

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
DRUG COURT DIVERSION SERVICES
ISSUED BY DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF
SUBSTANCE ABUSE AND MENTAL HEALTH
CONTRACT NUMBER HSS-20-028**

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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 implement Problem Gambling Prevention and Intervention services. This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ [6981](#) and [6982](#).

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

Public Notice	Date: 04/30/2020
Deadline for Questions	Date: 05/21/2020
Response to Questions Posted by:	Date: 05/28/2020
Deadline for Receipt of Proposals	Date: 06/11/2020 at 11:00 AM (Local Time)
Estimated Notification of Award	Date: 06/30/2020

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

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

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

PREBID MEETING

A Pre-Bid Meeting has not been established for this solicitation.

II. Scope of Services

The Delaware Division of Substance Abuse and Mental Health (DSAMH) is responsible for the development and implementation of a state plan for prevention and treatment, coordination of state and federal funding, and development of standards for certification and approval of prevention and treatment programs.

Through contracted providers, DSAMH provides comprehensive prevention and treatment services to Delaware's adult populations, with emphasis on services for adults with addictive disorders and mental health conditions.

The Department of Health and Social Services, Division of Substance Abuse and Mental Health (DSAMH), is seeking proposals from DSAMH licensed substance abuse treatment agencies to provide assessment, psycho-education, case management, referrals, counseling, interventions and urine drug screen services to individuals entered into the Superior Court and/or Court of Common Pleas Drug Court diversion programs. DSAMH

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intends to contract with the successful applicant(s) for five years, as long as sufficient funding is available and the contractor's performance is satisfactory, consistently meets performance targets, and continues to meet the service system design needs of the DSAMH. DSAMH has developed a Scope of Services (SOW) Drug Court Diversion Program services that is included in **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.

A. Minimum Requirements

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

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

2. Vendor shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFP.
4. Proof of insurance and amount of insurance shall be furnished to the Agency prior to the start of the contract period and shall be no less than as identified in the bid solicitation, Section V, Item 8, subsection g (insurance).
5. Vendor shall provide proposal packages in the following format:
 - a. 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.
 - b. Four (4) electronic copies of the vendor proposal saved to CD or DVD media disk. Copies of electronic prices files shall be a separate file from all other files on the electronic copy. (If Agency has requested multiple copies, each electronic copy must be on a separate computer disk or DVD media disk).
6. **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;

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g. The bid opening date June 11th 2020

7. **Transmittal/Cover Letter** [In Hard Copy Format]. Must have original signatures.

B. General Evaluation Requirements

1. Education and Work Experience
2. Knowledge of the institute of Medicine Prevention strategies
3. Expertise (for the project under consideration)
4. 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.
5. Demonstrated ability to provide Drug Court Diversion Services
6. Distribution of work to individuals and firms or economic considerations
7. Other criteria necessary for a quality cost-effective project

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Public Notice

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

2. Obtaining Copies of the RFP

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

3. Assistance to Vendors with a Disability

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

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

5. Consultants and Legal Counsel

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

6. Contact with State Employees

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

7. Organizations Ineligible to Bid

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

8. Exclusions

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

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

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

2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with **SIX (6)** paper copies [One (1) paper copy must be an original copy, marked "ORIGINAL" on the cover, and contain original signatures] and **FOUR (4)** electronic copy on CD or DVD media disk. Please provide a separate electronic pricing file from the rest of the RFP proposal responses.

HARD COPIES

Each required copy must contain the following sections:

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

ELECTRONIC COPIES

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

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

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than **11:00 AM (Local Time)** on **June 11th, 2020**. 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
2nd Floor-Room #257
1901 N. DuPont Hwy
Herman Holloway Campus
New Castle, De 19720
dhss_dms_dmsprocure@delaware.gov

Vendors are directed to clearly print "BID ENCLOSED" and "CONTRACT NO. HSS-20-028" on the outside of the bid submission package.

Bidder name should also be clearly visible on the outside of the package.

