 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 15<sup>th</sup> 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 2<sup>nd</sup> 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 [vendorusage@delaware.gov](mailto:vendorusage@delaware.gov) on the 15<sup>th</sup> (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-19-053      Contract Title: Dietary Program Services**

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.**

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**Attachment 2**

**CONTRACT NO.:** HSS-19-053  
**CONTRACT TITLE:** DIETARY PROGRAM SERVICES  
**DEADLINE TO RESPOND:** August 27<sup>TH</sup>, 2019 at 11:00a.m. (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 Substance Abuse and Mental Health.

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 Substance Abuse and Mental Health.

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 4

CONFIDENTIAL INFORMATION FORM

[illegible]

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STATE OF DELAWARE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

**Attachment 5a**

**Contract No. HSS-19-053**  
**Contract Title: Dietary Program Services**

**BUSINESS REFERENCES**

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

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

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

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Attachment 5B

PAST AND PRESENT PERFORMANCE QUESTIONNAIRE

COVER LETTER

SUBJECT: Request for Past Performance Evaluation

TO: .....

You have been identified as a point of contact for a past and/or present performance evaluation of the firm listed on the attached questionnaire. This firm is currently being considered for an Nurse Practitioner and Geriatric Psychiatrist Services contract at the Delaware Department of Health and Social Services, Division of Substance Abuse and Mental Health.

Your prompt attention to this questionnaire will be greatly appreciated. If you have any questions concerning this request, I can be contacted at (302) 255-9466 or DHSS\_DSAMHCONTRACTS@state.de.us

Sincerely,

**Dominique Puleio**

*Procurement Coordinator, Contracts Unit*

Delaware Department of Health and Social Services

Division of Substance Abuse and Mental Health

Herman Holloway Campus

Springer Building

1901 North DuPont Highway

New Castle, DE 19720

1 Attachment

Past and Present Performance Questionnaire

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**PAST AND PRESENT PERFORMANCE QUESTIONNAIRE**

**A. GENERAL INFORMATION:** Respondent Please correct any information below known to be inaccurate:

Contractor's Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
\_\_\_\_\_ Email Address: \_\_\_\_\_  
\_\_\_\_\_ Point of Contact: \_\_\_\_\_

Project Title and Brief Description of Work\*: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract Number\*: \_\_\_\_\_ Contract Location\*: \_\_\_\_\_

Original Contract Amount (Award Amount)\*: \_\_\_\_\_

Final Contract Amount\*: \_\_\_\_\_

Explain Differences: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract Award Date or Performance Start Date (mm/dd/yyyy)\*: \_\_\_\_\_

Contract Expected Completion Date or Performance End Date (mm/dd/yyyy)\*: \_\_\_\_\_

Contract Actual Completion Date or Performance End Date (mm/dd/yyyy)\*: \_\_\_\_\_

Contract Type\*: ☐ Firm-Fixed Price ☐ Cost Reimbursement  
☐ Other (Please Specify): \_\_\_\_\_

Contractor performed as the ☐ **Prime** Contractor ☐ **Sub**-Contractor ☐ **Key** Personnel.

**\* Note: If Contractor holds or has held other contracts with your agency/organization in the last 3 years, please complete separate evaluation forms for those contracts as well.**

**B. RESPONDENT INFORMATION:**

Name of Respondent: \_\_\_\_\_

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

Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
\_\_\_\_\_ Fax Number: \_\_\_\_\_  
\_\_\_\_\_ Email Address: \_\_\_\_\_

Date Questionnaire was completed (mm/dd/yyyy): \_\_\_\_\_

**C. FAX COMPLETED SURVEY FORM TO: 302-255-9395**

OR

**E-MAIL COMPLETED SURVEY FORM TO:** [DHSS\\_DSAMHCONTRACTS@state.de.us](mailto:DHSS_DSAMHCONTRACTS@state.de.us)

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**D. PERFORMANCE INFORMATION:** Choose the appropriate letter on the scale (E, G, A, M, U, and N) that most accurately describes the contractor's performance or situation. **PLEASE PROVIDE A NARRATIVE EXPLANATION FOR ANY RATINGS OF M or U.**

RATING		DEFINITION	NOTE
<b>E</b>	<b>Exceptional</b>	Performance meets contractual requirements and exceeds many to the Government's/Owner's benefit. The contractual performance of the element or sub-element being assessed was accomplished with no more than a few minor problems for which corrective actions taken by the Contractor were highly effective.	An Exceptional rating is appropriate when Contractor successfully performed multiple significant events that were of benefit to the Government/Owner. A singular benefit, however, could be of such magnitude that it alone constitutes an Exceptional rating. Also, there should have been NO significant weaknesses identified.
<b>G</b>	<b>Good</b>	Performance meets contractual requirements and exceeds some to the Government's/Owner's benefit. The contractual performance of the element or sub-element being assessed was accomplished with no more than some minor problems for which corrective actions taken by the Contractor were effective.	A Good rating is appropriate when the Contractor successfully performed a significant event that was a benefit to the Government/Owner. There should have been NO significant weaknesses identified.
<b>A</b>	<b>Acceptable</b>	Performance meets minimum contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the Contractor appear or were satisfactory.	A Satisfactory or Acceptable rating is appropriate when there were only minor problems, or major problems that the Contractor recovered from without impact to the contract. There should have been NO significant weaknesses identified. A fundamental principle of assigning ratings is that Contractors will not be assessed a rating lower than Acceptable solely for not performing beyond the requirements of the contract.
<b>M</b>	<b>Marginal</b>	Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the Contractor has not yet identified corrective actions or the Contractor's proposed actions appear only marginally effective or were not fully implemented.	A Marginal rating is appropriate when a significant event occurred that the Contractor had trouble overcoming which impacted the Government/Owner.
<b>U</b>	<b>Unacceptable</b>	Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains a serious problem(s) for which the Contractor's corrective actions appear or were ineffective.	An Unsatisfactory or Unacceptable rating is appropriate when multiple significant events occurred that the Contractor had trouble overcoming and which impacted the Government/Owner. A singular problem, however, could be of such serious magnitude that it alone constitutes an Unacceptable rating.

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<b>N</b>	<b>Neutral</b>	Performance was not observed or not applicable to the current effort being reported against.	Neutral rating will be neither positive nor negative.
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CONTRACTOR'S NAME: \_\_\_\_\_ CONTRACT NUMBER: \_\_\_\_\_

**Note:** Include this information on each page of the questionnaire form to ensure there is no mix up in information among contracts surveyed for respective primes/subs, etc.

**Place an "X" on the appropriate column using the definitions matrix above.**

	The contractor:	E	G	A	M	U	N
1.	Provided experienced managers and supervisors with the technical and administrative abilities needed to meet contract requirements.	E	G	A	M	U	N
2.	Demonstrated ability to hire, maintain, and replace, if necessary, qualified personnel during the contract period.	E	G	A	M	U	N
3.	Delegated authority to project managers and supervisors commensurate with contract requirements.	E	G	A	M	U	N
4.	Home office participated in solving significant local problems.	E	G	A	M	U	N
5.	Followed approved quality control plan.	E	G	A	M	U	N
6.	Provided effective quality control and/or inspection procedures to meet contract requirements.	E	G	A	M	U	N
7.	Corrected deficiencies in timely manner and pursuant to their quality control procedures.	E	G	A	M	U	N
8.	Provided timely resolution of contract discrepancies.	E	G	A	M	U	N
9.	Identified problems as they occurred.	E	G	A	M	U	N
10.	Suggested alternative approaches to problems.	E	G	A	M	U	N
11.	Displayed initiative to solve problems.	E	G	A	M	U	N
12.	Developed realistic progress schedules.	E	G	A	M	U	N
13.	Met established project schedules.	E	G	A	M	U	N
14.	Provided timely resolution of warranty defects.	E	G	A	M	U	N
15.	Was responsive to contract changes.	E	G	A	M	U	N
16.	Provided adequate project supervision.	E	G	A	M	U	N
17.	Obtained consent of surety for increases in bonding as work-in-progress increased.	E	G	A	M	U	N
18.	Paid subcontractors/suppliers in a timely manner.	E	G	A	M	U	N
19.	Provided accurate and complete line item cost proposals including all aspects of work required for each task.	E	G	A	M	U	N
20.	Cooperated with Government personnel after award.	E	G	A	M	U	N
21.	How would you rate the contractor's overall performance?	E	G	A	M	U	N
22.	Was the contractor ever issued a cure or show cause notice under the referenced contract? If yes, explain outcome in "remarks."						YES NO
23.	Would you award another contract to this contractor? If not, explain in "remarks."						YES NO

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CONTRACTOR'S NAME: \_\_\_\_\_

CONTRACT NUMBER \_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DEFINITIONS:** To attain as much consistency as possible in the rating process it is necessary to apply consistent standards. When you provide remarks please refer to the following definitions and commonly assigned words for different rating levels.

