



DEPARTMENT OF
BUDGET & MANAGEMENT
AUDIT SERVICES CONTRACT (ASC) TORFP

KEY INFORMATION SUMMARY SHEET

All Terms and Conditions of the Master Contract apply.

REQUESTING AGENCY:	Maryland Health Benefit Exchange (MHBE)
NAME OF AUDIT PROJECT:	Independent External Audit for Plan Year 2014
TORFP NO:	ASC-2015-05-001 (MHBE)
MBE Participation Goal:	Overall Certified MBE Participation Goal: <u>30</u> %
SBR TORFP?:	<u>No</u>
Agency's Living Wage Tier:	<u>1</u>
ARRA Funds:	<u>No</u>
Is Non-Routine Travel Allowed (To Be Proposed?):	<u>No</u>

TORFP Release Date: *May 28, 2015*

TORFP Issuing Office: Department of Budget and Management
Procurement Officer: Jamie Tomaszewski
Office Phone: (410) 260-7386
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TOPs are to be submitted: Attached to the DBM *MOVEit* Website at:
<https://sftp.dbm.state.md.us>

Pre-TOP Conference: **Thursday, June 4, 2015 at 10:00 AM**
Maryland Health Connection
750 East Pratt Street | 16th Floor |
Baltimore, MD 21202

See Table of Contents Page for Directions

Closing Date and Time for TOP: **Thursday, June 18, 2015 at Noon (Local Time)**

TABLE OF CONTENTS	<u>PAGE</u>
TORFP Key Information Summary Sheet.....	1
1.0 Purpose.....	3
2.0 Terms and Conditions.....	3
3.0 Technical and Financial Format & Submission Requirements....	3
4.0 Evaluation Criteria for this TORFP.....	12
5.0 Selection Process.....	13
6.0 General TOP Requirements (See also SOW).....	14
Attachment A – Scope of Work (SOW).....	20
Attachment B – Financial TOP Affidavit.....	25
Attachment C – Non-Exchange Entity Agreement.....	26

Directions (*Allow sufficient time for your commute and parking. Fee'd Parking is available at local garages*):

Located at 750 East Pratt Street, near the Inner Harbor and Marketplace, Maryland Health Connection can be accessed by going to the 7th floor of the Harbor Garage on Lombard Street and walking through the Skywalk to the Sky Lobby visitor's desk or entering from Pratt Street/Miss Shirley's Restaurant entrance, taking the elevator to Sky Lobby, and walking to the visitor's desk. You must sign in, provide appropriate identification in exchange for a visitor's pass, and be escorted to the elevator by a guard who will send the elevator to the 16th floor. Use the phone located next to the entrance to request access into the office suite lobby.

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1.0 PURPOSE

The purpose of this financial and programmatic audit request is to ensure that the Maryland Health Benefit Exchange (MHBE) meets the obligations of an annual independent external audit as required by 45 CFR 155.1200-1210, Subpart M – Oversight and Program Integrity Standards for State Exchanges.

2.0 TERMS & CONDITIONS

- 2.1 The Master Contract terms and conditions are fully applicable to this TORFP and are not usually repeated within the TORFP except for clarification. Please refer to the Master Contract's RFP for details.
- 2.2 The sole contact for the ASC Master Contractors at release of the TORFP and until after Task Order Agreement (TOA) award is the DBM Contract Manager (See TORFP Key Information Summary Sheet). During the term of the TOA Award, the Agency TOM is the point of contact (See Section 6.1).
- 2.3 The TORFP requirements for Master Contractor TOP submission follow in Section 3. Section 6.0 General Requirements and **Attachment A-Scope of Work (SOW)** detail the project requirements.

3.0 TECHNICAL AND FINANCIAL FORMAT & SUBMISSION REQUIREMENTS

Each Master Contractor shall prepare its Technical and Financial TOP responses as outlined within this section.

- 3.1 Each Master Contractor receiving this AUDIT TORFP must submit within the AUDIT TORFP designated submission time as stated in the Key Information Summary Sheet with either a TOP for both Technical and Financial, or a completed form '*Audit Services Contract Master Contractor Comments for Not Submitting a Task Order Proposal.*'
- 3.2 The due date for submitting a TOP for this AUDIT TORFP is **documented on the Key-Information Sheet**. Local time will be established as provided by the Department of Budget & Management's Web system time stamp or email time stamp. The Contract Manager will not accept submissions after this date and time. The TOP is to be submitted to the DBM *MOVEit* website at: <https://sftp.dbm.state.md.us> using your firm's logon and password. The "file name" in your TOP submission shall state the Master Contractor Firm's Name and the TORFP's complete labeled number. For John Smith Company submitting a technical file:

Example: **John Smith-Tech-ASC-2015-05-001(MHBE)**.
- 3.3 The TOPs must be submitted in two (2) separate files using either Adobe Acrobat files or a combination of Microsoft software files. Example: MS Word or Excel.
 - a. The first file will be the TOP **Technical** response to this AUDIT TORFP and titled, "**Master Contractor Firm's Shortened Name-Tech-ASC-2015-05-001(MHBE)**"
 - b. The second file will be the TOP **Financial** response to this AUDIT TORFP and titled, "**Master Contractor Firm's Shortened Name-Finl-ASC-2015-05-001(MHBE)**"
- 3.4 **Format for Technical TOP:** The Master Contractor's **Technical-TOP** will be submitted in the following order.

3.4.1 The Master Contractor is to provide a Table of Contents and prepare and submit the TOP electronically in the following order with appropriately labeled sections. Items A through I are mandatory submissions for the Technical TOP. J, K and L are required submissions for the Technical TOP only if the item in the table is Marked for Submission in Section 3.4.2. A completed Attachment B- ASC Financial TOP Affidavit from this TORFP is mandatory for the Financial TOP submission:

Technical TOP:

- A** -- Table of Contents
- B** -- Master Contractor’s Executive Summary
- C** -- Work Plan: *A concise summary of the Master Contractor’s abilities, services, and management of the TORFP that incorporates all the TORFP requirements. Also any pertinent information the Master Contractor seeks to document to the User Agency.*
- D** -- TORFP Labor Category Summary Sheet (*Remember to attach resumes*)
- E** -- Corporate and Staff Experience and Capabilities, plus References and Information for State Contracts:
- F** -- Minority Business Enterprise Participation
 - 1) TOP MBE Form A-Certified MBE Utilization and Fair Solicitation Affidavit;
 - 2) TOP MBE Form B-Outreach Efforts Compliance Statement; and,
 - 3) TOP MBE Form C-Subcontractor Project Participation Certification
- G** -- Conflict of Interest Affidavit
- H** -- Affidavit of Agreement Maryland Living Wage Requirements-Service Contract
- I** -- Economic Benefits
- [J** -- NOT APPLICABLE FOR THIS TORFP: Certificate of Confidentiality]
- K** -- Non-Disclosure Agreement
- [L** -- NOT APPLICABLE FOR THIS TORFP: American Recovery and Reinvestment Act of 2009 (ARRA)]

Financial TOP:

Attachment B-ASC FINANCIAL TOP AFFIDAVIT (See separate MS Excel worksheet)

3.4.2 Summary of Required Attachments: Master Contractors, in addition to the TORFP, you will need to review, complete, and submit the following forms that are check marked [√]. Ensure that your TOP addresses each of the prescribed areas as part of your Work Plan. See the DBM Website for the downloadable forms. Other forms are for your informational use, or, are not specifically applicable to this TORFP.