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

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

3. Proposal Modifications

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

4. Proposal Costs and Expenses

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

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through June 30th2021. 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

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

9. Concise Proposals

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

10. Realistic Proposals

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

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

11. Confidentiality of Documents

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

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

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recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

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

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

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

12. Price Not Confidential

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

13. Multi-Vendor Solutions (Joint Ventures)

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

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a. Primary Vendor

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

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

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

b. Sub-contracting

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

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

c. Multiple Proposals

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

14. Sub-Contracting

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

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

15. Discrepancies and Omissions

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

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proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

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

a. RFP Question and Answer Process

The State of Delaware will allow written requests for clarification of the RFP. All questions shall be received no later than **May 21, 2020**. All questions will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov by the date of **May 28, 2020**. Vendor names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

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

16. State's Right to Reject Proposals

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

17. State's Right to Cancel Solicitation

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

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.

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18. State's Right to Award Multiple Source Contracting

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

19. Potential Contract Overlap

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

20. Supplemental Solicitation

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

21. Notification of Withdrawal of Proposal

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

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

22. Revisions to the RFP

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

23. Exceptions to the RFP

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

24. Business References

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

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reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

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

a. RFP Award Notifications

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

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

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

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

26. Cooperatives

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

C. RFP Evaluation Process

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

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

1. Proposal Evaluation Team

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

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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.

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
The qualifications and experience of the persons to be assigned to the project.	20
Familiarity and experience creating and running similar projects, including the ability to perform the work in a timely manner, company oversight and on-going project support and maintenance.	20

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Criteria	Weight
Proposed Program Design	20
Program Capacity to meet requirements as listed in the Scope	10
Implementation Plan	10
Business Proposal	15
References	5
Total	100
Bidders must circle Yes or No to the following questions and include the answers in their response.	
1) Does the bidder have a Supplier Diversity plan currently in place?	Yes/No
2) Does the bidder have any diverse sub-contractors as outlined in Attachment 8 Tier II Sub-contractors?	Yes/No
3) Does the bidder have a written inclusion policy in place? If yes, attach a clearly identifiable copy of the inclusion plan to your proposal.	Yes/No
Answers to these 3 questions are mandatory and do not affect the weighted evaluation of this proposal. However, an affirmative answer to question 2 may directly impact quarterly sub-contracting reporting as illustrated in Attachment 8 in those instances where an awarded contract includes subcontracting activity.	

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

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3. Proposal Clarification

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

4. References

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

5. Oral Presentations

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

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

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

V. Contract Terms and Conditions

1. Contract Use by Other Agencies

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

2. Cooperative Use of Award

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

3. As a Service Subscription

As a Service subscription license costs shall be incurred at the individual license level only as the individual license is utilized within a fully functioning solution.

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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 1 year with 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.
- 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.

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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 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.

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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

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.

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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.

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:

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH
CONTRACTS UNIT**

STATE OF DELAWARE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
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**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 (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.

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2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
3. As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the type of service or product being delivered.
 - a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
 - b. Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate.
 - c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:
 1. \$1,000,000 combined single limit each accident, for bodily injury;
 2. \$250,000 for property damage to others;
 3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
 4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. §2118; and
 5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

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

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

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- c. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate

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

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

**Department of Health and Social Services
Division of Substance Abuse and Mental Health
Contract No: HSS-20-028
State of Delaware
1901 N. DUPONT HIGHWAY
NEW CASTLE, DE 19720**

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

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

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

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

h. Performance Requirements

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

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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 performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

l. Warranty

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

m. Costs and Payment Schedules

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

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

n. Price Adjustment

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

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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, Delaware Health and Social Services (DHSS), 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 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. Remedies

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

r. Termination of Contract

The contract resulting from this RFP may be terminated as follows by 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

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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 unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.

3. Termination for Non-Appropriations

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

s. Non-discrimination

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

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t. Covenant against Contingent Fees

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

u. Vendor Activity

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

v. Vendor Responsibility

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

w. Personnel, Equipment and Services

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

x. Fair Background Check Practices

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

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y. Vendor Background Check Requirements

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

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

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

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

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

z. Drug Testing Requirements for Large Public Works

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

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

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aa. Work Product

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

bb. Contract Documents

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

cc. Applicable Law

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

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

1. the laws of the State of Delaware;
2. the applicable portion of the Federal Civil Rights Act of 1964;
3. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
4. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

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

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

dd. Severability

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations

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of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

ee. Assignment Of Antitrust Claims

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

ff. Scope of Agreement

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

gg. Affirmation

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

hh. Audit Access to Records

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

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ii. IRS 1075 Publication (If Applicable)