TERM	DEFINITION	RATING	CONFIDENCE WORDS
<b>Significant Strength</b>	An outstanding or exceptional aspect of the Contractor that appreciably increases the Government's/Owner's confidence in the Contractor's ability to successfully perform contract requirements	<b>Exceptional</b>	Outstanding - High Confidence words: Exceptional, Superior, Complete, Outstanding
<b>Strength</b>	A significant outstanding or exceptional aspect of a Contractor that exceeds the minimum evaluation standard	<b>Good</b>	Excellent - Significant or Substantial Confidence words: Excellent, Admirable, Commendable
<b>Weakness</b>	A flaw in the Contractor that decreases the Government's/Owner's confidence in the Contractor's ability to successfully perform contract requirements	<b>Acceptable</b>	Acceptable – Satisfactory Confidence words: Adequate, Acceptable, Sufficient, Thorough
<b>Significant Weakness</b>	A Contractor's flaw that appreciably increases the chance of unsuccessful performance	<b>Marginal</b>	Marginal- Little or Limited Confidence words: Inadequate, Insufficient, Incomplete, Impaired, Substantially Doubtful
<b>Deficiency</b>	An aspect of the Contractor that fails to satisfy Government's/Owner's minimum requirements or a combination of significant weaknesses in a Contractor that raises the risk of unsuccessful contract performance to an unacceptable level.	<b>Unacceptable</b>	Unsatisfactory – No Confidence words: Unacceptable, Scarce, Flawed, Deficient, Extremely Doubtful
		<b>Neutral</b>	Unknown Confidence words: not applicable, irrelevant, incomparable

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**Attachment 6**

**SUBCONTRACTOR INFORMATION FORM**

<b>PART I – STATEMENT BY PROPOSING VENDOR</b>		
1. CONTRACT NO. <b>HSS-19-053</b>	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification:  Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4g. Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4h. Service Disabled Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (Signature)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
<b>PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR</b>		
9a. NAME OF PERSON SIGNING	10. BY (Signature)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

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

## Attachment 7



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Attachment 8

**SAMPLE REPORT - FOR ILLUSTRATION PURPOSES ONLY**

<b>State of Delaware</b>																
<b>Subcontracting (2nd tier) Quarterly Report</b>																
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](mailto:vendorusage@delaware.gov)

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**Attachment 9**

**Contract No. HSS-19-053**  
**Contract Title: Dietary Program Services**  
**LIST OF CONTRACTS WITH STATE OF DELAWARE**

- ☐ By checking this box, the Vendor acknowledges that they or their predecessor organization(s) have not had any contracts awarded by the State of Delaware during the last three (3) years and have not had any terminated contract for cause in the past ten (10) years.

Contract Number	Contract Title	Contract Award Date Date mm/dd/yyyy	Contract Termination Date Date mm/dd/yyyy	Contract Amount	State Department, Division, Office	Contact Person (name, address, phone, email)

\* use additional copies of the form if more space is needed.

\*\* if any contract was terminated by the State for cause in the past 10 years include an explanation of the circumstances of such termination under contract termination column.

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Attachment 10

**State of Delaware  
Office of Supplier Diversity  
Certification Application**

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

<http://gss.omb.delaware.gov/osd/certify.shtml>

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

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



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

Office of Supplier Diversity (OSD)  
100 Enterprise Place, Suite 4  
Dover, DE 19904-8202

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

Email: [osd@state.de.us](mailto:osd@state.de.us)

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

**THE OSD ADDRESS IS FOR OSD APPLICATIONS ONLY.  
THE OSD WILL NOT ACCEPT ANY VENDOR BID RESPONSE PACKAGES.**

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**Appendix A - MINIMUM MANDATORY SUBMISSION REQUIREMENTS**

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

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

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copy. (If Agency has requested multiple electronic copies, each electronic copy must be on a separate computer disk or media).

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**Appendix B - SCOPE OF WORK AND TECHNICAL REQUIREMENTS**  
**DIETARY PROGRAM SERVICES**

The State of Delaware, Department of Health and Social Services, Division of Substance Abuse and Mental Health (DSAMH) seeks to fund behavioral health service provider(s) that can demonstrate effective and efficient community based supports and services under DIETARY PROGRAM SERVICES

The Division of Substance Abuse and Mental Health (DSAMH) is seeking proposals from qualified providers to manage the Dietary Services at the Delaware Psychiatric Center (DPC).

**OVERVIEW**

The Dietary department at DPC consists of a main kitchen where all of the food is prepared. There are three satellite sites where the food is reheated if necessary and served to clients. The satellite sites are: The Jane E. Mitchell Forensic Building, Kent and Sussex Building, and the Terry Children's Psychiatric Center. The Terry Center is a children's inpatient mental health hospital located on DHSS campus.

**DEFINITIONS/ACRONYMS**

Pending definitions/acronyms based on what is received by program folks and funding used. Use definitions document as resource.

**PURPOSE**

The Dietary department at DPC consists of a main kitchen where all of the food is prepared. There are three satellite sites where the food is reheated if necessary and served to clients. The satellite sites are: The Jane E. Mitchell Forensic Building, Kent and Sussex Building, and the Terry Children's Psychiatric Center. The Terry Center is a children's inpatient mental health hospital located on DHSS campus. A walk through of the facilities can be scheduled at a future date.

There are approximately forty full time equivalent (FTE) and part time dietary staff employed by the DPC. Dietary Services operates two shifts, seven days a week, 4:30 am to 8:00 p.m.

The DPC Dietary Department prepared approximately *16,694 Patient Care* meals and snacks during the month of May 2019. All food, supplies, and equipment are purchased by DPC.

Meals prepared are cooked on site and served. Meals are cooked and transported to the various distribution sites and served to clients. Clients are served three meals per day and snacks are provided during the day and in the evenings. The contractor will also provide meals for various campus functions, activities and programs when provided with appropriate notification. Meals are prepared for clients based on the recommendations of the medical staff.

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**SERVICE FUNCTIONS:**

The dietary contractor will have overall responsibility for managing the entire DPC dietary department (inclusive of all satellite sites) managing the preparation and the delivery of food to aid sites. The contractor will be responsible for ensuring that meals are prepared and dispensed in accordance with JCAHO, Medicare, Medicaid, state and federal statutes and regulations. The contractor must comply with all Delaware Psychiatric Center policies and procedures pertaining to dietary services, infection control and matters of medical care.

The contractor will be required to do the following (Note this listing is not a comprehensive listing of duties).

- Ensure there is an adequate number of managers and supervisors to manage direct and supervise the daily operations of a two shift, seven day a week dietary department operation with established shifts that function between the hours of 4:30 a.m. to 8 p.m. It is mandatory that contracted managers are ***always*** on site during the course of all daily operations including weekends, off-shifts, holidays, *and declared States of Emergency* when necessary. Contractor must supply enough staff to ensure adequate supervision and management of dietary staff seven days a week. Contractors must provide backup services in the event of staff shortages.
- Operate and maintain the DPC's cook and serve system for all sites. The contractor must ensure the overall management of services at all sites. Services includes food preparation, serving food to clients, documentation of food temperatures and proper management and operation of all equipment, facility maintenance, notification for repairs to all equipment, general cleanliness of all food service and preparation areas. These services must comply with all state, local and federal requirements as mandated by the Department of Public Health, Joint Commission and all other licensing and inspection organizations.
- Provide adequate and qualified Registered Dietitian coverage for nutritional screening, assessments and treatment planning activities for the DPC. The staff must provide inpatient as well as outpatient nutritional counseling at the Terry Center.
- Develop a revolving five-week menu cycle with substitution as indicated by DPC clinical staff. The menu cycle must accommodate special diets as ordered by DPC. The contractor will be responsible for timely *notification* to DPC nursing personnel and physicians of any changes made to special diets and/or substitutions.
- Provide and maintain a comprehensive, computerized dietary service to DPC that meets or exceeds standards of operation consistent with Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), applicable state and federal regulations and statutes through the contract period, inclusive of any extensions. The Contractor must

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provide and utilize a computer software package that monitors the number of special diets and number of meals generated.

- All software purchased must meet state standards. If the software needs to run on the state network then their software will have to be compatible with current state hardware and network infrastructure. If software will run on standalone computers, the vendor will be responsible for any internet connectivity.
- Contractor will be responsible for purchasing maintenance and support for the selected software for the duration of the contract. Contractor will be responsible for purchase of any upgrades to all software as needed for the duration of the contract. Current standards can be accessed at <http://dti.delaware.gov/information/standards-policies.shtml>.
- Provide monthly management reports to DPC by the **tenth** day of the subsequent month.
- Provide appropriate contractor staff to serve on the Delaware Psychiatric Center's Pharmacy and Therapeutic Committee, Infection Control Committee and all other appropriate Delaware Psychiatric Center committees. The contractor must assure provision of a Registered Dietician to serve as a member of the two specified committees.
- Maintain Policy and Procedure Manuals for the Dietary Department, *and review* at least annually and as needed by DPC. All DPC policies must be reviewed with staff within a week of notification to the contractor that a policy/procedure has been adopted by DPC Executive Management.
- Provide dietary consulting services to Delaware Psychiatric Center pertaining to all dietary related matters, including proper storage of food, cooking programs for patients, potential side effects of food with certain medications, toxicity of certain foods, pharmacology and drug interactions and patient education. Appropriate contractor staff must be available for consultation to DPC professional staff on a seven (7)-day per week basis.
- Provision of consultation and coordination for new dietary programs.
- Participation of Dietary Managers on DPC committees and/or performance of special tasks as assigned by the Executive Staff of the DPC.



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- Ensure that all equipment and fixtures are appropriately maintained and that they are safe and in good working order. The Contractor will *coordinate* with the Contract Manager and Hospital Administrator *to develop* a replacement *schedule* of capital items such as ovens, dishwashers, delivery trucks etc. The Contractor will *coordinate* with the *DHSS Maintenance staff* for the repair and replacement of equipment as well as establishing a preventive maintenance schedule. The Contractor will ensure equipment that is used by employees is safe, clean and meet all applicable standards established by the various regulatory agencies.
- Maintain an inventory of food and food products adequate to ensure that sufficient quantities of food is in stock and available to meet the need for prompt and accurate dietary services to DPC, and to respond to weather-related and other emergencies. Maintain a minimum of 14 days of meals for patients and staff in case of emergencies or disruption of normal deliveries.
- Requisition food and supplies, following DPC and Departmental guidelines and the established State of Delaware procurement process. If items requested are not on State Contract, a requisition for approval to purchase must be prepared and submitted to the Hospital Administrator prior to ordering.
- Providing and maintaining a computerized inventory control system. The contractor must perform monthly inventory inspections to ensure an adequate amount of food is in stock for patient care areas and ensure proper monitoring of inventory through an established Quality Improvement Program that ensures proper dating and rotation of stock. The contractor must make all information pertaining to dietary inventories available to all necessary state agencies.
- DSAMH is in the process of requirements definition for a future EHR/EMR module that will be developed as part of the consolidated DHSS EMR system by Core Solutions, Inc. that is being currently being implemented for two other DHSS divisions. DSAMH would like to develop a HL7 interface between the Core module to be developed for DSAMH and bidder's proposed dietary software. Preference will be given to bidders who have successfully developed an interface to an EMR system. Bidder will describe their relevant experience in this area, their ability to develop this proposed interface and suggest what would need to be developed by your firm vs. Core Solutions. Development of this interface will not be part of this contract and bidder is not expected to propose anything at this point. We are only asking bidders to describe their knowledge and capabilities in this area. Development of this interface would be at the sole discretion of the State at some future date and would be done through an amendment to this contract.