FOR TECHNICAL TOP SUBMISSION:

Form:

Notes:

√	A TOP's Labor Category Summary Sheet http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/LaborCategorySummary.doc	Always Required
√	Affidavit of Agreement Maryland Living Wage Requirements: Instructions and Affidavit http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/LivingWageRequirements.pdf	Always Required
NO	ARRA Instructions and Forms (See TORFP Key Information Summary Sheet) http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/ARRAInstructionsForms.pdf	Used if funding for the TORFP utilizes ARRA funds in part or in whole
√	Certificate of Confidentiality for Master Contractor and any subcontractor http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/CertificateConfidentiality.pdf	
√	Conflict of Interest Affidavit and Disclosure http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/ConflictInterestAffidavit.doc	Always Required
√	Economic Benefits Information for TOP http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/EconomicBenefitsForTOP.doc	Always Required
See Note	Master Contractor Comments if No TOP is Submitted http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/MCNoBidForm.doc	Always Required if <u>no</u> TOP is submitted
√ and Note	MBE Participation Forms and Instructions http://dbm.maryland.gov/contractors/swcontracts/Pages/ASCMBEParticipation.aspx	Always Required Unless TORFP Participation Goal is Zero
√	Non-Disclosure Agreement for Master Contractor and any subcontractor http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/NonDisclosureAgreement.pdf	
√	The Master Contract's Summary of Approved Labor Categories and Minimum Requirements -- Labor Category Table (4 pages) http://dbm.maryland.gov/contractors/swcontracts/Documents/AuditServicesContract/ASC_LaborCategories.pdf	Always Required for correlation to the Labor Category Summary

FOR FINANCIAL TOP SUBMISSION:

√	ATTACHMENT B-ASC FINANCIAL TOP AFFIDAVIT (See separate MS Excel Worksheet)	Always Required
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3.5 Technical Submission:

If a Master Contractor elects to submit a TOP, the Master Contractor shall do so in conformance with the requirements of this AUDIT TORFP. In order to provide a 'technically sufficient' TOP, the Master Contractor must submit a technical portion for each of the following in this Subsection 3.5 that meets the requirements noted. **See also TOP format requirements in Section 3.0:**

A. Provide a Table of Contents

B. Provide a concise Master Contractor's Executive Summary

C. Proposed Services - Work Plans:

1. The proposed work plan shall provide a detailed discussion of capabilities and approach to address this TORFP's requirements outlined in Section 6-General TOP Requirements and Attachment A-Scope of Work. All tables must be totaled.
2. The proposed work plan shall include estimated task hours of effort, dates, time schedules, and assigned personnel by labor class-by Contract Year. See Section D-Proposed Personnel below.

The total number of hours shall equate to the total hours noted in the Attachment 1-Price Proposal - by Labor Classification/by Contract Year. Only hours may be shown in the Technical Proposal.

Note: The labeling of the labor classifications must adhere to the Master Contract's labor classifications. See Section 2.3.2 to review, '*The Master Contract's Summary of Approved Labor Categories and Minimum Requirements -- Labor Category Table (4 pages)*'

3. Non-Routine Travel: If Non-routine travel is applicable per the information in the Section 1.0 Key Information Summary Sheet and in Attachment A-SOW, and if the Master Contractor chooses to propose labor hours specific to Non-Routine Travel (beyond the identified 50-mile radius of the Agency site) in addition to the cost reimbursement for mileage, **the Work Plan must identify and incorporate any such labor hours by Labor Classification.** (See the ASC Master RFP, Section 3.4.4.E. (Travel).) Also see requirements for proposing regarding Non-Routine Travel below in D.3-Labor Category Summary Sheet.
4. Provide the names and titles of all key management personnel who will be involved with supervising the services rendered under this TOA.
5. **Describe the methodology for managing proposed estimates of hours and costs on an ongoing basis.**
6. Proposed facility: Identify contractor facilities including address, from which any work will be performed.

7. State Assistance: Provide an estimate of expectation concerning participation by the State Agency's team and/or information that the Master Contractor requires from the State Agency team.
8. American Recovery and Reinvestment Act of 2009 (ARRA): If noted on the TORFP Key Information Summary Sheet and required in the SOW, the Master Contractor must incorporate such reporting into its proposed Work Plan. For this TORFP, ARRA forms are N/A.
9. Include known reporting deliverables as described by the SOW and the Master Contract requirements. See Section F. Minority Business Enterprise Participation

D. Labor Category Summary Sheet

For Proposed Personnel:

1. As a summary and part of its work plan, the Master Contractor must complete the form '*A TOP's Labor Category Summary Sheet.*' Attach a **current** resume of each proposed personnel.
2. As backup to the summary and Work Plan, provide the total number of personnel by labor class, and total estimated hours of effort by labor class for all staff to include subcontractors.
3. Non-routine travel is applicable to this TORFP.
4. Subcontractors: Identify all proposed subcontractors, including MBEs, and their full roles in the performance of this TOA.

E. Corporate and Staff Experience and Capabilities

1. **Provide information on past experience with similar projects.**
2. **Provide specific references to include:**
 - a) Name of organization.
 - b) Name, title, and telephone number of point-of-contact for the reference.
 - c) Contract Type, and Period of Performance of contract(s) supporting the reference.
 - d) The services provided, scope of the contract, performance objectives satisfied, and improvements made for the client (e.g. reduction in operation/maintenance costs while maintaining or improving current performance levels).
 - e) Whether the Master Contractor is still providing these services and if not, an explanation of why it is no longer providing the services to the client organization.
3. **References and Information for State Contracts:**
As part of its offer (and separate from the references to be listed for 'E.2.' above), each Offeror is to provide a list of all of its Master Contractor's contracts with any entity of the State of Maryland that it is currently performing or which

have been completed within the last five (-5-) years. For each identified contract, the Offeror is to provide:

- i. The State contracting entity;
- ii. A brief description of the services/goods provided;
- iii. The dollar value of the contract;
- iv. The term of the contract;
- v. The State employee contact person (name, title, telephone number, and email address);
- vi. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was/was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the TORFP.

If the Master Contractor has no open or past contract experience with the State of Maryland, so state.

F. Minority Business Enterprise Participation

Minority Business Enterprise Goal - The minority business goal for this AUDIT TORFP is **30%**. Each Master Contractor responding to this TORFP must complete and submit the MBE forms per the instructions in 'Instructions and Forms for MBE Participation in Task Order Request for Proposals (TORFPs) under the Audit Services Contract.'

To meet a task order goal using MBE subcontractors, Master Contractors must:

- Identify work areas for subcontracting
- Solicit minority business enterprises as indicated by TOP MBE Form B-Outreach Efforts Compliance Statement
- Help minority businesses meet bonding requirements or grant them a waiver of bonding requirements
- Identify their MBE subcontractors at the time they submit their task order proposals

An MBE **must be** certified at the time of task order proposal submission in order to have its MBE participation counted toward the TORFP Contract goal.

For a TORFP issued with a MBE participation goal, the Master Contractor must complete, sign and submit with its *Technical* Task Order Proposal (TOP) submission:

- 1) TOP MBE Form A-Certified MBE Utilization and Fair Solicitation Affidavit;**
- 2) TOP MBE Form B-Outreach Efforts Compliance Statement; and,**
- 3) TOP MBE Form C-Subcontractor Project Participation Certification**

If a Master Contractor believes that a waiver of some or all of the TORFP MBE participation goal is necessary, the waiver request must be clearly indicated on the applicable TOP MBE Form A and included with its Technical TOP submission.

Please note: The Master Contractor's failure to submit TOP MBE Form A at the time of Technical TOP Submission shall result in the State's rejection of the Offeror's proposal (Technical and Financial) to the TORFP.

If the Master Contractor fails to submit TOP MBE Forms B and C at the time of Technical TOP submission, the DBM Contract Manager may determine that the Master Contractor is not responsible and therefore not eligible for Task Order Agreement (TOA) award. If the TOA has already been awarded, the award is voidable.

MONTHLY REPORTING DURING THE TERM PERIODS OF TASK ORDER AGREEMENTS: TORFP D-5 and TORFP D-6 are monthly MBE reporting forms that will be utilized for each applicable TOA that is awarded.

G. Conflict Of Interest

The TOA Contractor will perform audit services as required by this AUDIT TORFP and must do so impartially and without any conflict of interest. All Master Contractors must submit a completed Conflict of Interest Affidavit with the technical portion of its TOP for their own firm staff plus any subcontractor staff that is proposed to be utilized for this TORFP activity. If the Procurement Officer makes a determination before award of a TOA, pursuant to the AUDIT TORFP that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject a TOP under COMAR 21.06.02.03B.

All **possible** perceived conflicts of interest for the Master Contractor and ALL proposed subcontractors must be clearly identified and described in the Technical TOP. **Complete** the *Conflict of Interest Affidavit and Disclosure* form. See Section 3.4.1 and 3.4.2 regarding the form, and Master Contract RFP Section 3.14.

H. Affidavit of Agreement Maryland Living Wage Requirements-Service Contracts

Submit a completed Affidavit of Agreement (Maryland Living Wage Requirements). See Section 3.4.2 above. Also see the Key Information Summary Sheet for the Living Wage Tier specific to this TORFP. The DLLR Website for Living Wage info: <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>

I. Economic Benefits

A Master Contractor shall submit with its Task Order Proposal (TOP) a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Task Order Agreement (TOA). Its TOP will be evaluated to assess the benefit to Maryland's economy specifically offered.