1. Performance

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

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

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

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

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

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

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

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

The contractor shall comply with agency incident response policies and procedures for reporting unauthorized disclosures of agency data. (Include any additional safeguards that may be appropriate)

2. Criminal/Civil Sanctions

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or

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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 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

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thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

3. Inspection

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

jj. Other General Conditions

1. **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
2. **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.
3. **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
4. **Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
5. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
6. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
7. **Assignment** – Any resulting contract shall not be assigned except by express prior written consent from the Agency.
8. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
9. **Billing** – The successful vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.

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- 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-20-028** 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 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

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

VII. Attachments

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

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2nd Tier Spend) Report
- Attachment 9 – List of Contracts in the State of Delaware
- Attachment 10 – Office of Supplier Diversity Application
- Appendix A – Minimum Response 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 Requirement

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IMPORTANT – PLEASE NOTE

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

REQUIRED REPORTING

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

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

AGENCIES MAY NOT REMOVE SUBCONTRACTING 2ND TIER REPORTS – Reporting is required by Executive Order.

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

Accurate 2nd tier reports shall be submitted to the contracting Agency’s Office of Supplier Diversity at vendorusage@delaware.gov on the 15th (or next business day) of the month

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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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NO PROPOSAL REPLY FORM

Attachment 1

Contract No. HSS-20-028

Contract Title: Drug Court Diversion 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-20-028
CONTRACT TITLE: Drug Court Diversion Services
DEADLINE TO RESPOND: June 11th, 2020, at 11:00 AM (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)	Corporation
NAME OF AUTHORIZED REPRESENTATIVE (Please type or print) _____		Partnership
		Individual

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE LICENSE NUMBER _____

	Certification type(s)	Circle all that apply
COMPANY CLASSIFICATIONS: CERT. NO.:	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 _____

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Attachment 5

Contract No. HSS-20-028
Contract Title: Drug Court Diversion 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 6

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. HSS-20-028	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 (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

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

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Attachment 8

SAMPLE REPORT - FOR ILLUSTRATION PURPOSES ONLY

State of Delaware																	
Subcontracting (2nd tier) Quarterly Report																	
Prime Name:							Report Start Date:										
Contract Name/Number							Report End Date:										
Contact Name:							Today's Date:										
Contact Phone:							*Minimum Required			Requested detail							
Vendor Name*	Vendor TaxID*	Contract Name/ Number*	Vendor Contact Name*	Vendor Contact Phone*	Report Start Date*	Report End Date*	Amount Paid to Subcontractor*	Work Performed by Subcontractor UNSPSC	M/WBE Certifying Agency	Veteran /Service Disabled Veteran Certifying Agency	2nd tier Supplier Name	2nd tier Supplier Address	2nd tier Supplier Phone Number	2nd tier Supplier email	Description of Work Performed	2nd tier Supplier Tax Id	

Note: A copy of the Subcontracting Quarterly Report will be sent by electronic mail to the Awarded Vendor.

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

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Attachment 9

Contract No. HSS-20-028
Drug Court Diversion Services
Contract Title: 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.



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

Supplier Diversity Applications can be found here:

<https://gss.omb.delaware.gov/osd/>

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

For more information, please send an email to OSD:

OSD@Delaware.gov or call 302-577-8477

Self-Register to receive business development information here:

<http://directory.osd.gss.omb.delaware.gov/self-registration.shtml>

New Address for OSD:

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

Telephone: 302-577-8477 Fax: 302-736-7915

Email: OSD@Delaware.gov

Web site: <https://gss.omb.delaware.gov/osd/>

Dover address for the Division of Small Business

Local applicants may drop off applications here:

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

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

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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 2 of the Request for Proposal including an Applicant's experience, if any, providing similar services. 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.
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:

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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. Four (4) 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 media).

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**Appendix B- Scope of work and Technical Requirements
DRUG COURT DIVERSION PROGRAM SERVICES**

I INTRODUCTION

A. Background

The Department of Health and Social Services, Division of Substance Abuse and Mental Health (DSAMH), is seeking proposals from DSAMH licensed substance abuse treatment agencies to provide assessment, psycho-education, case management, referrals, counseling, interventions and urine drug screen services to individuals entered into the Superior Court and/or Court of Common Pleas Drug Court diversion programs. DSAMH intends to contract with the successful applicant(s) for five years, as long as sufficient funding is available and the contractor's performance is satisfactory, consistently meets performance targets, and continues to meet the service system design needs of the DSAMH.