Maintain expenditure data to assist in budget maintenance

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**Target Population**

The target population will consist of the client population located at the Delaware Psychiatric Center and the Terry Children's Center.

**ELIGIBILITY**

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.

Applications for this RFP will be accepted from any non-profit, for profit or Faith based organizations whose hiring and operational practices comply with all federal and State of Delaware laws and regulations. The organization will be required to provide evidence that both the applicant organization and the lead management staff proposed for the program have the knowledge and experience to provide the required services.

**FUNDING**

DSAMH will enter into a cost reimbursement contract with the successful applicant(s) to provide the range of services stipulated in this RFP for the first contract period. It is expected that the services obtained as a result of this RFP will increase throughout the course of the project.

- This project will be funded via DPC General Funds.
- DSAMH will consider awarding services to more than one Contractor.
- Payments made will adhere to the State of Delaware, Office of Management and Budget, Budget and Accounting Manual. <https://budget.delaware.gov/accounting-manual/index.shtml>.
- The contractor(s) shall submit financial data as requested in Appendix C-Fiscal Requirements. For the purposes of a Request for Proposal (RFP) only, a cost proposal shall be submitted with all other requested items as identified within the RFP and this Scope of Work (SOW).
- Payments for services in compliance with contractual requirements and services outlined in this SOW will be made on a cost-reimbursement.
- Contractor(s) are required to register and provide updated information as required to System for Award Management. Information about System for Award Management can be found at: <https://www.sam.gov/>.
- Contractor(s) shall acknowledge DSAMH, as a funding source in all publicity pertaining to this Scope of Work.

**PROHIBITED ACTIVITIES**

- Vehicles may not be purchased under this contract (depends on project)

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- Computer system purchases including electronic health record software (only if federal dollars used)
- Brick and mortar or other capital costs or fixed assets (e.g. new building, renovations) (depends on project and source of funds)
- Add any unallowable costs based on grant used for funding. Also, if budget workbook instructions not used—add in unallowable costs from that document.
- Unallowable costs as indicated in Budget Workbook Instructions (Appendix C.1 of RFP)

**WORK PLAN/PROPOSED METHODOLOGY**

This section shall describe in detail the approach that will be taken to carry out the activities described in the Scope of Services section of this RFP. Specific completion dates for the various tasks must be shown. The work plan shall outline specific objectives, activities and strategies, and resources.

The applicant must provide a narrative description of the proposed services. The narrative description must address each of the elements indicated below.

Items to be addressed include:

- A brief **Overview** indicative of the applicant's understanding of the general nature of services provided by DSAMH, and, specifically, the nature of the services to be provided by this RFP.
- Provide to Hospital Administrator a sample one month schedule of coverage for DPC staff and contractor staff to manage the daily operations of a two shift, seven day a week 4:30 a.m. to 8 p.m. dietary department.
- Provide a sample revolving five-week menu cycle with assurances that there will be limited substitution and that the menu cycle must accommodate special diets as ordered by DPC.
- Provide an assurance that the contractor will timely notify DPC nursing personnel and physicians of any changes made to special diets and/or substitutions.
- Describe how the contractor will provide and maintain a comprehensive, computerized dietary service to DPC that meets or exceeds standards of operation consistent with Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), applicable state and federal regulations and statutes through the contract period, inclusive of any extensions. Describe the computer software package that monitors the number of special diets and number of meals generated that the contractor will provide including a description of the necessary hardware and software at its sole cost.
- Provide sample management reports that will be submitted to DPC on a monthly basis.

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- Provide a dietitian or manager with the authority to change the menu as necessary to be assigned to serve on the Delaware Psychiatric Center's Pharmacy and Therapeutic Committee, Infection Control Committee and all other appropriate Delaware Psychiatric Center committees. The contractor must assure provision of a Registered Dietician to serve as a member of the two specified committees.
- Describe how the contractor will maintain Policy and Procedure Manuals for the Dietary Department, and review at least annually and as needed by DPC. New and revised DPC policies should be reviewed with DPC staff within one week of notification from the DPC Executive Management that a policy is operational.
- Describe the dietary consulting services to be provided to the Delaware Psychiatric Center pertaining to all dietary related matters, including proper storage of food, cooking programs for patients, potential side effects of food with certain medications, toxicity of certain foods, pharmacology and drug interactions and patient education. Describe which contractor staff will be available for consultation to DPC professional staff on a seven (7)-day per week basis.
- Describe how the contractor will provide consultation and coordination for new dietary programs.
- Describe the availability and assignment of Dietary Managers on DPC committees and/or performance of special tasks as assigned by the Executive staff of the DPC.
- Describe how the contractor will ensure that all equipment and fixtures are appropriately maintained and that they are safe and in good working order. Describe how the contractor will coordinate with the Hospital Administrator to develop a replacement schedule of capital items such as ovens, dishwashers, delivery trucks etc. Describe how the Contractor will coordinate with the DHSS Maintenance staff for the repair and replacement of equipment as well as establishing a preventive maintenance schedule. Describe how the contractor will ensure equipment that is used by employees is safe, clean and meet all applicable standards established by the various regulatory agencies.
- Provide an understanding that contractor staff will requisition food and supplies, following DPC and Departmental guidelines and the established State of Delaware procurement process. If items requested are not on State Contract, a requisition for approval to purchase must be prepared and submitted to the Hospital Administrator prior to ordering.
- Describe how the contractor will provide and maintain a computerized inventory control system. Describe how the contractor will perform monthly inventory inspections to ensure an adequate amount of food is in stock and ensure proper monitoring of inventory through an established Quality Improvement Program that

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ensures proper dating and rotation of stock. The contractor must make all information pertaining to dietary inventories available to all necessary state agencies.

- Provide an assurance that contractor is responsible for maintaining an inventory of food and food products adequate to ensure that sufficient quantities of food is in stock and available to meet the need for prompt and accurate dietary services to DPC, and to respond to weather-related and other emergencies (a minimum of seven days of meals for patients and staff in case of emergencies or disruption of normal deliveries).
- Describe how the contractor will maintain expenditure data to assist in budget maintenance. The contractor will manage purchases, expenditures and costs projections in compliance with the State of Delaware budgeting requirements.

### **Implementation Plan**

Contractor(s) must submit an Implementation Plan in chart format with timelines for completion of each activity. The plan must cover start up through program implementation activities, including hiring of key staff.

### **Staffing**

- Contractor(s) must demonstrate the necessary experience required to provide services under this SOW. Contractor(s) must identify the specific individuals who will work on this project, along with the nature and extent of their involvement. The qualifications of these individuals shall be presented (in resumes or other formats). If conducting this project will require hiring of one or more individuals who are not currently employed by the organization, detailed job descriptions, including required qualifications and experience shall be submitted.
- Screening and Hiring Procedures. Vendor must provide guidelines to be used in staff screening and hiring procedures.
- Contractor must identify a project manager as the primary point of contact with DSAMH
- A staff training and/or orientation plan must be submitted within 60 days of Notice of Award for applicable to all staff who will be assigned to the program. The plan must be updated annually.
- The Department reserves the right to require training. DSAMH will identify all relevant and mandatory training during negotiations with the successful contractor(s).
- Contractor must demonstrate how accessibility to services is addressed in terms of transportation; American Disabilities Act; and sensitivity to the ethnic and cultural needs of the community to include trauma-informed care. Contractor must explain language resources available for individuals that cannot speak English.
- Logistics-Contractor must clearly and specifically describe the location(s) of their project site(s); identify the geographic region the contractor intends to serve; and project operation hours.

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- Contractor must detail the plan for emergency procedures/disaster planning. Describe any special considerations based on the needs of the target population. (This can include submission of an emergency preparedness plan.)

### **Quality Improvement Plan**

Contractor must include a formal plan for identifying, evaluating, and correcting deficiencies in the quality and quantity of services proposed under this scope of work. This plan should include a description of how information pertaining to service delivery and performance is collected and measured in similar projects (i.e methodology, reporting mechanisms used, etc.). Responsive proposals shall include performance targets; and how these will be evaluated, tracked and reported.

- The requirement contained in this paragraph is an essential and material term of any proposal. The failure to include a "Quality Improvement" section containing the above minimum core requirements shall be grounds to deem such proposals non-responsive.
- Awarded Contractor selected for contract negotiations should be aware that DSAMH intends to include a robust "Quality Improvement" methodology into any contract resulting from this RFP.
- DSAMH reserves the right to accept or reject, in whole or in part, or to negotiate any part of the proposal's "Quality Improvement" section during the negotiation phase of this matter.
- DSAMH also reserves the right to attach financial incentives for compliance and financial penalties for non-compliance with the terms and requirements of the "Quality Improvement" section of any contract arising out of this RFP. This would be negotiated prior to contract execution.