A Master Contractor's TOP that identifies specific benefits as being contractually enforceable commitments will be rated more favorably under the evaluation criteria for Economic Benefits than a TOP that does not identify specific benefits as contractual commitments, all other factors being equal.

The Master Contractor's TOP shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the task order term.

As applicable, for the full duration of the TOA, or until the commitment is satisfied, the Master Contractor shall provide to the procurement officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. If the Master Contractor is awarded the TOA, these benefit attainment reports shall be provided quarterly or other time period designated by Agency.

Please note that in responding to this section, the following do not generally constitute economic benefits to be derived from this TOA:

1. generic statements that the State will benefit from the Master Contractor's superior performance under the contract;
2. descriptions of the number of Master Contractor employees located in Maryland other than those that will be performing work under the TOA; or,
3. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under the TOA.

Discussion of Maryland based employees or locations may be appropriate if the Master Contractor makes some projection or guarantee of increased or retained presence based upon being awarded the TOA.

Examples of economic benefits to be derived from a TOA may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- A. The TOA dollars to be recycled into Maryland's economy in support of the TOA, through the use of Maryland subcontractors, suppliers and joint venture partners.
- B. The number and types of jobs for Maryland residents resulting from the TOA. Indicate the approved Labor Category classifications, number of employees in each classification and the aggregate payroll to which the Master Contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels.
- C. Tax revenues to be generated for Maryland and its political subdivisions as a result of the TOA. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the TOA.
- D. Subcontract dollars committed to current Maryland small businesses and MDOT certified MBEs.
- E. Other benefits to the Maryland economy which the Master Contractor promises will result from awarding the TOA to the Master Contractor, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Task Order award. The Master Contractor may commit to benefits that are not directly attributable to the TOA, but for which the TOA award may serve as a catalyst or impetus.

J. Certificate of Confidentiality

Submit a completed Certificate of Confidentiality if it is so indicated in Section 3.4.2. The Master Contractor as Offeror should address its corporate policy and procedures for confidentiality.

K. Non-Disclosure Agreement

Submit a completed Non-Disclosure Agreement if it is so indicated in Section 3.4.2. The Master Contractor as Offeror should address its corporate policy and procedures for security and confidentiality.

L. American Recovery and Reinvestment Act of 2009 (ARRA)

If the Section 1.0-TORFP's Key Information Summary Sheet indicates that ARRA funds are utilized in the funding of this TORFP's audit services project, the Master Contractor as Offeror must address this requirement for reporting in its Technical TOP.

3.6 Financial Submission (SEPARATE SUBMISSION):

- 3.6.1 As a separate submission, the Attachment B-ASC Financial TOP Affidavit must be completed and signed by the Master Contractor as Affiant and constitutes the Master Contractor's Not To Exceed Financial offer to the State on behalf of its firm, and which will be binding for the full term of the executed Task Order Agreement. Attachment B is a separate MS Excel Worksheet.
- 3.6.2 Based upon this TORFP's period of performance and the Master Contractor-Offeror's Work Plan, the Master Contractor-Offeror shall provide hours and prices for each of the labor categories as applicable to their Work Plan. These are the maximum prices the State will pay for all proposed labor categories. The prices that the Master Contractor utilizes can meet but not be greater than their approved Master Contract's established prices per Contract Year and Labor Category.
- 3.6.3 The total number of hours for each labor classification and in-total must be the same as noted in the Master Contractor's Technical Proposal/Work Plan.
- 3.6.4 Record Fully Loaded Fixed Hourly Labor Category Rates that are at, or less than the approved Master Contractor's Not-To-Exceed (NTE) rates under the Master Contract as applicable to the Work Plan for this TORFP. Record each rate to two decimal places. Example: \$ 25.00.
- 3.6.5 In completing the Financial TOP Affidavit, the Master Contractor's Financial Proposal will be based on a single 'Total Evaluated Price.'
- 3.6.6 If Non-Routine Travel is indicated in the Section 1.0-TORFP Key Information Summary Sheet, and initially allowed in the Agency's Attachment A-SOW, and then if the Master Contractor chooses to propose Non-Routine Travel within the scope allowed by the ASC RFP, Section 3.4.4.E. (Travel), the travel dollars for mileage cost reimbursement must be estimated as a Not-To-Exceed and then incorporated into the Total Evaluated Price of the Financial TOP on the appropriate line. If there are no estimated dollars being proposed for Non-Routine Travel, enter zero dollars in Line 10.

Any associated labor hours must be estimated and a part of the Work Plan and information provided in 3.5.D.3, which will be reflected into the Financial TOP through the hours associated with the applicable Labor Categories.

4.0 EVALUATION CRITERIA FOR THIS TORFP

- 4.1 MBE:** The DBM Contract Manager will confirm that the forms as directed under Section 3.5 F above are provided with the Master Contractor's Technical TOP submission. If the forms TOP MBE Form A, TOP MBE Form B, and TOP MBE Form C have not been completed properly and submitted with the Master Contractor's TOP to this TORFP when due, the Master

Contractor's TOP (Technical and Financial) will be rejected by the State per information noted in this TORFP's Section 3.5.F.

4.2 *Evaluation of Each Qualified Offeror's Technical and Financial Proposals*

The Technical and Financial TOPs will be evaluated and have equal merit. Technical criteria will be based upon the criteria noted in 4.3. The Financial criteria will be evaluated for the Best (lowest) Total Evaluated Price.

4.3 *Technical Criteria*

The criteria to be applied to this TORFP are listed in descending order of importance:

4.3.1 Offeror's Experience and Capabilities

4.3.2 Offeror's Overall Understanding and Response to the TORFP Work Requirements and Work Plan

4.3.3 Economic Benefits

4.4 *Financial Criteria*

Financial TOPs will be evaluated separately. Master Contractors shall provide prices for all nine labor categories per the applicable Contract years that apply to this TORFP's period of performance, and for any applicable Non-Routine Travel. These are the maximum prices the State will pay for all proposed labor categories and the NTE Travel dollars. The prices that the Master Contractor utilizes can meet but not be greater than their approved Master Contract's established prices per Labor Category and Contract Year.

4.5 *Reciprocal Preference*

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland Contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Master Contractor as Offeror whose headquarters, principal Base of Operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement Contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

5.0 SELECTION PROCESS

5.1 General Selection Process

A Task Order Agreement (TOA) will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions.

Accordingly, the State may hold discussions with all Master Contractors as “Offerors” judged potentially to be reasonably susceptible of being selected for award. However, the State also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the State may determine a Master Contractor-Offeror to be not responsible or a Master Contractor-Offeror’s TOP to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of TOPs and the review of those TOPs. If the State finds a Master Contractor-Offeror to be not responsible or a Master Contractor-Offeror’s Technical TOP to be not reasonably susceptible of being selected for award, its Financial TOP will not be considered.

5.2 Selection Process Sequence

- 5.2.1 The first step in the selection process will be an evaluation for technical merit. During this review oral presentations/discussions may be held. The purpose of such discussions will be to assure a full understanding of the State’s requirements and the Master Contractor-Offeror’s ability to perform, and to facilitate arrival at a Task Order Agreement that will be most advantageous to the State.
- 5.2.2 Master Contractor-Offerors shall confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of any discussions with the user Agency’s TOM/P.O. Any such written clarification or change then becomes part of the Master Contractor-Offeror’s TOP and any TOA that is awarded.
- 5.2.3 The Financial TOP of each qualified Master Contractor-Offeror will be evaluated separately from its Technical TOP’s evaluation. After a review of the Financial TOPs of qualified Master Contractor-Offerors, the DBM Contract Manager or the Agency TOM/Procurement Officer may make clarification inquiries or again conduct discussions to further evaluate the Master Contractor-Offeror’s entire proposal.
- 5.2.4 When it is in the best interest of the State, the DBM Contract Manager or Agency TOM/Procurement Officer will request Master Contractor-Offerors who have submitted acceptable proposals to revise their initial TOPs and submit, in writing, Best and Final Offers (BAFOs).

5.3 Award Determination

Upon completion of all evaluations, discussions, and reference checks, the DBM Contract Manager will recommend award of a Task Order Agreement (TOA) to the responsible technically qualified Master Contractor-Offeror who is reasonably susceptible of being selected for award based upon providing the State with the most advantageous offer. Task Order Agreements are only valid for the specific Task Order to which they apply, and must be managed within its specific period of performance (term), NTE price, and scope of work.

5.4 Award Documentation

If the Master Contractor is awarded the Task Order Agreement (TOA), the TOA will be forwarded to the awardee and must be completed, signed, and submitted to the DBM Contacts Manager as original documents in triplicate.