B. Project Goals/Overview

Delaware's Drug Court System was established in 1995 to expedite the processing of drug cases by the courts and to enable litigants with substance abuse problems to receive specialized services and treatment in the community.

Delaware was one of the first jurisdictions to introduce drug courts. The Delaware Drug Court system follows nationally accepted standards and procedures. The structure involves the close collaboration and cooperation of the judiciary, the Attorney General, the Public Defender or private counsel, and the Behavioral Health treatment system. In consultation with the criminal justice system, DSAMH provides funding and administrative oversight (primarily through the Treatment Access Center – TASC) of the treatment component of the Drug Court System, including the community-based diversion programs.

The organization of the Delaware Drug Court System provides expedited case processing. Once the Attorney General's office has deemed offenders "charge eligible", they are placed on one of the established Drug Court Tracks. Track I referrals are primarily for offenders arrested on drug offenses that are currently serving a Superior Court probation sentence (Probation Violator Track), while Track II is for offenders who do not have serious criminal histories (the Diversion Track).

This Request for Proposals targets Track II, Diversion services. Since the fall of 2004, both Superior Court and the Court of Common Pleas have had Drug Court Diversion programs operating in all three counties. The Superior Court Drug Diversion program requires a minimum of six months participation, while the Court of Common Pleas requires a minimum of four months participation.

The project will serve adults (age 18 and older) who were arrested in the State of Delaware and who volunteer for the Drug Diversion program and are accepted into the program by the judicial officer. Defendants arrested for drug offenses with minimal prior criminal conviction records and whose charges may carry a mandatory sentence of incarceration may elect to participate in the Diversion Program. Drug Court Diversion providers will receive referrals from the courts and will be responsible to provide the key components of the program: assessment, psycho-education groups, case management, early intervention services (ASAM Level .5) and random drug testing. In

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addition, Drug Court Diversion providers will be required to work in close collaboration with the referring court, including submitting regular progress reports to the court and attending all Drug Court Diversion proceedings. When appropriate and clinical needs dictate, the Diversion program will actively work to link a client in need of treatment services to an appropriate treatment provider.

Drug Court Diversion providers will be required to monitor client progress and, as appropriate, to make recommendations to the court for adjustments in the level of care and additional services that may be needed. Providers will be responsible for assuring that clients have access to the appropriate level of substance abuse treatment utilizing Delaware Treatment and Referral Network (DTRN) and other ancillary services (e.g., GED classes, housing, employment, voc-ed services, etc.) that are needed. Providers will adhere to all DSAMH policies and procedures for the use of DTRN. Providers will be expected to provide case management services, monitor clients closely and provide reports to the court for those clients who are referred to other agencies for services. Case Managers/supervisors will be expected to be available for Court when dictated by the judicial officer.

C. Applicant Organization Eligibility

Applicants must be currently licensed or eligible to be licensed by DSAMH to provide substance abuse treatment services. The applicant organization must be able to document a minimum of one year's experience providing substance abuse assessments, case management and/or counseling services to individuals involved in the criminal justice system.

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, experience and utilize best practices, as well as the depth of staffing, to provide the required services.

II TARGET POPULATION

The target population will consist of defendants, identified by the Attorney General's Office, who have been arrested for drug offenses with no or minimal prior criminal conviction records and whose charges may not carry a mandatory sentence of incarceration. The project will serve adults (age 18 and older) who were arrested in the State of Delaware and who volunteer to participate in the program.

Drug Court Diversion Programs operate in all three counties. Applicants must clearly indicate the specific court or courts that they propose to serve and present a staffing pattern that will adequately provide the required services to the caseload size listed below for each court.

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1. New Castle County:
 - A. Superior Court – Minimum of one provider to offer services to approximately 200 clients.
 - B. Court of Common Pleas – Minimum of one provider to offer services to approximately 300 clients.