### **GENERAL REQUIREMENTS FOR INVOICING AND REPORTING**

All invoices, reports, documents provided in response to an audit, and any documentation provided to DSAMH pursuant to any contractual obligation as set forth herein, including any chart or compilation of information, report, or other document produced by the Contractor(s) for presentment to DSAMH shall contain, in a prominently displayed location, the following written attestation:

"I hereby certify that the information reported herein is true, accurate, and complete. I understand that these reports are made in support of claims for government funds."

### **INVOICING REQUIREMENTS**

- Contractor(s) shall submit one monthly financial invoice by the 10<sup>th</sup> of every month for the costs incurred during the preceding month. All invoices must be sent via Secure File Transfer Protocol (see Section on Data Submission) or via encrypted email to [dsamhbusinessoperations@state.de.us](mailto:dsamhbusinessoperations@state.de.us).
- Contractor(s) must comply with invoice submission requirements and all financial requirements as identified during contract negotiations and outlined in Appendix C of the executed contract.
- The purpose of each invoice shall be to assist in the cost of operating one or more of the sites identified in the Contractor's Work Plan (Appendix D of Contract) in accordance with minimum legal standards, as applicable. Expenses must be invoiced in specific cost categories as outlined in the Contract Budget (Appendix C of Contract / RFP).
- Contractor(s) shall not be reimbursed for costs that exceed a budget cost category by more than 10% of the contract budget without written approval from the assigned Contract Manager.

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- Contractor(s) shall maintain backup to support all amounts.
- Contractor(s) must submit a monthly financial invoice for every month in the contract period. Contractor(s) must not deplete their entire allocation prior to the expiration of the contract period.

**REPORTING REQUIREMENTS**

Contractor(s) must indicate its ability to comply with reporting requirements. These include, but are not limited to:

Provide monthly management reports to DPC by the **tenth** day of the subsequent month. The reports will include but are not limited to:

- Monthly food counts for: meal, snack, supplements, floor stock and client parties. Monthly supply costs for paper costs and cleaning costs.
- Monthly calculations for labor costs for all contractor staff costs
- Monthly accounting of all expenditures for all food service supplies from vendors.
- Monthly inventory inspections of all supplies

Data Submission

All providers submitting electronic data will be required to use the state's Secure File Transfer Protocol (SFTP) site. Providers who are not able to install the SFTP software must submit a request to use other reporting methods. The alternative reporting method is via encrypted message. The request must clearly explain the provider's inability to use the SFTP site. Contact the DSAMH Statistics and Research Unit (SRU) for information on creating an account and any other questions or concerns about data reporting requirements.

For SFTP access, several authorization forms need to be completed and returned to the DSAMH SRU. In addition, SFTP client software is required to be installed on your computer for the file transfer. This software is available free on the Internet.

The following links contain instructions necessary for setting up the software and authorization forms.

1. Secure File Transfer Memorandum of Agreement  
<http://dhss.delaware.gov/dhss/dms/irm/files/sftpmoa01292010.pdf>
2. Secure File Transfer User Procedures  
[http://dhss.delaware.gov/dhss/dms/irm/files/sftpuserprocedures\\_20120611.pdf](http://dhss.delaware.gov/dhss/dms/irm/files/sftpuserprocedures_20120611.pdf)
3. DHSS SFTP Quick Start Guide  
<http://dhss.delaware.gov/dhss/dms/irm/files/sftpquickstartguide06112012.pdf>
4. Biggs Data Center Non-Disclosure Form  
<http://www.dhss.delaware.gov/dhss/dms/files/irmnon-d02072013.pdf>

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5. DTI State Information Transport Network (SITN) Acceptable Use Policy

<http://dti.delaware.gov/pdfs/pp/AcceptableUsePolicy.pdf>

Contractor(s) requiring access to the SFTP site must identify an organizational point of contact and list all employees who will require site access. The Contractor(s) will maintain the accuracy of the list providing updates to DSAMH as changes occur.

Consumer Report Forms (CRF)

Performance outcomes will be measured through submission of the Consumer Reporting Form (CRF). DSAMH SRU maintains all CRF submission information and requirements at <http://dhss.delaware.gov/dhss/dsamh/cpfrms.html>. The Division reserves the right to update the website at the Division's discretion, and if updated, will notify the Contractor. The Contractor is responsible for complying with any updates and/or changes.

The Contractor shall implement policies and procedures for ensuring the complete, accurate and timely submission of encounter data (CRF) for all services for which Contractor has incurred any financial liability, whether directly or through subcontracts or other arrangements. Encounter data shall include data elements specified in DSAMH's most recent requirements related to CRF data reporting. The Contractor must comply with: completing all data elements as defined; reporting deadlines; and format submission requirements. Contractor shall have in place mechanisms, including edits and reporting systems sufficient to assure encounter data is complete and accurate prior to submission to DSAHM SRU. Contractor shall submit encounter data to DSAHM SRU by the 10<sup>th</sup> business day of each month in the form and manner specified at <http://dhss.delaware.gov/dhss/dsamh/cpfrms.html> related to data reporting.

Upon written notice by DSAMH SRU that the encounter data (CRF) has not been submitted, is incomplete or has not met the 95% threshold for error rate, the Contractor shall ensure that corrected data is resubmitted within 15 days of receipt of DSAMH notice. Upon Contractor's written request, DSAMH may provide a written extension for submission of corrected encounter data.

If encounter data (CRF) is not submitted, or not re-submitted after DSAMH has notified the contractor that the data is incomplete or does not meet the 95% error threshold, invoice payment for services will be withheld until the required CRFs are submitted with an accuracy rate of 95%.

**SERVICE PERIOD**

- Service period is one contract year. Service period will be determined upon contract negotiation year with four (4) optional extensions for a period of one (1) year for each extension. Extensions will be contingent upon the availability of appropriated funds, needs of the Department/Division, and performance of the Contractor(s) (see section Performance Measurements).
- Contractor(s) shall submit a Work Plan and costing and pricing data (Budget Workbook) **annually** to DSAMH **before** it will exercise an option to extend the contract.



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**PERFORMANCE MEASUREMENTS:**

- DSAMH has the right to conduct any on-site evaluation and monitoring of the Contractor(s)'s activity at any time without notice.
- The contractor will be monitored/evaluated on-site on a regular basis. Failure of the contractor to cooperate with the monitoring/evaluation process or to resolve any problem(s) identified in the monitoring/evaluation may be cause for termination of the contract.
- Performance determination shall be based on, but not limited to, considerations of the following factors:

<b>Performance Objective</b>	<b>Performance Standard / Acceptable Quality Level</b>	<b>Performance Goal</b>	<b>Method of Assessment</b>
Provide services as identified in Work Plan	100% of Program/Site Compliance	100% of planned workload	On-site monitoring, review of program reports, third-party feedback
Adhere to requirements in Professional Service Agreement and Divisional Requirements	100% of Organization, Program compliance	100%	On-site monitoring, review of program reports, third-party feedback
Adhere to all required Federal and State regulations	100% of Program/Site compliance	100% of Program/Site	On-site Monitoring, review of program reports and invoices
Reconcile accounts before submitting invoices	At least 95% of costs submitted for particular month include only costs incurred during that month	100% of costs	Review of Vendor invoices and back-ups to the invoices
Submit required invoices on time	Submit 95% of invoices for current month by 10th of subsequent month with 100% required information that is 100% accurate.	Submit 100% of invoices for current month by 10th of subsequent month with 100% required information that is 100% accurate	Review of Invoices
Deliver required reports	Gather information and submit the requested reports by the given deadline to DSAMH as established	Gather information and submit the requested reports by the deadline 100% of time	Review of Reports and Deadlines

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Adherence to Program Activity Timelines and Program Outcome Measures	95% adherence to activity timelines and program outcome measures	100% adherence	As established by DSAMH
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**Appendix C – BUSINESS PROPOSAL REQUIREMENTS**

Business proposals including budget information must be presented separate from the Technical Proposals.

Budget/Cost Data

The proposed annual operating budget is to capture the requirements of the successful contractor in meeting the service requirements of the program. The budget to be submitted as part of this RFP is to reflect the proposed operational costs of providing these services and will not be the basis of reimbursement in the awarded contract.

Applicants must submit reasonable budgets with narrative justification based on the resources needed to implement their projects in their specific geographic location. The budget should display a clear link between the specific project activities and the proposed budget items. The budget narrative must support all costs included in the budget and explain how the costs of goods and services are determined and how they will fulfill the overall objective of the project. Costs must comply with service functions and requirements outlined in Appendix A.

**Proposal budget can also reflect a fee per deliverable. Final determination of pricing will be set during contract negotiation.**

Organization Capability

Awarded Contractors will demonstrate organizational capability as mentioned in **Appendix B and described in further detail below:**

- Organization must provide a copy of the last independent A-133 audit, if it is required to conduct A-133 audit according to the federal requirements). If your A-133 audit resulted in administrative findings or corrective actions, the findings/corrective actions must be included in your submission to us along with your organization's response to those findings. Organizations that are not subject to an A-133 Audit must submit their most recent Independent Audit/Evaluation.
- Organization will submit the most recent organizational chart and current Board of Director's roster (if applicable).
- The Department of Health and Social Services, Division of Substance Abuse and Mental Health reserves the right to terminate the contract, based upon merger or acquisition of the Contractor, during the course of the contract. Organizations must include a description of any current or anticipated business or financial obligations, which will coincide with the term of this contract.

**Note-The following Appendix C documents are separate documents that can be found at <http://bids.delaware.gov>:**

Appendix C.1: Budget Workbook Instructions  
Appendix C.2: Budget Workbook  
Appendix C.3: RFP Financial Survey

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Financial stability as determined by completion of **Appendix C.1** and review of financial information provided by the Applicant; perceived ability to start up and manage the program in the time required using the staff, structure and phase in required in the RFP. Financial stability should be demonstrated through production of balance sheets and income statements or other generally accepted business record for the last 3 years that includes the following: the Applicant's Earnings before Interest & Taxes, Total Assets, Net Sales, Market Value of Equity, Total Liabilities, Current Assets, Current Liabilities, and Retained Earnings.