5.5 Execution of the TOA and Initial Notice-To-Proceed

Once the DBM Contract Manager has received and validated the signed TOA, the DBM Contract Manager will execute the TOA. Upon execution, the DBM Contract Manager will send the awardee an original document for their files along with an applicable, initial Notice-To-Proceed (NTP), and notify all Master Contractor-Offerors of the award. Additional NTPs may be utilized by the Requesting Agency's TOM per their discretion during the course of the TOA.

6.0 GENERAL TOP REQUIREMENTS (See also SOW)

The TORFP and any subsequent TOA are fully subject to the ASC Master Contract's terms and conditions and are generally not repeated herein except for clarification. The requirements noted in this Section 6 are general TORFP requirements. See also Attachment A – Scope of Work.

6.1 Task Order Manager (TOM)

The assigned TOM to assure compliance with the TOA is: **Cat Pangilinan**. After TOA award, the TOM is the focal point for all correspondence and discussions with the contractor concerning technical direction and issues, and all technical direction that provides specific details and milestones. All deliverables must be submitted to and through TOM. The TOM acknowledges receipt of the deliverables, but this does not constitute approval for the deliverables. Approval for acceptance of the deliverables shall only be through the TOM. For any deliverable that does not receive acceptance, the TOM will provide written notification in writing of what is required to complete the deliverable to the State's satisfaction. The TOA Contractor must correct the deliverable to the State TOM's satisfaction and resubmit the deliverable for review and approval. Any deviation from this will result in the TOA Contractor performing at risk of non-payment for any unapproved services. Any change to this TOM position will be communicated in writing.

6.2 Reporting and Presentations under the ASC for the TORFP

For specific reports and presentations required by the TORFP noted in Attachment A-Scope of Work, and any subsequent TOA, at a minimum each time a report is required as a deliverable, the following procedure will be followed and accounted for in the Master Contractor's Work Plan. Unless directed otherwise by the TOM at the Kick-Off meeting, the TOA Contractor shall prepare the documents in Microsoft products such as MS Word, MSEXCEL, MSPowerPoint, etc.:

- a. **Draft Reports:** The TOA Contractor shall prepare and present as requested a written Draft Report that includes as applicable, findings, conclusions, anomalies (such as questioned costs, etc.) and recommendation. The State Agency is especially interested in those recommendations that will improve their records and internal controls for themselves and each applicable stakeholder as directed by the TORFP.
- b. **Final Reports:** The Draft Report(s) shall reference and include all backup materials. The Draft Report(s) must be provided and presented to the TOM. Unless required otherwise by the SOW, the TOA Contractor must plan within their Work Plan to incorporate the TOM's recommended edits into a Final Report (for

each contract) due within ten (10) working days of the delivery and presentation to the TOM of the Draft Report(s).

- c. **Summary Report:** The TOA Contractor shall provide a Summary Report that summarizes the Final Report(s) in an Executive Summary that includes summaries for each category of: Findings, Conclusions, Anomalies, and Recommendations.
- d. **Presentations:** After delivery of the Final Reports and the Summary Report, the TOA Contractor shall support up to eight presentations to stakeholders and/or management entities as directed by the TOM, and at times and places as approved by the TOM. Support includes the written documentation, presentation materials, media (hardware and software), and staff. See the specific requirements within the TORFP SOW as it may alter the number and times presentations are required.

6.3 Auditing Standards

The TOA Contractor shall conduct the audit using generally accepted auditing standards; and accordingly, include such tests of the accounting records and such other auditing procedures as are considered necessary, and documenting the standards utilized in their reports.

6.4 Detailed Work Plan

6.4.1 As a general guideline, the Master Contractor as the TOA Contractor will accomplish the work under the TORFP/TOA in the following phases:

- Phase I: Kick-Off Meeting and Finalize the Detailed Work Plan;
- Phase II: Execution of the Final Detailed Work Plan Finalized in Phase I;
- Phase III: Draft Reports;
- Phase IV: Final Reports and Summary Report; and,
- Phase V: Presentations

6.4.2 The Detailed Work Plan must give a detailed description of the planned audit activities and a description of the audit approach/methodology for conducting reviews and for testing. The Final Detailed Work Plan is based upon the successful TOA Contractor's proposed solution that will be utilized as the Draft Work Plan.

6.4.3 The Draft and Final Detailed Work Plans must include the schedule of audits to be performed and estimate task hours of effort. The price in-total for all work effort shall not exceed the total Not-To-Exceed price in the TOA contractor's approved Task Order Proposal. Hours utilized must be aligned by the approved Labor Categories as proposed, unless a variation in the use of the hours has prior-approval from the TOM. However, even with a variation in the use of hours, the price shall not exceed the total price approved for the Task Order Agreement.

6.4.4 The Final Detailed Work Plan is a living document and the TOA Contractor has the responsibility to keep it up-to-date. All requested changes must have prior approval in writing from the TOM before their incorporation.

6.4.5 The Kick-Off Meeting and Final Detailed Work Plan:

- a. The TOA Contractor shall attend and support the initial Kick-Off Meeting that is to be held (unless there is prior approval for another time by the TOM) within approximately 15 working days after TOA Award and the initial Notice To Proceed (provided by the DBM Contract Manager). The TOA Contractor will provide the Draft Work Plan at the initial Kick-Off Meeting for discussion and input.

b. The Final Detailed Work Plan shall actually be a summary plan that is made up of individual components specific to the audit services work as required by the SOW. The Final Detailed Work Plan and its components must demonstrate the timeline, resources and effort for completing each audit, the Draft Reports, Final Reports, and any presentations. The timeline and resources must acknowledge access to the State's resources as well. Unless pre-approved otherwise by the TOM in writing, the Final Detailed Work Plan is due within 5 working days of the Kick-Off Meeting.

c. During Phase II execution, periodic meetings will be held with the TOM or a designee in order to notify the Agency of any issues, concerns or problems encountered. The initial schedule of these meetings and timing/format of status reports will be established at the Initial Kick-Off Meeting. Although the TOM directs the timing and format of the status meetings, it is anticipated that initial meetings between the State TOM/team and the TOA Contractor will be approximately weekly.

d. Written Progress/Status Reports: The TOA Contractor is responsible to prepare written progress/status reports. The format and content of the weekly reports will be established at the initial Kick-Off Meeting. The TOA will establish a NTE ceiling dollar amount. The TOA Contractor must monitor invoiced amounts under the TOA. When a TOA is projected to reach 75% and 90% of the NTE ceiling dollar amount while performing a TOA, the TOA Contractor shall give notice to the TOM and the DBM Contract Manager that the TOA has reached, or is projected to reach the 75% and 90% level respectively. Each notice will also include an analysis of the TOA Contractor's ability to complete the project within the NTE ceiling amount. If the analysis concludes that the project cannot be completed within the NTE ceiling amount, the rationale for this conclusion must be provided, along with a projection of the amount that would be needed to complete the project. However, providing such a projection shall not obligate the State to change the NTE ceiling dollar amount. If a TOA Contractor reaches the TOA's NTE ceiling dollar amount, the TOA Contractor must stop performing any services for which it would seek payment beyond the NTE ceiling dollar amount. See again the ASC RFP's Section 3.4.3.2 for additional information.

6.4.6 Master Contactor's Invoicing and Invoicing Report(s):

6.4.6.1 Invoices with applicable backup documentation are due to the TOM no later than the 10th of the calendar month for the proceeding month's expended Task Order Agreement activity, unless there is prior written approval by the TOM for another submission date for the specific month. For example, For the month of December 1 through December 31, 2011, all invoicing, MBE reports, and any monthly status reports as requested by the TOM are due to be submitted no later than January 10, 2012. Invoices shall be only for actual time worked during the reporting period.

6.4.6.2 Invoices shall include but not be limited to the following information: name and address of the TOA's applicable State Agency, Contractor's name, remittance address, federal taxpayer identification, Invoice Period, Invoice Date, Invoice Number, and Total Amount Due and the Master Contactor's Blanket Purchase Order Number/The user Agency's Purchase Order Number(s).

6.4.6.3 The Total Amount Due for a TOA's invoice will be derived from the information detailed on the invoice. Invoices submitted without the required backup information will not be approved or processed for payment until the TOA Contractor provides the required information. Information required to be included:

1. The Labor Categories being billed and each applicable personnel's name; and,
2. The personnel's total hours for the month, and her/his applicable Hourly Rate.