2. Kent County:
 - A. Superior Court – Minimum of one provider to offer services 130 clients.
 - B. Court of Common Pleas – Minimum of one provider to offer services to 60 clients.

3. Sussex County:
 - A. Superior Court – Minimum of one provider to offer services to 75 clients.
 - B. Court of Common Pleas – Minimum of one provider to offer services to 60 clients.

III SCOPE OF SERVICES

Drug Court Diversion programs will be expected to provide the following core services:

A. Screening and Engagement:

Agency staff will be present in court at the entry hearing to complete an initial screening with potential participants. Consent and release of information forms must be signed at this time and an orientation appointment scheduled within five business days of the client's formal entry into diversion.

B. Assessment:

An assessment must be completed on all diversion clients. the contractor may wish to use a risk assessment instrument that assists in determining clients with high and low needs, and high and low risk. Applicant must identify the proposed assessment tool to be utilized and its understanding/agreement of moving to a DSAMH specified assessment tool during the course of this contract

In addition to this, Use of the Columbia- Suicide Severity Rating Scale (C-SSRS)

Is strongly encouraged. Please see the following link for more information:

<https://suicidepreventionlifeline.org/wp-content/uploads/2016/09/Suicide-Risk-Assessment-C-SSRS-Lifeline-Version-2014.pdf>

Currently, assessments must be scheduled and completed within five business days of orientation. Reports must be submitted to Court within 5 business days of the assessment UNLESS the Court determines it needs to be submitted sooner. The proposal should outline how this will be tracked and reported to DSAMH on a monthly basis.

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In the event that a diversion client needs a higher level of care at any time during his/her participation in the diversion program, ASAM Patient Placement Criteria must be used to determine the appropriate level of care. DSAMH Eligibility and Enrollment Unit (EEU) approval must be obtained when required by DSAMH procedures.

C. Case Management:

Every client will be assigned a case manager who will be his/her primary contact person throughout his/her stay with the agency. Duties of the case manager will include:

- Develop an individualized plan of services based on the information obtained at the screening and assessment. The plan will be updated regularly as the client progresses through the program.
- Meet individually with clients on his/her caseload each month prior to the client's court status conference.
- Assure that clients attend the psycho-education sessions as required by the Drug Court Diversion program protocols.
- Conduct psycho-educational groups as assigned by program administrators.
- Provide brief, individual counseling to clients as needed. NOTE: Clients who need on-going individual or group counseling should be referred and linked to a DSAMH funded outpatient treatment program, or a higher level of care when warranted.
- Assure that clients who need additional services or higher levels of care receive those services.
- Provide the court liaison with updated, accurate information to be included in the progress reports to the courts.
- Apply rewards and sanctions in accordance with the program's protocols, and in collaboration with the Drug Court Judge in order to incentivize success and compliance and to deter non-compliance.
- Assure that drug testing is completed on a random basis and that reports are provided to the court in a timely manner.

Applicants must clearly describe the caseload size for each case manager.

D. Psycho-Education:

Psycho-education groups will be the core component of the Drug Court Diversion program services for most clients. When necessary, Motivational Interviewing, with fidelity, must be used. Bidders will propose the evidence-based psycho-educational groups they will use. Program length, curricula, modules, group size etc... should all be incorporated into the proposal. The proposal must also outline how program success will be achieved and how this will be tracked and reported to DSAMH (on quarterly basis).

Peer Specialists (people with the experience of being in recovery from SUD) are strongly suggested to be included in the applicant's workforce plan. Furthermore, implementing A certification plan and routine training schedule for all peer specialists is strongly encouraged.

E. Court Status Conferences and Reports to the Court:

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Clients will be scheduled to appear in court to update the Judge on progress or lack thereof on a regularly scheduled basis throughout the duration of the Drug Court Diversion program.

The Drug Court Diversion Program requires providers to submit reports to the court (time frame to be determined by the Judicial Officer) prior to the client's court appearance for:

- Regularly scheduled status conferences
- Special status conferences scheduled because of non-compliance, need to make a significant change in the level of care, etc.