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**Appendix C-1 – Budget Workbook Instructions**

**THESE INSTRUCTIONS ARE ASSOCIATED WITH THE BUDGET WORKBOOK ASSIGNED  
TO  
RFP/CONTRACT NUMBER: HSS-19-054  
PROGRAM/SERVICE: NURSE PRACTITIONER & GERIATRIC PSYCHIATRIST**

**1. General Budget Guidelines**

**Please read these guidelines thoroughly before beginning to complete the budget workbook.**

Organizations are required to complete a Budget Form to determine the appropriateness of agency costs allocated to the Department of Health and Social Services, Division of Substance Abuse and Mental Health (DSAMH) contracts, and to assist in making cost comparisons among similar programs and services. Those contracts include cost reimbursable contracts and contracts that have previously been cost reimbursable but have been converted to a unit cost contract. A separate budget form must be filled out for each vendor funded in this contract.

**1.1 Types of Costs**

The total cost of contracts is comprised of the allowable program costs, plus the allocable portion of agency administrative costs. Therefore, for purposes of this budget form, contracted costs are categorized into those two separate and distinct types: Program Costs and Administrative Costs. Definitions of these costs are provided below. Certain costs incurred by contractors may be deemed unallowable for inclusion in DSAMH contracts and, therefore, should not be included in the proposed budget in the Budget Workbook. These are enumerated later in this document.

**1.1.1 Program Costs-**Program costs are defined as those costs incurred in the provision of services to clients (for a further discussion of the difference between program costs and administrative costs of personnel). Examples of program costs are: salaries and applicable other employment costs, travel, contractual services (such as telephone, postage, and rent), supplies, and capital outlay/equipment.

One method of distinguishing administrative personnel from program service personnel is by their proximity to client services. For instance service workers would include staff working with clients and their supervisor, if they spend 100% of their time in supervision. As appropriate, the next level of supervision/management may also be considered as part of the program staff if their principal accountability is related to the on-site oversight of the program. All levels of personnel above this level should be considered administrative staff. Full Time Equivalent (FTE) positions should be prorated if they spend time working in multiple programs.

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Certain costs, such as those for space or utilities, can be either administrative or program-related, depending on what type of employee occupies the space.

**1.1.2 Administrative Costs-** Administrative costs are defined as those costs incurred to provide central support functions to the service components of the program. Administrative costs are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature that do not relate solely to any major program area of the organization. In general, administrative costs cannot be readily identified to a specific program objective without effort disproportionate to the results. This category may also include the allocable share of salaries and fringe benefit costs, operation and maintenance expense, depreciation and use allowances, and interest costs. Examples of costs that fit in this category include central office functions, such as the director's office, the office of finance, business services, budget and planning, personnel, payroll, safety and risk management, general counsel and management information systems.

**1.1.3 Startup Costs-** Startup costs are the expenses incurred during the process of creating a new project. Startup costs (if allowable) will be discussed during contract negotiations.

**1.2 Unallowable Costs**

DSAMH will not pay for the following costs:

**1.2.1** Costs incurred before the effective date or after the termination date of any contract.

**1.2.2** Costs for services which:

**1.2.2.1** have not been rendered;

**1.2.2.2** cannot be verified as having been provided, according to standard DSAMH monitoring and audit procedures;

**1.2.2.3** have not been provided by DSAMH approved agencies and programs;

**1.2.2.4** have been provided to persons not authorized by DSAMH;

**1.2.2.5** have been provided to persons of less than 18 years of age, unless such persons have been approved in writing by DSAMH as eligible to receive services under this Contract;

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- 1.2.2.6** have been paid for by Medicaid or Medicare, by other third-party payers, by or on behalf of the recipient of services; or
  - 1.2.2.7** are a benefit offered as a covered service in any healthcare plan under which the client has been determined to be covered, or for which the client has been found to be eligible, unless such clients are specifically approved in writing by DSAMH as eligible to receive services under this Contract.
- 1.2.3** Costs incurred prior to the approval of the Purchase Order by the Delaware State Department of Finance.
- 1.2.4** Costs incurred in violation of any provision of the contract or the Operating Guidelines (if available).
- 1.2.5** Costs of acquisition, renovation or improvement of facilities or land. Ongoing costs of facility maintenance and repair are distinguished from improvement and are allowable.
- 1.2.6** Costs incurred for the purchase and maintenance of Vehicles.
- 1.2.7** Costs of acquisition of Computer system purchases including electronic health record software.
- 1.2.8** Costs of political activities, including: transportation of voters or prospective voters to the polls, activities in connection with an election or a voter registration effort, contributions to political organizations and expenses related to lobbying.
- 1.2.9** Costs of idle facilities. Idle facilities mean completely unused facilities that are excess to the organization's current needs. Unallowable costs related to the idle facility include: maintenance, repair, rent, property tax, insurance and depreciation or use allowances.
- 1.2.10** Interest payments, late payment fees and penalties charged by vendors as a result of late invoicing.
- 1.2.11** Costs related to fines or penalties imposed on the agency or legal fees related to the defense of the agency or any of its employees in any civil or criminal action.
- 1.2.12** Costs that violate any requirement or are identified as a prohibited activity in the Scope of Work (Appendix B of Contract / RFP).
- 1.2.13** Costs that violate any applicable Federal or State statute or regulation.

In determining unallowable costs listed as 1.2.1-1.2.8, DSAMH used, Subpart E of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, which replaced OMB (Office of Management and Budget) Circulars A-21, A-87

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and A-122 Federal Cost Principles on December 26, 2013. A copy of this document is available at the following link:

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1&rgn=div5>

## **2. General Information Regarding Budget Workbook**

The budget workbook is a standardized format for the Department of Health and Social Services, Division of Substance Abuse and Mental Health (DSAMH)

**2.1** The budget is an Excel workbook. The workbook consists of:

- 2.1.1** Personnel Detail Worksheet;
- 2.1.2** Budget Worksheet;
- 2.1.3** Budget Narrative

**2.2** Portions of the budget workbook and its worksheets are automated. Some items are calculated by the worksheet and some are transferred from other areas of the worksheet and workbook. As a result, the Salary and Budget worksheets require the most entries and time. Questions should be directed to the appropriate DSAMH representative.

**2.3** A complete budget workbook must be submitted as part of the Request for Proposal (RFP) Appendix C-Business Proposal or during the annual contract renewal/amendment process as requested by DSAMH. If part of the contract, the budget workbook is listed under Appendix C-of the contract.

**2.4** Develop a methodology for allocation of costs to each funding stream. This will speed the completion of the salary, fringe benefit and budget worksheets. In reviewing the budget proposal, DSAMH may ask for an explanation of the methodology.

**2.5** A DSAMH representative will provide additional instructions as appropriate.

## **3. Definitions**

**3.1** Funding stream refers to the source of funds for each service/program.

**3.1.1** Requested Funds: legislative and federal appropriations administered by DSAMH.

**3.1.2** Other Resources: any other funding sources the agency utilizes to cover expenses.

**3.2** Indirect Costs are those costs that have been incurred for common or joint objectives, and thus are not readily subject to treatment as direct costs (program costs) of a specific program/service or other ultimate or revenue producing cost centers. An indirect cost rate represents the ratio between the total indirect costs and benefiting total direct costs, after excluding and or reclassifying unallowable costs, and extraordinary or distorting expenditures. (i.e., capital expenditures and major contracts and sub-grants). Indirect costs should not exceed a level beyond the Department of Health and Social Services cap of 12%.

**3.3** Direct costs are costs that can be identified specifically with a project and therefore are charged to that project. The accounting system records these costs as they are



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incurred within the series of accounts assigned for that purpose and further distribution is not required. In the past, this may also have been referred to as program costs.

**4. Instructions for Completing the Budget Workbook**

- 4.1** Before beginning – save the budget workbook file with a new name for each service/program.
- 4.2** Vendors must complete the columns named “Requested Funds”; and “Other Resources”; No entries are needed or permitted in the areas shaded blue, green, purple, yellow, brown, or orange.

**5. Personnel Detail Worksheet**

- 5.1** The first step in the development of the budget is to complete the Personnel Detail Worksheet.
- 5.2** In the boxes provided at the top of the page, enter the Applicant Agency, for this budget.