6.4.6.4 For each invoice, the Contractor shall provide documentation that all the direct hours invoiced for its employees and subcontractors have actually been expended as documented, totally and productively, in the performance of the TOA. The employee time sheets or electronic time keeping records shall be certified by the Contractor to be the actual time worked by the employees and its subcontractors. The Master Contractor shall provide the invoice and its applicable documentation to the applicable TOM.

6.4.6.5 After the first invoice, subsequent invoices should document cumulative hours worked by Labor Category and cumulative dollars invoiced in order to coincide with the information reported on the NTE.

6.4.6.6 If Non-Routine Travel is approved in the TORFP/TOA, the Non-Routine Travel must be billed by the Contractor on a separate line item from the Labor Hours being invoiced. The TOA Contractor shall provide a separate line item, or separate invoice for any State Agency that requests a separate invoice for invoiced travel due to its accounting policies.

6.4.6.7 Only expended direct hours, and expended dollars for Non-Routine Travel may be invoiced, and may not exceed those applicable NTE prices as indicated in the TOA. Any unexpended dollars for labor or Non-Routine Travel at the conclusion of the TOA are not invoiced and are considered forfeited.

6.5 Travel

The Task Order Manager (TOM) shall determine the applicability of Routine Travel versus Non-Routine travel for a particular TOA, if it was originally a requirement of the TORFP. See this Section 1.0-TORFP's Key Information Summary Sheet for travel requirements.

6.6 Staffing

As with all master contract and subsequent TOA requirements, staffing by the Master Contractor is governed by the ASC Master Contract. This includes its own staffing and those staff utilized through subcontractors.

6.6.1 The Master Contractor shall communicate with and manage its commitments to its subcontractor(s) and the State. See also the Master Contract RFP's Section 1.34-Subcontractor Prompt Payment Policy;

6.6.2 For any subcontractors proposed on a TOA, the Master Contractor shall provide documentation upon the State's request of the written, signed and dated commitment between the Master Contractor and the subcontractor, and the specific agreed for scope of work and commitment. The commitment must be in-place before the Master Contractor utilizes such subcontractor in a TOP. If at any point during the TORFP/TOP process that the Master Contractor becomes aware of a subcontractor's inability to perform the services as committed to and indicated in its TOP, the Master Contractor shall promptly document this in writing to the DBM Contract Manager.

As this may affect the Master Contractor's ability to complete the applicable TOA, or receive a subsequent applicable TOA award, the DBM Contract Manager will provide written direction on any further process required to remedy the issue.

- 6.6.3 In response to each TORFP, the Master Contractor shall propose staff that is available at the time of the Master Contractor's TOP for the time period specified in the applicable TORFP. The staff that is proposed by the Master Contractor shall be the staff utilized if awarded the TOA. From the date that a TOP is received by the DBM Contract Manager (or designee), any subsequent changes to personnel requested by the Master Contractor must be done per the procedures outlined in the Master Contract RFP's section, 'Substitution of Personnel.'
- 6.6.4 On a monthly basis, even if there is zero work effort performed or zero invoicing, the Master Contractor will give status reports for the prior month's activity per the TOA requirements until final deliverables and invoicing have been accepted and reported. In addition, the Master Contractor and their MBE subcontractor(s) must provide the TOM respectively, a MBE D-5 form for Master Contractor activity and a MBE D-6 form directly from the MBE Subcontractor to the TOM for their activity.

6.7 DBM Contract Management

The TOM manages the day-to-day operations of the TOA; however, neither the TOA Master Contractor nor the Agency TOM is authorized to make contractual changes to the TOA regarding over all period of performance, scope, labor categories, the Not-To-Exceed pricing, or MBE. Any questions concerning these types of issues must be addressed to the DBM Contract Manager.

6.8 Security

- 6.8.1 Security Regarding Contractor-owned Computer Equipment: The TOA Contractor shall not connect any of its own equipment to an Agency's or State agent's LAN/WAN without prior written approval by the State. The State will provide equipment as necessary for support that entails connection to the State LAN/WAN, or give prior written approval as necessary for connection.
- 6.8.2 The TOA Contractor shall provide and fill-out any necessary paperwork for security access to sign on at the State's site if access is needed to the State's LAN/WAN, as directed and coordinated with the State's IT personnel through and by the TOM.
- 6.8.3 At all times at any facility, the TOA Contractor's personnel shall ensure cooperation with State site requirements which include: being prepared to be escorted at all times, any specific security for that particular site, and providing information for badging and wearing the badge in a visual location at all times.

6.9 Confidentiality / Non-Disclosure

The Master Contractor and all associated staff and subcontractor personnel must keep confidential, all information learned during the performance of the TOA Contract. Any specific Confidentiality Agreement and/or Non-Disclosure Agreement that is required by the TORFP in Attachment A-SOW will be noted in Section 3.4.2 of this TORFP and must be completed by all staff (Master Contractor and subcontractor) as proposed by the Master Contractor under this TORFP.

6.10 Living Wage

See the Living Wage Tier applicable to this TORFP on the Key Information Summary Sheet. **Do not leave blank spaces. If a line item is not applicable, then so state.**

A TORFP for services valued at \$100,000 or more under a State Master Contract may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Attachment L-The Living Wage Requirements for Service Contracts). The Living Wage Law applies to each TOA issued under a TORFP. Each Task Order stands alone. If the Master Contractor fails to submit and complete the Living Wage Affidavit of Agreement with its response to a TORFP, the State may determine for that TORFP that the Master Contractor is not responsible.

Master Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at the rate specified by law which may be viewed on the Department of Labor, Licensing and Regulation website at: <http://www.dllr.maryland.gov/>.

The specific Living Wage rate is determined by whether a majority of services for a TORFP take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit issuing the TORFP pursuant to SFP §18-102 (d) shall assign the tier based upon where the recipients of the services are located. The tier determination will be made on the Task Order level and will be included in each TORFP. See the Affidavit of Agreement affixed as part of this RFP's Attachment L-The Living Wage Requirements for Service Contracts.

6.11 American Recovery and Reinvestment Act of 2009 (ARRA)

If ARRA reporting is applicable according to the SOW and the TORFP Key Information Summary Sheet, then the Master Contractor must provide reports within the timeframes and formats noted by the ARRA documentation in the ASC RFP Attachment N (N-1 and N-2), and/or the TORFP's SOW. After TOA award, questions must be directed to the TOM.

ATTACHMENT A – SCOPE OF WORK

1.0 Purpose

The purpose of this financial and programmatic audit request is to ensure that the Maryland Health Benefit Exchange (MHBE) meets the obligations of an annual independent external audit as required by 45 CFR 155.1200-1210, Subpart M – Oversight and Program Integrity Standards for State Exchanges. The Program Integrity Rule Part II (PI Reg), 45 CFR 155.1200 (c) states:

The State must engage an independent qualified auditing entity which follows generally accepted governmental auditing standards (GAGAS) to perform an annual independent external financial and programmatic audit and must make such information available to the U.S. Department of Health and Human Services for review.

The independent audit must address the following areas, as related to MHBE:

1. Accurate accounting of MHBE receipts and expenditures in accordance with GAAP. (Compliance with paragraph (a)(1) of 45 CFR 155.1200);
2. Compliance with requirements under 45 CFR Part 155 (excluding sections defined below);
3. Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions; and
4. Identification of errors that resulted in incorrect eligibility determinations.

The independent audit is to be conducted in accordance with generally accepted auditing standards (GAGAS) established by the American Institute of Certified Public Accountants (AICPA). Unless otherwise noted within this Section, the independent audit must also be performed in accordance with the requirements set forth in 45 CFR 155 and the CMS guidance, provided as an attachment in Appendix A. Maryland Health Benefit Exchange's Audit for plan year 2014 focuses on the financial, eligibility and enrollment, and identification of errors that resulted in incorrect eligibility.

The programmatic review portion of this audit should not include a review of the following areas: Connector Entities, Call Centers, Navigators and Assister programs. These areas are included in the 2016 audit plan (which will cover plan year 2015). As such, sections of the 45 CFR that will not be included in the scope of this audit include, but may not be limited to 155.210, 155.215, 155.220, and 155.250. In that MHBE is a State-Based Marketplace (SBM), any regulations related specifically to the federally-facilitated marketplaces are not applicable.

The audit period will be for plan year 2014, which ran from January 1, 2014 to December 31, 2014.

2.0 Background

The Maryland Health Benefit Exchange operates Maryland Health Connection to provide Maryland residents and small businesses with a marketplace to compare plans, shop, and enroll in affordable health care coverage. It also evaluates eligibility for Medicaid, advanced premium tax credits, and other affordability programs designed to reduce costs for households with incomes below 400 percent of the federal poverty level (FPL).