These reports must be prepared in the stipulated format agreed to by each court and submitted within the timeframe and at the frequency expected by each court

An agency liaison will attend all status conferences to answer questions that the Judge or Commissioner may have regarding client progress, the status reports and urine testing results. The liaison will be responsible to accurately present recommendations for sanction, reward, program completion or termination to the Judge or Commissioner. The liaison will also be responsible for ongoing communication with the Attorney General, Public Defender or private counsel and TASC. **Therefore, in their response to this RFP, applicants must describe the process they will employ to assure that court liaisons have knowledge of every case on the calendar for each state conference.**

F. Drug Testing:

The Drug Court Diversion Program requires participants to submit to randomly scheduled drug tests on a weekly basis. Drug testing must meet the requirements as directed by the specified court.

Providers will incorporate the costs of urine/drug screening into their proposals. It should include the costs for oral swabs as needed, as well as specialized testing. The results of the drug testing must be available for the Court and incorporated into any electronic health care record for the program and in concert with DSAMH.

Applicants must include any expected costs to meet these requirements in the proposed budget submitted in response to this RFP.

NOTE: Providers will also be required to submit Consumer Reporting Forms (CRF) to the DSAMH MIS Office within the stipulated monthly timeframes on admission, transfer and discharge of clients from their Drug Court Diversion Program.

H. Language Accessibility:

The provider must demonstrate that they have access to the requisite language resources for individuals assigned to their program who do not speak English.

I. Peer Involvement:

DSAMH expects that organizations fully incorporate peers into program operations. The proposal will need to identify how the organization is utilizing peers in this program.

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J. Required Elements for DSAMH contracted Treatment providers:

The applicant is expected to comply with DSAMH policies regarding

- a. Provision of Culturally and Linguistically Appropriate Services:
<https://www.dhss.delaware.gov/dhss/dsamh/files/DSAMH012.pdf>
- b. Discharge from Treatment
<https://www.dhss.delaware.gov/dhss/dsamh/files/DSAMH013.pdf>
- c. Trauma Informed Care
<https://www.dhss.delaware.gov/dhss/dsamh/files/DSAMH011.pdf>
- d. DTRN
<https://www.dhss.delaware.gov/dhss/dsamh/files/DTRNRequirements.pdf>
- e. Critical Incident Reporting
<https://www.dhss.delaware.gov/dhss/dsamh/files/IncidentPolicy.pdf>

K. 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.

Treatment services will be based on a fee for service rate structure further defined in the business proposal requirements of this RFP.

- 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.

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L. PROHIBITED ACTIVITIES

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

M. 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.”

N. INVOICING REQUIREMENTS

- Contractor(s) shall submit one monthly financial invoice by the 10th 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.
- 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.
- 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.

Contractor will submit all wait list information in compliance to the Division of Substance Abuse and Mental Health's Wait List Policy as established.

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O. CONSUMER REPORT FORM (CRF)

All Contracted Providers are required to submit CRF data for all publicly funded clients served. That would include all Medicaid, Medicare and DSAMH funded clients.

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 transfer is complete and accurate prior to submission to DSAHM SRU. Contractor shall upload encounter data to DSAMH SRU by the 10th 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 uploaded, is incomplete or has not met the 95% threshold for error rate, the Contractor shall ensure that corrected data is transferred within the ten (10) business days of receipt of DSAMH notification. Upon Contractor's written request, DSAMH may provide a written extension for submission of corrected encounter data.

If encounter data (CRF) is not transferred 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%.

Data Submission

All providers submitting electronic data are 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. Other reporting methods include encrypted message or hand carried. The request must clearly explain the provider's inability to use the SFTP site. Contact the DSAMH Statistics and Research (SRU) unit for information on creating an account and any other questions or concerns about data reporting requirements.

Data submission elements will be specified in the scope of work for each contract.

To accomplish this 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>

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2. Secure File Transfer User Procedures
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>
5. DTI State Information Transport Network (SITN) Acceptable Use Policy
<http://dti.delaware.gov/pdfs/pp/AcceptableUsePolicy.pdf>

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

Contractors with Electronic Health Record system will be given ninety (90) days advance notice of any changes for required data collection. This is to help prepare their external/internal vendors for coming adjustments to their system.