**Column**

- |            |                   |  |
|------------|-------------------|--|
| <b>5.3</b> | A. Name of Staff  | In this Column list the name of each person (include each person’s credentials) scheduled to work on the project. If this is a new position or currently a vacant position, put “ <u>To Be Hired</u> ” in this Column.<br><u>Group the staff into two sections:</u> <ul style="list-style-type: none"><li>- DIRECT STAFF: (intake staff, staff providing the services to the clients under this contract, etc.).</li><li>- INDIRECT STAFF: (support staff, staff that are not directly providing the services but are necessary for the overall operation of the agency that provides the services under this contract, like accounting, CEO, etc.).</li></ul> |
| <b>5.4</b> | B. Title/Position | In this Column, enter the title or position of each person.  |
| <b>5.5</b> | C. FTE            | <b>Enter</b> the Full Time Equivalent for each position listed from the perspective of the agency regardless of how many hours are spent on this contracted service<br><br><b>For example</b> , if the standard workweek for your agency is 40 hours per week and person #1 will work only 30 hours per week for your agency, enter 0.75. If person #2 will work 40 hours per week for your agency, enter 1.0  |
| <b>5.6</b> | D. Annual Salary  | Enter the <b>total annual salary</b> for each individual. This may be more than the salary paid from project funds. For positions “To Be Hired”, enter the salary to be paid from the estimated time of hire until the end of the contract year.   |

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**The annual salary is the payment for the total number of time the employee works for the agency as a whole, not just for this contract.**

- |      |                          |   |
|------|--------------------------|---|
| 5.7  | E. % of Time on Project  | This is the percent of the individual's total work time that is spent on this project.  |
| 5.8  | F-G. Salary Breakouts    | In Columns F through G, indicate the dollar amount of salary paid from each funding stream used in this contract, as appropriate. The individual's salary may be paid from just one funding stream or more than one. For example, part of salary is paid with Requested funds and the balance by Other Resources. |
| 5.9  | H. Total Contract Salary | This Column calculates sum of Columns F through G.  |
| 5.10 | Line 61 Totals           | The totals are automatically calculated for each Column.  |

**6. Budget Worksheet**

**Budget Worksheet Note:**

**Sections C-1 and C-2 are automatically imported from the Personnel Detail Worksheet for columns D-F. For sections C-3 through C-7, no entries are needed or permitted in the colored areas.**

- |       |                        |  |
|-------|------------------------|--|
| 6.1   | Other Resources Column | If the agency is utilizing other resources to cover the expenses of this program, enter the dollar value of each additional resource that is going to be utilized for this line item.  |
| 6.2   | Section C-3            | <b>Travel and Training Expenses</b>  |
| 6.2.1 | Line 12                | Line 12 is the sum of lines 13 through 15. The values for this line are automatically calculated.  |
| 6.2.2 | Line 13 Mileage        | <p>Mileage expense is the projected number of miles that will be driven by staff and volunteers in their personal vehicles for agency purposes multiplied by the rate per mile reimbursement. <u>This rate cannot exceed the State of Delaware's maximum allowable of forty cents (\$0.40) per mile.</u> If an agency chooses to exceed the maximum, it may do so as long as the amount over the maximum is paid by the agency from other sources.</p> <p><a href="http://delcode.delaware.gov/title29/c071/index.shtml">http://delcode.delaware.gov/title29/c071/index.shtml</a></p> <p>Enter the value of the total number of miles multiplied by the reimbursement rate under appropriate funding stream(s), Columns D through F.</p> |

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Use the Budget Narrative C-3 Mileage to identify the quantity of the miles that the agency is projecting to use.

**For example**, if agency projects 100 miles to be driven by the staff under this project, then enter  $100 * \$0.40 = \$40.00$ .

**6.3.3** Line 14  
Training Enter the cost of staff training for this project under appropriate funding stream(s).

**6.3.4** Line 15  
(Other specify) Use this line if you need to specify additional Travel or Training Cost. In the Column B, instead of Other (specify), enter the name of the travel or training budget line item and enter the cost of that line item under appropriate funding stream(s).

**6.4 Section C-4 Contractual**

**6.4.1** Line 16 Line 16 is the sum of Lines 17 through 32. The values for this line are automatically calculated.

**6.4.2** Line 17  
Rent Enter the cost of space rental under appropriate funding stream(s). Use the Budget Narrative C-4 Rent to identify each space rented, the square footage and the cost per square foot.

**6.4.3** Lines 18-24  
Electricity  
Heat  
Telephone/Internet  
Utilities (Other)  
Printing/Advertising  
Postage  
Insurance Enter the cost for each line item under appropriate funding stream(s).

**6.4.4** Line 25  
Repairs Enter the cost of repairs under appropriate funding stream(s). Use the Budget Narrative C-4 Repairs to describe the proposed repairs and the need for them.

**6.4.5** Line 26  
Audit Enter the cost of Audit under appropriate funding stream(s). Use the Budget Narrative C-4 Audit to describe what audit fees and what percent of the audit fees agency is allocating to the project expense.

**6.4.6** Lines 27-32  
Other (specify) Use this line if you need to specify additional Contractual Costs. In the Column B, instead of Other (specify), enter the name of the contractual budget line item and enter the cost of that line item under appropriate funding stream(s).

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**6.5 Section C5 Supplies**

- 6.5.1** Line 33 Line 33 is the sum of the lines 34 through 43. The values for this line are automatically calculated.
- 6.5.2** Lines 34-38  
Office Supplies  
Program Supplies  
Janitorial Supplies  
Building Supplies  
Medical Supplies Enter the cost for each line item under appropriate funding stream(s).
- 6.5.3** Lines 39-43  
Other (specify) Use this line if you need to specify additional Supplies Costs. In the Column B, instead of Other (specify), enter the name of the supply budget line item and enter the cost of that line item under appropriate funding stream(s).

**6.6 Section C6 Equipment/Other Direct Costs**

- 6.6.1** If replacement or additional equipment is being requested, use the Budget Narrative to provide details on the specific piece of equipment requested and explain why it is needed.
- 6.6.6** Lines 44-46  
Other (specify) Use this line if you need to specify additional Equipment/Other Direct Costs. In the Column B, instead of Other (specify), enter the name of the direct cost budget line item and enter the cost of that line item under appropriate funding stream(s).

**6.7 Section C7 Indirect Costs**

Explain how Indirect Cost was determined.

**6.8 Section C8 Total Budget**

The values for this line are automatically calculated.

**7. Budget Narrative**

**Budget  
Narrative  
Supplement Note:**

**For each section of the Budget Worksheet, use the Budget Narrative Worksheet to explain how a particular cost was calculated, explain why a certain cost is necessary or provide more information to clarify items in "Other Specify". This is the budget justification and narrative.**

**The amount requested to DSAMH for each Section will appear to the right of each Section heading on the Budget Narrative.**

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**7.1 C1 Staff Salaries**

Explain how staff salaries were determined and allocated to this project. Explain any increases/decreases in salaries from the previous contract with the State (if applicable).

**7.2 C2 Staff Fringe Benefits**

In the Additional Narrative Section, explain how the fringe benefits were determined. Explain any increase/decrease in fringe benefits from the previous contract with the State (if applicable). Provide detail on the items included in the fringe benefits, and the percent and dollar amount of each item.

Complete the Fringe Benefits Classification table.

**Example:**

<b>Fringe Benefit Classification</b>	<b>Amount</b>	<b>Percent</b>
FICA	\$16,000	8%
Health Insurance	\$24,000	12%
Workers Compensation	\$10,000	5%
<b>Total Fringe Benefits</b>	<b>\$50,000</b>	<b>25%</b>

**7.3 C3**

**Travel/Training**

**7.3.1 Travel**

Explain Mileage in the Narrative Portion and enter the quantity of the estimated miles for this program into the Mileage cell. Please make sure that the dollar value in Total Mileage matches with the total amount given for Mileage on Budget Worksheet Line 13.

**Example:** Mileage x 0.40(DSAMH Max) = Total

Mileage 4,000.00 Rate \$0.40 Total Mileage = \$1,600

**7.3.2 Training**

For the training narrative please give a detailed description of the training allocated on the Budget Worksheet. Training expenses must align with spending principles outlined in the State of Delaware Budget and Accounting Manual, Chapter 11-Training. <https://budget.delaware.gov/accounting-manual/index.shtml>

**7.3.3 Other (Specify)**

Identify and explain the cost.

**7.4 C4**

**Contractual**

**7.4.1 Rent**

Identify the square footage and the cost per square foot for **each space rented**.

Example: Sq. Footage x Cost/sq. ft. = Total  
2000 sq. ft. x \$10/sq. ft. = \$20,000

In the Additional Narrative portion, please explain how the rent was determined and allocated to the project.

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<b>7.7</b>	<b>Column E</b>	<b>Other Resources</b>  Explain what the other resources are and how they are allocated to this project.
<b>7.8</b>	<b>C7</b>	<b>Indirect Costs</b> Explain how Indirect Cost was determined
<b>7.9</b>	<b>C8</b>	<b>Total Budget</b> The values for this line are automatically calculated.

## Appendix C-2 – Budget Workbook

80



							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
INDIRECT STAFF:							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
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							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
Totals					\$0.00	\$0.00	\$0.00

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BUDGET WORKSHEET				
<b>Applicant Agency:</b> <b>Contract Number: HSS-19-054</b> <b>Program / Service: NURSE PRACTITIONER &amp; GERIATRIC PSYCHIATRIST</b> <b>Contract Period: ONE YEAR</b>				
Budget Items	TOTAL	Requested Funds	Other Resources	Administration
<b>C- 1 Staff Salaries</b>	\$0.00	\$0.00	\$0.00	
<b>C- 2 Staff Fringe Benefits</b>	\$0.00			
<b>C- 3 Travel/Training (Total)</b>	\$0.00	\$0.00	\$0.00	\$0.00
Mileage = Rate \$0.40 X Miles	\$0.00			
Training	\$0.00			
Other (specify here)	\$0.00			
<b>C- 4 Contractual (Total)</b>	\$0.00	\$0.00	\$0.00	\$0.00
Rent (include cost per sq. ft.)	\$0.00			
Electricity	\$0.00			
Heat	\$0.00			
Telephone/Internet	\$0.00			
Utilities (Other)	\$0.00			
Printing/Advertising	\$0.00			
Postage	\$0.00			
Insurance	\$0.00			
Repairs	\$0.00			
Audit	\$0.00			
Other (specify here)	\$0.00			
Other (specify here)	\$0.00			
Other (specify here)	\$0.00			

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	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
<b>C-5</b>	<b>Supplies (Total)</b>	\$0.00	\$0.00	\$0.00	\$0.00
	Office Supplies	\$0.00			
	Program Supplies	\$0.00			
	Janitorial Supplies	\$0.00			
	Building Supplies	\$0.00			
	Medical Supplies	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
<b>C-6</b>	<b>Equipment/Other Direct Costs (Total)</b>	\$0.00	\$0.00	\$0.00	\$0.00
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
<b>C-7</b>	<b>Indirect Costs</b>	\$0.00			
<b>C-8</b>	<b>Total Budget</b>	\$0.00	\$0.00	\$0.00	\$0.00

\*amount charged to contract

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## BUDGET NARRATIVE

**Applicant Agency:**

**Contract Number:**

**HSS-19-053**

**Program / Service:**

**DIETARY PROGRAM SERVICES**

**Contract Period:**

**ONE YEAR**

Narrative is **REQUIRED** for each Category where DSAMH funds have been allocated on the Budget Worksheet.