When MHBE's health exchange system (HIX) launched for plan year 2014, it experienced significant functional challenges. Due to limited functionality, many of the eligibility and enrollment processes had to be performed manually using algorithms. To remedy the situation for plan year 2015, MHBE made an organizational decision to transition from the HIX system to a different information system (HBX) which the Connecticut state-based exchange implemented successfully.

This decision impacts the auditing of eligibility and enrollment processes in two ways. The HIX system is currently being decommissioned and records from 2014 plan year have been "stored" but not "integrated" into the HBX system. Therefore, all files selected to be audited will have to be pulled manually by MHBE staff and rules must be applied or reviewed manually rather than testing using the actual exchange system. It is expected that the time to pull the auditor's randomly selected files and to apply the appropriate rules will be more time intensive. For these reasons and to ensure the audit is completed in a timely manner, the MHBE is suggesting that the auditor use a sample size of no more than 60 records in order to test the accuracy and effectiveness of system controls, including whether errors were identified and corrected appropriately.

As a component of the State, MHBE's financial statements are incorporated into the overall State's budget and audit processes. As such, the MHBE's financial records are included and a part of the State of Maryland's Comprehensive Annual Financial Report (CAFR) which includes the State's combined audited financial statements for the State's fiscal year (July 1 to June 30). This report is prepared and presented in accordance with generally accepted accounting principles (GAAP). (See the following link to the State of Maryland's CAFR: [http://finances.marylandtaxes.com/Where the Money Comes From/General Revenue Reports/CAFR.shtml](http://finances.marylandtaxes.com/Where%20the%20Money%20Comes%20From/General%20Revenue%20Reports/CAFR.shtml)) The MHBE is also included in the State's Single Audit, which is also performed on a State fiscal year basis. (For a copy of the most recent, State Single Audit for the fiscal year ended June 30, 2014, please use the following link: <http://grants.maryland.gov/Documents/State%20of%20Maryland%20Single%20Audit%20Fiscal%20Year%20Ending%202014.pdf>) The audit firm selected may leverage results from these documents as part of efforts to verify MHBE's compliance with the requirement to keep an accurate accounting of receipts and expenditures in accordance with GAAP.

Other reviewable materials include fiscal year end closeout schedules, grant awards, advanced planning documents, accounting records as provided by data draws from the State Accounting System (RSTARS) and monthly financial reports (DAFRS), submitted Medicaid claims, grant drawdowns, physical invoices, journal entries and expense reports, and all relevant policies and procedures (both promulgated by MHBE and the Comptroller of Maryland). Most materials are retained onsite at MHBE offices. If materials are not readily available at MHBE Offices, they will be at locations that are within a 50-mile radius of the MHBE Offices. MHBE may also be able to assist with obtaining the records needed for onsite review at MHBE offices.

3.0 The Agency's goal for this financial audit service is:

The independent auditor will conduct the audit utilizing recommendations in Appendix A and its expertise to determine MHBE's compliance with 155.1200-1210, Subpart M – Oversight and Program Integrity Standards for State Exchanges.

Outcomes expected include:

A. A report of audit findings, which should contain the following:

1. Executive Summary
 - a. Purpose of the audit.
 - b. Scope of the audit, including the program areas and time period covered by the audit.
 - c. Methodology used to conduct the audit to include any quantitative and qualitative tests performed by the auditor and a statement that the audit was conducted in compliance with GAGAS audit standards.
 - d. Nature of confidential or sensitive information that may be have been omitted.
 - e. General conclusions reached regarding SBM compliance with the financial and programmatic requirements, including compliance with GAAP.
2. Audit Findings:
 - a. Specific findings from both the financial and programmatic audits, including a summary of compliance or non-compliance with requirements. This will include key findings that require SBM actions or a change/adjustment in SBM practices, policies and procedures.
 - b. Each finding should be presented to include the condition, criteria for judgment, cause of the issue, and effect on SBM operations and/or beneficiaries.
 - c. Material weaknesses, significant deficiencies, and violations found.
 - d. Identification of errors that resulted in incorrect eligibility determinations.
3. Recommendations:
 - a. Recommendations for improvements to operating procedures to comply with programmatic and financial requirements.
 - b. Recommendations should be detailed and include benefits of implementing the recommendation
4. Conclusion:

Confirmation that the auditor has reviewed relevant documentation and that the audit was conducted in compliance with CMS requirements, GAGAS, and GAAP.

To ensure transparency and clear communication, auditors should hold a weekly meeting with the Chief Compliance Officer and/or designees to discuss initial findings and observations. The auditor should provide MHBE with the draft report no later than July 15, 2015. Upon receipt of the draft report, MHBE will create a detailed corrective action plans (CAP) on how it will address and correct any material weaknesses and significant deficiencies, to include rationale and expected completion timeline.

The draft report and MHBE CAP will be discussed at the audit exit meeting which should be held by July 22, 2015. Any changes to the draft report will be discussed, agreed upon and incorporated into the final report, along with a copy of the final MHBE CAP. The final report will be submitted no later than July 25, 2015 to MHBE which will forward incorporated report to CMS on or before July 31, 2015.

The final report should be completed in Microsoft Word and PDF document.

B. A separate, written summary of the results of the external audit which can be publically posted by MHBE.

1. The auditor will write a summary of the external audit results which MHBE can utilize on its website to meet the requirement that the results of the external audit be publically posted. The written summary should be provided to MHBE no later than when the auditor submits the final report, July 24, 2015.

4.0 The Master Contractor will complete the requirements as indicated to meet the Agency's goals:

A. The independent audit must address the following areas, as related to MHBE:

1. Accurate accounting of MHBE receipts and expenditures in accordance with GAAP. (Compliance with paragraph (a)(1) of 45 CFR 155.1200);
2. Compliance with requirements under 45 CFR Part 155 (excluding sections defined above in 1.0);
3. Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions; and
4. Identification of errors that resulted in incorrect eligibility determinations.

5.0 In addition to the General Requirements documented in Section 6.0 of the TORFP, the Master Contractor must complete: N/A

6.0 The term of the Task Order Agreement Contract will begin upon a fully executed Task Order Agreement in conjunction with an initial Notice-To- Proceed issued by the DBM Contract

Management Office. Upon delivery and after State acceptance of the final deliverable, the term of the Task Order Agreement will end Friday, July 31, 2015.

All deliverables are due no later than Friday, July 24, 2015.

7.0 At the State's facility, the following will be provided:

Auditors will be provided a cubicle with a desk, chair and telephone from which to perform the audit. Physical access to 750 East Pratt Street offices as well as interviews, access to health based exchange and access to documentation will occur Monday through Friday, between the hours of 8:30 – 5:00.

Please note for security reasons, unless the Master Contractor completes security procedures and has prior approval to do so, the Master Contractor will be unable to connect their computer equipment to the State Agency's LAN or WAN

8.0 Travel: Non-Routine Travel **is not** applicable to this TORFP.

9.0 Certificate of Confidentiality: All proposed staff of the Master Contractor's staff to include subcontractors **is required** to complete this form.

(See the DBM Website under Statewide Master Contracts/Audit Services Contract/OPEN TASK ORDERS/ (in the right margin) TO Proposal Forms for a copy of this form.)

10.0 Non-Disclosure Agreement: All proposed staff of the Master Contractor's staff to include subcontractors **is required** to complete this form.

(See the DBM Website under Statewide Master Contracts/Audit Services Contract/OPEN TASK ORDERS/(in the right margin) TO Proposal Forms for a copy of this form.)

11.0 The Master Contractor is required to complete a Non-Exchange Entity Agreement for Non-Exchange Entities that have access to personally identifiable information. (See Sample as Attachment C. This document is required once the TOA is awarded with the using Agency.)

ATTACHMENT B – ASC FINANCIAL TOP AFFIDAVIT

Attachment B-The form ‘ASC Financial TOP Affidavit’ is a separate MS Excel file. Complete and submit as the Master Contractor’s Financial Submission as instructed in Section 3.6.

ATTACHMENT C – SAMPLE NON-EXCHANGE ENTITY AGREEMENT

This Non-Exchange Entity Agreement (this “Agreement”) is made by and between the Maryland Health Benefit Exchange, a public corporation and independent unit of the government of the State of Maryland (“MHBE”) and _____ (the “Non-Exchange Entity”), as of the Effective Date defined below. Each of MHBE and the Non-Exchange Entity is a “Party” to this Agreement and shall collectively be known as the “Parties”.