P. Performance Measurements:

The Division of Substance Abuse and Mental Health (DSAMH) and its providers are responsible for developing and providing a person-centered, recovery-oriented system of care for the consumers. Services provided are expected to be trauma-informed and equipped to working with consumers with co-occurring disorders, including those with histories of trauma. These fundamental principles are inherent and expected in each scope of service. Every aspect of working with consumers, including: the role of peers, screening, assessment, treatment planning, service provision, case management, social service and other, must be sensitive to these core principles. Contract monitoring and DSAMH's quality assurance activities will be geared toward assuring these core principles are in place. It is DSAMH's intentions to design (when not present) and institute performance-based contracts operationalizing these and other principles.

1. DSAMH has the right to conduct any on-site evaluation and monitoring of the Vendor's activity at any time.
2. The extension of the service period of the contract is based on, but not limited to, the past performance of the Vendor and availability of funds.
3. The determination of performance shall be based on, but not limited to, considerations of the following factors:

Performance Objective	Performance Standard / Acceptable Quality Level	Performance Goal	Method of Assessment
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

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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
Adherence to Program Activity Timelines and Program Outcome Measures	95% adherence to activity timelines and program outcome measures	100% adherence	As established by DSAMH

Q. SERVICE PERIOD

- Service period is one contract 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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APPENDIX C- BUSINESS PROPOSAL REQUIREMENTS

The proposed annual operating budget is to capture the requirements of the successful vendor 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.

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

Applicants must submit reasonable budgets 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. Specifically, the budget should not contain any items that are not detailed in the project narrative. 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.

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

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

Financial stability as determined by completion of **Appendix C.3** 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.

In addition to financial information, discuss any corporate reorganization or restructuring that has occurred within the last three years and discuss how the restructuring will impact the Applicant's ability to provide services proposed.

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 Vendor, during the course of the contract. The applicant must include a description of any current or anticipated business or financial obligations, which will coincide with the term of this contract.

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Appendix C-1 – BUDGET WORKBOOK INSTRUCTIONS

THESE INSTRUCTIONS ARE ASSOCIATED WITH THE BUDGET WORKBOOK ASSIGNED TO
RFP/CONTRACT NUMBER: HSS-20-028
PROGRAM/SERVICE: DRUG COURT DIVERSION SERVICES

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;

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

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

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<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 subgrants). 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 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

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- 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

- 5.3 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 “To Be Hired” in this Column.
Group the staff into two sections:
 - DIRECT STAFF: (intake staff, staff providing the services to the clients under this contract, etc.).
 - 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.).
- 5.4 B. Title/Position In this Column, enter the title or position of each person.
- 5.5 C. FTE **Enter** 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

For example, 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
- 5.6 D. Annual Salary Enter the **total annual salary** 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.

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.

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- 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 Travel and Training Expenses

- 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 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. This rate cannot exceed the State of Delaware's maximum allowable of forty cents (\$0.40) per mile. 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. <http://delcode.delaware.gov/title29/c071/index.shtml>

Enter the value of the total number of miles multiplied by the reimbursement rate under appropriate funding stream(s), Columns D through F.

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 .

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- 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).
- 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 Enter the cost for each line item under appropriate funding stream(s).

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Program Supplies
Janitorial Supplies
Building Supplies
Medical Supplies

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.

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).

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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:

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

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 Cell called "Total Months Charged to Rent" enter the total months included in the contract. If this budget is for the entire year, the total months entered should be twelve (12). If this contract budget is for a shorter or longer

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period than a year, agency must enter the total months included in the budget.

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

- | | | |
|--------------|--|--|
| 7.4.2 | Electricity
Heat
Telephone/Internet
Utilities (Other)
Printing/Advertising
Postage
Insurance | Explain how these costs were determined and allocated. |
| 7.4.3 | Repairs | Describe the proposed repairs and the need for them. |
| 7.4.4 | Audit | Explain how these costs were determined and allocated to the program. |
| 7.4.5 | Other (Specify) | Identify and explain each cost. |
| 7.5 | C5 | Supplies |
| 7.5.1 | Office Supplies
Program Supplies
Janitorial Supplies
Building Supplies
Medical Supplies | Explain how these costs were determined and allocated. |
| 7.5.2 | Other (Specify) | Identify and explain each cost. |
| 7.6 | C6 | Equipment & Other Direct Costs |
| | | If replacement or additional equipment is being requested, use the Budget Worksheet Supplement to provide details on the specific piece of equipment requested and explain why it is needed. |
| 7.6.3 | Other (Specify) | Identify and explain each cost. |
| 7.7 | Column E | Other Resources |
| | | Explain what the other resources are and how they are allocated to this project. |
| 7.8 | C7 | Indirect Costs |

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Explain how Indirect Cost was determined

7.9 C8

Total Budget

The values for this line are automatically calculated.