**C-1 Staff Salaries**

**Amount requested** \$0.00

Explain how Staff Salaries were determined and justify any increase from the previous contract year (if applicable).

**C-2 Staff Fringe Benefits**

**Amount requested** \$0.00

Explain how Staff Fringe Benefits were determined and justify any increase from the previous contract year (if applicable). Show the breakdown of any calculated Fringe Benefit Rate.

Fringe Benefit Classification	Amount	Percent
Federal Insurance Contributions Act		
Workers compensation		
Health Insurance		
<b>Total Fringe Benefits</b>	<b>\$0.00</b>	<b>0.00%</b>

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**Staff Fringe Benefits -  
Additional Narrative**

**C-  
3 Travel / Training**

**Amount requested** \$0.00

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year (if applicable).

**Mileage\***

Mileage  Rate \$0.40

**Total Mileage =** \$0.00

**Amount requested\*** \$0.00

\*Maximum allowable mileage rate is \$0.40/mile per the State of Delaware, Budget and Accounting Policy Manual.

**Training**

**Amount requested** \$0.00

**Other (specify here)**

**Amount requested** \$0.00

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**C-4 Contractual** **Amount requested** \$0.00

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

**Rent (include cost per sq. ft.)**

Rental Location	Sq. Footage being charged to DSSC	Cost Per Sq. Ft.	Total
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			<b>Monthly Rent</b> \$0.00
<b>Total Months Charged to Rent:</b> <input type="text"/>			<b>Total Rent</b> \$0.00

**Rent - Additional Narrative** **Amount requested** \$0.00

**Electricity** **Amount requested** \$0.00

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**Heat**

**Amount requested    \$0.00**

--

**Telephone/Internet**

**Amount requested    \$0.00**

--

**C-  
4**

**Contractual**

(Continued)

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year (If applicable).

**Utilities (Other)**

**Amount requested    \$0.00**

--

**Printing/Advertising**

**Amount requested    \$0.00**

--

**Postage**

**Amount requested    \$0.00**

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<b>Insurance</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Repairs</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Audit</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**C-4**

**Contractual** (Continued)

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**Additional Contractual Narrative**

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**C-5**

**Supplies**

Amount requested \$0.00

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

**Office Supplies**

Amount requested **\$0.00**

--

**Program Supplies**

Amount requested **\$0.00**

--

**Janitorial Supplies**

Amount requested **\$0.00**

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--

**Building Supplies**

**Amount requested    \$0.00**

--

**Medical Supplies**

**Amount requested    \$0.00**

--

**C-  
5**

**Supplies**

**(Continued)**

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

**Other (specify here)**

**Amount requested    \$0.00**

--

**Other (specify here)**

**Amount requested    \$0.00**

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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**C- Equipment & Other Direct Costs**  
**6**

	<b>Amount requested</b>	<b><u>\$0.00</u></b>
--	-------------------------	----------------------

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b><u>\$0.00</u></b>
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<b>Other (specify here)</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**Column E**

**Other Resources**

Explain how the following costs were determined. What is included in the costs?

<b>Explain OTHER RESOURCES:</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**C-**

**7 Indirect Costs**

Explain how the following costs were determined, what is included in the costs and justify any increase from previous contract year.

<b>Explain INDIRECT COST:</b>	<b>Amount requested</b>	<b>\$0.00</b>
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**Appendix C-3- RFP FINANCIAL SURVEY**  
**RFP/CONTRACT NUMBER: HSS-19-053**  
**PROGRAM/SERVICES: DIETARY PROGRAM SERVICES**

**NAME OF APPLICANT AGENCY:** [Click here to enter text.](#)

<b>Organization Information</b>
---------------------------------

1. Nature of Business

a. Organization type:

☐ For-profit      ☐ Non-profit      ☐ Not-for-profit

b. IRS tax-exempt status:

☐ Non-exempt      ☐ Exempt – Under IRS Code Section: [Click here to enter text.](#)

2. Corporation Data:

Are the following documents up to date?

Item	Document Description	YES	NO
a.	Corporate Documentation (i.e., Certificate(s) of Incorporation; By-laws; Policy & Procedures as requested herein)	<input type="checkbox"/>	<input type="checkbox"/>
b.	Fidelity Bond	<input type="checkbox"/>	<input type="checkbox"/>
c.	Insurance Policies for property:		
	Liability	<input type="checkbox"/>	<input type="checkbox"/>
	Vehicle	<input type="checkbox"/>	<input type="checkbox"/>
d.	Malpractice/Liability insurance to protect agency/staff against lawsuits brought by recipients of services	<input type="checkbox"/>	<input type="checkbox"/>
e.	IRS Form 501C – Tax Exempt Status	<input type="checkbox"/>	<input type="checkbox"/>
f.	IRS Form 4029 – Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits	<input type="checkbox"/>	<input type="checkbox"/>
g.	IRS Form 990 – Return of Organization Exempt from Income Tax	<input type="checkbox"/>	<input type="checkbox"/>
h.	IRS Form 941 – Employer's Quarterly Federal Tax Return	<input type="checkbox"/>	<input type="checkbox"/>
i.	Delaware Annual Franchise Tax Report	<input type="checkbox"/>	<input type="checkbox"/>
j.	Delaware Forms (VCE - UC8A) W1-W3 Report of State Withholding	<input type="checkbox"/>	<input type="checkbox"/>
k.	Contracts for Purchased Services (i.e., Rent, etc.)	<input type="checkbox"/>	<input type="checkbox"/>
l..	Delaware Business License	<input type="checkbox"/>	<input type="checkbox"/>

<b>Finance, Accounting, and Internal Controls</b>
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3. Basis of accounting system: ☐ Cash ☐ Accrual

4. Does the firm engage an independent auditor to conduct an annual audit of financial statements? ☐ Yes ☐ No

a. If yes, select type of audit: ☐ Federal Single Audit ☐ Financial Audit; Last fiscal year audited:  
\_\_\_\_\_

b. If no, is an Independent CPA Review performed? ☐ Yes ☐ No; Last fiscal year reviewed:  
\_\_\_\_\_

5. Provide, a listing of the firm's Chart of Accounts (COA), including both the numeric code and description of each account in the accounting system.

[Click here to enter text.](#)

6. The firm must maintain a complete set of accounting records, or books of account for original and secondary entries, in which all financial information of firm are recorded and maintained, including journals, ledgers, and supporting documentation.

Has your firm maintained a complete set of accounting records? ☐ Yes ☐ No

(**Note:** If selected as a contract agency, these records may be audited by Division representatives at any time.

7. Internal Controls

**Reference:** The Committee of Sponsoring Organizations (COSO) of the Treadway Commission Internal Control Integrated Framework (COSO Framework) for Organizations to use in the assessment of internal control as adapted by the Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* issued Sep 2014.

a. Have deficiencies or material weaknesses in internal controls been found during an audit? ☐ Yes ☐ No

b. Does your firm maintain written financial practice policies and procedures? ☐ Yes ☐ No  
(If yes, please provide a copy to the Division in a labeled attachment to this survey)

c. Are Financial Policies and Procedures regularly reviewed and revised as necessary? ☐ Yes ☐ No

d. If not present in the attached policies and procedures, explain the internal management mechanisms in place for safeguarding the assets of the organization, and for preventing and detecting errors, fraud, waste and abuse. Specifically describe the following financial management areas under marked sub-headings:

- Separation of functional responsibilities and duties;

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- Petty cash procedures (include uses, forms, maximum balance maintained, limits on transactions, procedures for reconciliation and replenishment);
- Receipts (describe flow of receipt, recording, and deposit);
- Disbursements (approvals, safeguarding blank checks, check issuance, required check signatories, maintenance of supporting documents)
- Bank statement (both process and timing of opening, review, reconciliation and approval of statement)

8. Billing Clients for Services

- a. Does the firm maintain a schedule of fees? ☐ Yes ☐ No

Summarize, the procedures for determining fees due from client, include information about how a client is informed about the fee schedule, determination of client's ability to pay, the procedures for billing clients, and how the receipt of client fees is documented.

[Click here to enter text.](#)

- b. Explain the procedures for billing third-party payers? [Click here to enter text.](#)

<b>Program</b>
----------------

9. Does the firm maintain a summary of total program funding and a breakdown of approximate funding by source?

☐ Yes ☐ No

Briefly describe: [Click here to enter text.](#)

10. Does the program have person(s) responsible for the preparation and review of the program budget? ☐ Yes ☐ No

Describe the procedures for preparing the overall program budget, estimating the projected income, and for the periodic budget review and adjustments.

11. Indirect (Facilities and Administration) Costs

- a. Describe the agency's development of its indirect cost pool(s), and the method of distributing indirect (F&A) charges across programs.

(Please provide a copy of the policy to the Division in a labeled attachment)

- b. Does the organization have a Federally-approved indirect cost rate? ☐ Yes ☐ No

Indirect Cost Rate: \_\_\_\_\_% Type of rate (predetermined, provisional, final, de minimis, etc.): \_\_\_\_\_

Allocation (distribution) basis: \_\_\_\_\_ Federal cognizant agency for indirect costs:

\_\_\_\_\_

<b>Procurement</b>
--------------------

12. What are the organization's procedures for procurement? Include description of:

- a. Solicitation and bids process for service, and
- b. Receipt and inspection of goods.



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(Please provide a copy of the policies to the Division in a labeled attachment)

**NOTE:** When procuring property and services under a Federal award, non-Federal entities that are not states, must follow Uniform Guidance procurement standards found at 2 CFR 200, §200.318 through §200.326.