RECITALS

WHEREAS, MHBE is a state-based exchange established pursuant to the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law No. 111-152) (together with regulations promulgated pursuant thereto, the “ACA”), and particularly pursuant to 45 C.F.R. § 155.110, as well as pursuant to Title 31 of the Insurance Article of the Maryland Code Annotated, and

WHEREAS, the Non-Exchange Entity submitted a proposal in response to that certain Maryland Health Benefit Exchange Request for Proposals: _____ [Name of RFP], Solicitation No. _____ (the “RFP”); and

WHEREAS, the Non-Exchange Entity has been notified of award or awarded a contract (the “Underlying Agreement”) pursuant to the RFP; and

WHEREAS, the execution of this Agreement is required pursuant to the RFP, which is incorporated into the Underlying Agreement and is a part thereof; and

WHEREAS, MHBE and the Non-Exchange Entity enter into this Agreement effective as of the effective date of the Underlying Agreement (the “Effective Date”), pursuant to which the Non-Exchange Entity shall provide services to perform the functions set forth in the Underlying Agreement, as well as in any subsequent Task Orders issued pursuant to the Underlying Agreement; and

WHEREAS, the contractual relationship between MHBE and the Non-Exchange Entity set forth in the Underlying Agreement may involve access to Personally Identifiable Information (“PII”), as that term is defined herein, for purposes authorized under the ACA and, more particularly, under 45 C.F.R. § 155.200; and

WHEREAS, the Non-Exchange Entity’s access to PII submitted to the Exchange shall make the entity a “Non-Exchange Entity”, as that term is defined in 45 C.F.R. § 155.260(b)(1); and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, MHBE and the Non-Exchange Entity each acknowledge and agree that they enter into this Agreement for the purposes, among others as may be detailed herein, of ensuring the confidentiality, privacy and security of data accessed by the Non-Exchange Entity or exchanged between the Parties under this Agreement and compliance with the requirements of the ACA, including 45 C.F.R. § 155.260(b)(2) and, regardless of whether otherwise applicable to the Non-Exchange Entity, 45 C.F.R. § 155.270(a); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements, Trading Partner Agreements or Non-Exchange Entity Agreements the Non-Exchange Entity and MHBE may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered with acknowledgement of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

AGREEMENT

A. **Recitals.** The Recitals are true and correct in all respects, are incorporated into this Agreement and form a part of this Agreement.

B. **Definitions.** For purposes of this Agreement, the Parties agree that the following definitions apply, regardless of whether the identified word is capitalized herein:

1. **“Breach”** shall mean the compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, loss of control, or any similar term or phrase that refers to situations where persons other than authorized users or for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic.

2. **“Incident”** shall mean the act of violating an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for processing or storage of data; and changes to system hardware, firmware, or software

characteristic's without the owner's knowledge, instruction or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction. While certain adverse events (e.g., floods, fires, electrical outages, excessive heat, etc.) can cause system crashes, they are not considered incidents. An incident becomes a breach when there is the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic.

3. "Personally Identifiable Information" or "PII" shall mean personally identifiable information as defined by OMB Memorandum M-07-16 (May 22, 2007) ("PII refers to information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.").

4. "Unsecured PII" shall include, but not be limited to, electronic PII that is not encrypted by use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key.

C. Permitted Uses and Disclosure of PII by the Non-Exchange Entity.

1. Non-Exchange Entity may only use or disclose PII as necessary to perform the services set forth in the Underlying Agreement or as required by law.

2. Non-Exchange Entity agrees to make uses and disclosures and requests for PII consistent with MHBE's policies and procedures regarding minimum necessary use of PII.

3. Non-Exchange Entity shall not use or disclose PII in a manner that would violate 45 C.F.R. § 155.260 if done by MHBE.

4. Except as otherwise limited in this Agreement, Non-Exchange Entity agrees to disclose PII for the proper management and administration, or legal responsibilities of the Non-Exchange Entity only when (i) such disclosures are required by law, or (ii) Non-Exchange Entity obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential 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 the Non-Exchange Entity of any instances of which it is aware in which the confidentiality of the information has been breached.

5. Non-Exchange Entity shall not directly or indirectly receive remuneration in exchange for any PII of an individual. For the avoidance of doubt, this provision shall not preclude Non-Exchange Entity from receiving payment for the provision of services set forth in the Underlying Agreement or that are required by law.

6. Non-Exchange Entity shall not use or disclose PII for the purposes of marketing a product or service unless necessary to perform the services set forth in the Underlying Agreement or required by law. For the purposes of this provision, "marketing" shall mean a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

D. Duties of the Non-Exchange Entity Relative to PII.

1. The Non-Exchange Entity shall not use or disclose PII other than as permitted or required by the Agreement or as required by law.

2. The Non-Exchange Entity shall use appropriate administrative, technical and physical safeguards to protect the privacy of PII including, without limitation, by storing electronic PII in encrypted format.

3. Non-Exchange Entity shall use privacy and security standards at least as protective as MHBE has established and implemented for itself. For example, and without limitation, Non-Exchange Entity shall comply with the

standards, implementation specifications, operating rules, and code sets adopted in 45 C.F.R. Parts 160 and 162, regardless of whether otherwise made applicable to Non-Exchange Entity pursuant to 45 C.F.R. § 155.270(a), to provide for the secure exchange of PII and to prevent use or disclosure of PII other than as provided in the Agreement. Further, Non-Exchange Entity shall:

- a. Comply with the Minimum Acceptable Risk Standards for Exchanges (MARS-E) as published in the following suite of documents: (1) Harmonized Security and Privacy Framework – Exchange Reference Architecture Supplement; (2) Minimum Acceptable Risk Standards for Exchanges – Exchange Reference Architecture Supplement; (3) Catalog of Minimum Acceptable Risk Controls for Exchanges – Exchange Reference Architecture Supplement; (4) ACA System Security Plan Procedures; (5) ACA System Security Plan Template; (6) ACA System Security Plan Workbook; and (7) IRS ACA Safeguard Procedures Report Template.
- b. Implement administrative, physical and technical safeguards to protect PII accessed pursuant to this Agreement and the Underlying Agreement from loss, theft or inadvertent disclosure.
- c. Safeguard PII at all times, regardless of whether or not the Non-Exchange Entity’s employee, contractor, or agent is at his or her regular duty station.
- d. Ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected.
- e. Send emails containing PII only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
- f. Limit disclosure of the information and details relating to a PII loss only to those with a need to know.
- g. Restrict access to PII only to those authorized employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this Agreement and the Underlying Agreement; such restrictions shall include, at a minimum, role-based access that limits access to those individuals who need it to perform their official duties in connection with the uses of data authorized in this Agreement and the Underlying Agreement (“authorized users”). Further, the Non-Exchange Entity shall advise all users who will have access to the data provided under this Agreement and the Underlying Agreement of the confidential nature of the data, the safeguards required to protect the data, and the civil and criminal sanctions for noncompliance contained in the applicable State and federal laws.

4. Non-Exchange Entity shall monitor, periodically assess, and update its security controls and related system risks, to ensure the continued effectiveness of those controls.

5. Non-Exchange Entity shall inform MHBE of any change in its administrative, technical or operational environments to the extent any are material in the Underlying Agreement.

6. Non-Exchange Entity shall require any agents or downstream entities to which access to PII is granted in connection with the Underlying Agreement to adhere to the same privacy and security standards and obligations to which Non-Exchange Entity hereby agrees.

7. Non-Exchange Entity shall report to MHBE any use or disclosure of PII not permitted by this Agreement or required by law, including any Breaches of PII of which it becomes aware. Non-Exchange Entity further agrees to report to MHBE any Incident of which it becomes aware without unreasonable delay, and in no case later than five (5) calendar days after the Incident. Further, Non-Exchange Entity shall report all suspected or confirmed Incidents involving loss or suspected loss of PII to MHBE within *one* (1) hour of discovery.