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Appendix C-2 – BUDGET WORKBOOK

PERSONNEL DETAIL WORKSHEET							
Applicant Agency: Contract Number: HSS-20-028 Program / Service: DRUG COURT DIVERSION SERVICES Contract Period: ONE YEAR							
Name of Staff (include credentials)	Title/Position	FT E	Annual Salary	% of Time on Project	Salary Paid w/ Requested Funds	Salary Paid w/ Other Resources	Total Contract Salary
DIRECT STAFF:							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$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
							\$0.00
							\$0.00
							\$0.00

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							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
Totals					\$0.00	\$0.00	\$0.00

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BUDGET WORKSHEET

Applicant Agency:
Contract Number: HSS-20-028
Program / Service: DRUG COURT DIVERSION SERVICES
Contract Period: ONE YEAR

Budget Items	TOTAL	Requested Funds	Other Resources	Administration
C-1 Staff Salaries	\$0.00	\$0.00	\$0.00	
C-2 Staff Fringe Benefits	\$0.00			
C-3 Travel/Training (Total)	\$0.00	\$0.00	\$0.00	\$0.00
Mileage = Rate \$0.40 X Miles	\$0.00			
Training	\$0.00			
Other (specify here)	\$0.00			
C-4 Contractual (Total)	\$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			
Other (specify here)	\$0.00			
Other (specify here)	\$0.00			

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	Other (specify here)	\$0.00			
C-5	Supplies (Total)	\$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			
C-6	Equipment/Other Direct Costs (Total)	\$0.00	\$0.00	\$0.00	\$0.00
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
	Other (specify here)	\$0.00			
C-7	Indirect Costs	\$0.00			
C-8	Total Budget	\$0.00	\$0.00	\$0.00	\$0.00

*amount charged to contract

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Other (specify here)

Amount requested

\$0.00

**C- Contract
4 ual**

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
		Monthly Rent	\$0.00
Total Months Charged to Rent:	<input style="width: 100%;" type="text"/>	Total Rent	\$0.00

Rent - Additional Narrative

Amount requested

\$0.00

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Electricity

Amount requested

\$0.00

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

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Postage **Amount requested** **\$0.00**

--

Insurance **Amount requested** **\$0.00**

--

Repairs **Amount requested** **\$0.00**

--

Audit **Amount requested** **\$0.00**

--

C-4 Contractual (Continued)

Explain how the following costs were determined, what is included in the costs and justify any

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increase from previous contract year.

Other (specify here)	Amount requested	\$0.00

Other (specify here)	Amount requested	\$0.00

Other (specify here)	Amount requested	\$0.00

Other (specify here)	Amount requested	\$0.00

Other (specify here)	Amount requested	\$0.00

Other (specify here)	Amount requested	\$0.00
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**Additional Contractual
Narrative**

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

Amount requested	\$0.00
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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
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Other (specify here)	Amount requested	\$0.00
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Other (specify here)	Amount requested	\$0.00
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Column E Other Resources

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

Explain OTHER RESOURCES:	Amount requested	\$0.00
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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.

Explain INDIRECT COST:	Amount requested	\$0.00
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Appendix C-3 – RFP FINANCIAL SURVEY
RFP/CONTRACT NUMBER: HSS-20-028
PROGRAM/SERVICES: DRUG COURT DIVERSION SERVICES

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

Organization Information

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"/>

Finance, Accounting, and Internal Controls

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

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- 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;
 - 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

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- 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.](#)

Program

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:

Procurement

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.
(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
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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	<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	<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-20-028- Drug Court Diversion Services
Attachment 1	Vendor Response to HSS-20-028

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
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
10. **Policy Memorandum #70 – Inclusion policy**
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.

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.

3. Obligations of Covered Entity.

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

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

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

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

4. Term and Termination.

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

(b) **Termination Upon Breach.**

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

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

(d) **Effect of Termination.**

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

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

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

5. **Miscellaneous.**

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

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

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

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

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

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