**Property Management**

13. Describe the following elements of the firm's property management process.

a. Does the firm maintain an inventory (listing) of furnishings, office equipment, and other capital property?

☐ Yes      ☐ No

b. The inventory record includes (check all that apply; otherwise, write N/A for not applicable):

Property Inventory Data	Applicable
Property description	<input type="checkbox"/>
Identification number of item (serial number, model)	<input type="checkbox"/>
Purchase or acquisition date	<input type="checkbox"/>
Purchase Price	<input type="checkbox"/>
Source of funds for purchase	<input type="checkbox"/>
% of Federal Participation in Property Costs (if applicable)	<input type="checkbox"/>
Condition of item	<input type="checkbox"/>
Location of item	<input type="checkbox"/>
Date of loss, destruction, or disposition of item	<input type="checkbox"/>
Fair Value of Property at loss, destruction, or disposition	<input type="checkbox"/>

c. Is the inventory kept up-to-date?    ☐ Yes    ☐ No;    How often is the inventory updated?

\_\_\_\_\_

d. Identify the party responsible for maintaining the inventory? Name/Position

\_\_\_\_\_

**Applicant Agency Signoff**

14. Survey Completed by \_\_\_\_\_

(Printed or Typed Name)

Title/Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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**Appendix D – DIVISIONAL REQUIREMENTS**

The Divisional Requirements below will be listed as Appendix A of the awarded vendor's contract. Divisional Requirements are updated at the Division's discretion as necessary.

**Division Requirements**

The Contractor certifies, to the best of its knowledge and belief that all services provided under this contract shall be in compliance with all the terms, requirements and provisions of:

**I. General**

- A.** The Contractor agrees to provide the staff and services (as described in Appendices) and to seek reimbursement for services provided according to the terms and conditions set forth in this contract. Delaware residents shall be given priority over residents of other states in determining eligibility for services provided under this contract.
- B.** In the event that Contractor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware may suspend the scheduled payments.
- C.** The Division reserves the right to reduce the number of people a Contractor currently serves, restrict the number of referrals a Contractor may receive, or rescind authorization to operate one or more service sites (e.g., neighborhood home, apartment) or any combination of such measures as sanctions for documented unsatisfactory contract performance as determined by the Division. The Division may impose such sanctions for a period of between 30 to 365 days, with the right to renew the sanctions at the Division's sole discretion.
- D.** The Contractor agrees to acknowledge, in any communication involving the public, the media, the legislature or others outside of DSAMH, that the services provided under the terms of this contract are funded by and are part of the system of public services offered by DSAMH.
- E.** The Contractor agrees to participate in the DSAMH reporting and identification system and to use such forms as are approved/required by or supplied by DSAMH. Any modifications to the approved forms must have prior authorization from DSAMH.
- F.** DSAMH retains the specific right of access to all treatment records, plans, reviews and essentially similar materials that relate to the services provided to clients/consumers under the terms of this contract. DSAMH shall be entitled to make and retain possession of copies of any treatment records, plans, reviews and essentially similar materials which relate to the services provided to clients/consumers under the terms of this contract and the contractor shall not restrict DSAMH from such possession.
- G.** The Contractor agrees to submit incident reports, PM46 notifications as well as reporting of any and all adverse events.

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- H. The Contractor agrees to maintain such participant record systems as are necessary and required by DSAMH and/or federal mandate to document services. Program record systems shall be compatible with existing DSAMH systems, including the management information system (MIS), be based on project objectives and measure and track the movement of clients through the program.
- I. The Contractor agrees to provide DSAMH copies of such records, statistics and other data required for research, evaluation, client follow-up, training needs assessment and program or financial monitoring or audit.
- J. The Contractor agrees that no employee, board member, or representative of the Contractor, either personally or through an agent, shall solicit the referral of clients to any facility or program in a manner, which offers or implies an offer of rebate to persons referring clients or other fee-splitting inducement. This applies to contents of fee-schedules, billing methods, or personal solicitation. No person or entity involved in the referral of clients may receive payment or other inducement by a facility/program or its representatives. No person shall be employed for the sole reason to direct people with serious mental illness to a facility that they are employed by or get remuneration of any kind.
- K. The Contractor and DSAMH mutually understand and agree that DSAMH may at any time elect to seek another provider to provide the services required by this contract. In the event that DSAMH selects another provider, the Contractor agrees and shall be required to cooperate fully in the development and execution of an orderly and coordinated close-out of the Contractor's program operation to ensure the continuity of appropriate client care during the transition to another service provider.
- L. The Contractor agrees to apportion the delivery of services as purchased under this contract and to assure that services are reasonably available to DSAMH-approved and/or funded consumers/clients throughout the term of the contract. DSAMH reserves the right to delay or withhold payments for services provided under this contract when it appears that services are being provided in a manner that threatens reasonable availability of services or delays the expected provision of client specific data reports on a monthly basis throughout the term of the contract.

**II Department of Health and Social Services Requirements**

- A. The Contractor shall ensure that its liability insurance extends coverage to such members of its governing and/or advisory boards as may be potentially liable for damages by virtue of their official position, service to, or otherwise apparent or presumed relationship to the Contractor and/or the services provided by the Contractor under the terms of this contract.
- B. This entire Contract between the Contractor and the Division is composed of these several pages and the attached:

Appendix A	Divisional Requirements
Appendix B	Scope of Work/Service Description
Appendix C	Financial Requirements (to be created by DSAMH)
Appendix C-1	Contract Budget

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Appendix D	Vendor Work Plan
Appendix E	RFP-HSS-19-054, Nurse Practitioner & Psychiatrist Services.
Attachment 1	Vendor Response to HSS-19-054

This contract and its Appendices shall constitute the entire agreement between The Department and Contractor with respect to the subject matter of this Contract and shall not be modified or changed without the express written consent of the parties. The provisions of this contract supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter of this Contract.

C. The Contractor agrees to comply with the following Delaware Health & Social Services Policy Memorandums as applicable (highlighted).

1. **Policy Memorandum #5 – Client Confidentiality**  
<http://www.dhss.delaware.gov/dhss/admin/files/pm5.pdf>
2. **Policy Memorandum #7 – Client Service Waiting Lists**  
<http://www.dhss.delaware.gov/dhss/admin/pm7.html>
3. Policy Memorandum #24 – Safeguarding & Management of Resident/Client funds  
<http://www.dhss.delaware.gov/dhss/admin/files/pm24.pdf>
4. **Policy Memorandum #36 – Standardized Requirements During the Development Phase of Community Based Residential Homes for the DHSS/Division** <http://www.dhss.delaware.gov/dhss/admin/files/pm36.pdf>
5. Policy Memorandum #37 – Standard Ability to Pay Fee Schedule  
<http://www.dhss.delaware.gov/dhss/admin/policy/files/pm37.pdf>
6. Policy Memorandum #40 – Criminal Background Check Policy (applies pending location of vendor) <http://www.dhss.delaware.gov/dhss/admin/files/pm40.pdf>
7. **Policy Memorandum #46 – Standardized Reporting and Investigation of Suspected Abuse, Neglect, Mistreatment, Financial Exploitation and Significant Injury of Residents/Clients Receiving Services in Residential Facilities Operated By Or For DHSS**  
[http://www.dhss.delaware.gov/dhss/admin/files/DHSSPM/pm\\_046-8-22-16.pdf](http://www.dhss.delaware.gov/dhss/admin/files/DHSSPM/pm_046-8-22-16.pdf)
8. Policy Memorandum #55 – Human Subjects Review Board  
<http://www.dhss.delaware.gov/dhss/admin/pm55.html>
9. **Policy Memorandum#66 – Discharge/Transition Practices/Guidelines**  
[http://dhss.delaware.gov/dhss/admin/files/PM\\_66.pdf](http://dhss.delaware.gov/dhss/admin/files/PM_66.pdf)
10. **Policy Memorandum #70 – Inclusion policy**  
[http://dhss.delaware.gov/dhss/admin/files/PM\\_70.pdf](http://dhss.delaware.gov/dhss/admin/files/PM_70.pdf)

D. If the amount of this contract listed Section 2 of the contract boilerplate, paragraph 2.3 is over \$25,000, the Contractor, by their signature, is representing that the Firm and/or its Principals, along with its subcontractors and assignees under this Contract, are not currently subject to either suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

### III Federal requirements

A. The following Federal Mandates:

1. The Drug-Free Workplace Act of 1988.

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2. The Americans with Disabilities Act (PL 101-336).
3. P.L. 103-227, Sections 1041-1044, 20 U.S.C. Sections 6081-6084, also known as the Pro-Children Act of 1994.
4. Title IX of the Education Amendment of 1972 (45 CFR 86) which provides, in general, that no person shall on the basis of sex be excluded from program participation.

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**HIPAA BUSINESS ASSOCIATE AGREEMENT**

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

**RECITALS**

**WHEREAS**, The Parties have entered, and may in the future enter, into one or more arrangements or agreements (the “Agreement”) which require the Business Associate to perform functions or activities on behalf of, or services for, Covered Entity or a Covered Entity Affiliate (“CE Affiliate”) that involve the use or disclosure of 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

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**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:

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

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(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:

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

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

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

(l) **Part 2 QSO 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.

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**3. Obligations of Covered Entity.**

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

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

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

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

**4. Term and Termination.**

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

**(b) Termination Upon Breach.**

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

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Agreement that involve the disclosure to Business Associate of PHI, or, if nonseverable, the Master Agreement.

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

(d) **Effect of Termination.**

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

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

(iii) Without limiting the foregoing, Business Associate may retain copies of PHI in its 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.

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

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

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

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

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

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

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

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

**Covered Entity**

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Business Associate**

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

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**Appendix E- Professional Services Agreement**

The Professional Service Agreement template can be found at the following link: [Professional Services Agreement](#)