8. If the use or disclosure amounts to a Breach of Unsecured PII, the Non-Exchange Entity shall ensure its report:

- a. Is made to MHBE without unreasonable delay and in no case later than fifteen (15) calendar days after the Incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For the avoidance of doubt, Non-Exchange Entity must notify MHBE of an incident involving the acquisition, access, use or disclosure of PII in a

manner not permitted under 45 C.F.R. § 155.260 or this Agreement within five (5) calendar days after an Incident even if Non-Exchange Entity has not conclusively determined within that time that the Incident constitutes a Breach as defined by this Agreement;

- b. Includes the names of the individuals whose unsecured PII has been, or is reasonably believed to have been, the subject of a Breach;
- c. Is in substantially the same form as **EXHIBIT 1** attached hereto; and
- d. Includes a draft letter for MHBE to review and approve prior to Non-Exchange Entity's notification of the affected individuals that their unsecured PII has been, or is reasonably believed to have been, the subject of a Breach. The notification must include, to the extent possible:
 - i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - ii) The types of Unsecured PII that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, or other types of information that were involved);
 - iii) Any steps the affected individuals should take to protect themselves from potential harm resulting from the Breach;
 - iv) The toll-free telephone numbers and addresses for the major consumer reporting agencies;
 - v) The toll-free telephone numbers, addresses and web site addresses for (1) the Federal Trade Commission; and (2) the Maryland Office of the Attorney General;
 - vi) A brief description of what MHBE and the Non-Exchange Entity are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
 - vii) Contact procedures for the affected individuals to ask questions or learn additional information, which shall include a telephone number, toll-free telephone number if one is maintained and postal address and may include an email address and web-site address.

9. To the extent permitted by the Underlying Agreement, Non-Exchange Entity may use agents and subcontractors. The Non-Exchange Entity shall ensure that any subcontractors or agents that create, receive, maintain, or transmit PII on behalf of Non-Exchange Entity agree to the same restrictions, conditions and requirements that apply to Non-Exchange Entity with respect to such information.

10. Non-Exchange Entity agrees to maintain and make available the information required to prove an accounting of disclosures of PII to MHBE or, as directed by MHBE, to an individual.

11. Non-Exchange Entity agrees to make its internal practices, books, and records, including PII, available to MHBE and/or the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the ACA's privacy and security regulations as well as with the standards MHBE has established pursuant to 45 C.F.R. § 155.260, as set forth in 45 C.F.R. § 155.280(a).

12. Non-Exchange Entity agrees to mitigate, to the extent practicable, any harmful effect known to Non-Exchange Entity of a use or disclosure of PII by Non-Exchange Entity in violation of the requirements of this Agreement.

E. Term and Termination.

1. **Term.** The Term of this Agreement shall be effective as of the Effective Date defined above and shall terminate when all of the PII provided by MHBE to the Non-Exchange Entity, or the PII created or received by Non-Exchange Entity on behalf of MHBE, is destroyed or returned to MHBE, in accordance with the termination provisions in this Section E, or on the date MHBE terminates for cause as authorized in paragraph (2) of this Section, whichever is sooner. **If it is impossible to return or destroy all of the PII provided by MHBE to Non-Exchange Entity, or the PII created or received by Non-Exchange Entity on behalf of MHBE, Non-Exchange Entity's obligations under this contract shall be**

ongoing with respect to that information, unless and until a separate written agreement regarding that information is entered into with MHBE.

2. Termination. Upon MHBE's knowledge of a material breach of this Agreement by Non-Exchange Entity, MHBE:

- a. Shall provide an opportunity for Non-Exchange Entity to cure the breach or end the violation and, if Non-Exchange Entity does not cure the breach or end the violation within the time specified by MHBE, may terminate this Agreement; or
- b. May immediately terminate this Agreement if Non-Exchange Entity has breached a material term of this Agreement and MHBE determines or reasonably believes that cure is not possible.

3. Effect of Termination.

a. Upon termination of this Agreement, for any reason, Non-Exchange Entity shall return or, if agreed to by MHBE, destroy all PII received from MHBE, or created, maintained, or received by Non-Exchange Entity on behalf of MHBE, which the Non-Exchange Entity maintains in any form. Non-Exchange Entity shall retain no copies of the PII. This provision shall apply to PII that is in the possession of subcontractors or agents of Non-Exchange Entity.

b. Should Non-Exchange Entity make an intentional or grossly negligent Breach of PII in violation of this Agreement or applicable law, MHBE shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

4. Survival. The obligations of Non-Exchange Entity under this Section shall survive the termination of this Agreement.

F. **Consideration.** Non-Exchange Entity recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by MHBE in choosing to continue or commence a business relationship with Non-Exchange Entity.

G. **Remedies in the Event of Breach.** Non-Exchange Entity hereby recognizes that irreparable harm will result to MHBE, and to the business of MHBE, in the event of breach by Non-Exchange Entity of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections C or D above, MHBE shall be entitled to enjoin and restrain Non-Exchange Entity from any continued violation of Sections C or D. Furthermore, in the event of breach of Sections C or D by Non-Exchange Entity, MHBE is entitled to reimbursement and indemnification from Non-Exchange Entity for MHBE's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Non-Exchange Entity's breach. The remedies contained in this Section G shall be in addition to, not in lieu of, any action for damages and/or any other remedy MHBE may have for breach of any part of this Agreement or the Underlying Agreement or which may be available to MHBE at law or in equity.

H. **Modification; Amendment.** This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for MHBE to comply with the requirements of the ACA and, were it to become or imminently be applicable, the Health Insurance Portability and Accountability Act of 1996, as amended, together with all regulations promulgated thereto, and any other applicable law.

I. **Interpretation of this Agreement in Relation to Other Agreements Between the Parties.** Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

J. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Maryland, including, without limitation, Title 12 of the State Government Article of the Annotated Code of

Maryland, but without regard to its choice of law provisions. This Agreement is not intended to modify the Parties' respective obligations to comply with all applicable federal, state and local laws, rules, and regulations, including but in no way limited to any and all laws, rules, and regulations related to privacy protection and confidentiality.

K. Miscellaneous.

1. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit MHBE to comply with the ACA and its provisions with respect to the privacy and security of personally identifiable information.

2. Regulatory References. A reference in this Agreement to a section in the ACA, including any regulations promulgated thereto, means the section as in effect or as amended.

3. Notice to MHBE. Any notice required under this Agreement to MHBE shall be made in writing to:

Caterina Pañgilinan
Chief Compliance Officer
Maryland Health Benefit Exchange
750 E. Pratt Street, 16th Floor
Baltimore, MD 21202
Phone: (410) 547-1838
Email: caterina.pangilinan@maryland.gov

With a copy to:
Sarah W. Rice, Counsel
Office of the Attorney General
Maryland Health Benefit Exchange Division
300 West Preston Street, Ste. 302
Baltimore, MD 21201
Phone: (410) 547-1279; (410) 767-8670
Email: sarah.rice@maryland.gov

4. Notice to Non-Exchange Entity. Any notice required under this Agreement to be given Non-Exchange Entity shall be made in writing to:

Address: _____

Attention: _____

Phone: _____

Email: _____

5. Method of Notice. Notices shall be sufficient if made by email and acknowledged within 24 hours by reply email, or delivered by a nationally recognized overnight carrier, such as FedEx, or via U.S. Mail-Certified Delivery, Return Receipt Requested.

6. Survival. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this contract shall survive termination or expiration of this Agreement and continue in full force and effect.

7. Severability. If any term contained in this Agreement is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Agreement, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

8. Terms. All of the terms of this Agreement are contractual and not merely recital and none may be amended or modified except by a writing executed by all parties hereto.

9. Priority. This Agreement supersedes and renders null and void any and all prior written or oral undertakings or agreements between the parties regarding the subject matter hereof. For the avoidance of doubt, such null and void prior agreements do not include the Underlying Agreement.

[Signatures next page(s)]

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

MHBE:

NON-EXCHANGE ENTITY:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form and legal sufficiency
this ____ day of _____, 2015.

By: _____

Assistant Attorney General
Maryland Health Benefit Exchange

EXHIBIT 1
**EXHIBIT 1 TO NON-EXCHANGE ENTITY AGREEMENT
FORM OF NOTIFICATION TO MHBE OF
BREACH OF UNSECURED PII**

This notification is made pursuant the Non-Exchange Entity Agreement between the MARYLAND HEALTH BENEFIT EXCHANGE, a public corporation and independent unit of State government (“MHBE”) and _____ (the “Non-Exchange Entity”).

Non-Exchange Entity hereby notifies MHBE that there has been a breach of unsecured personally identifiable information (“PII”) that Non-Exchange Entity has used or has had access to under the terms of the Non-Exchange Entity Agreement.

Description of the breach:

Date of the breach: _____ Date of discovery of the breach: _____

Does the breach involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the breach: _____

Names of individuals affected by the breach: (attach list)

List the types of unsecured PII that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number or other number):

Description of what Non-Exchange Entity is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

Form Date: 04.21.15