

Prince George's County Hospital Authority

REQUEST FOR PROPOSALS

Financial and Partnering Advisory Services and System Transfer Finalization

for the Prince George's County Hospital Authority

Issue Date: Monday, March 30, 2009

[Intentionally Left Blank]

TABLE OF CONTENTS

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|
| SECTION 1. BACKGROUND | <u>6</u> | Deleted: 6 |
| 1.1 COUNTY PROFILE..... | <u>6</u> | Deleted: 6 |
| 1.2 COUNTY HEALTH STATUS..... | <u>6</u> | Deleted: 6 |
| SECTION 2. DIMENSIONS HEALTHCARE SYSTEM..... | <u>6</u> | Deleted: 6 |
| 2.1 PRINCE GEORGE'S HOSPITAL CENTER..... | <u>7</u> | Deleted: 7 |
| 2.2 GLADY SPELLMAN SPECIALTY HOSPITAL AND NURSING CENTER..... | <u>8</u> | Deleted: 8 |
| 2.3 LAUREL REGIONAL HOSPITAL..... | <u>8</u> | Deleted: 8 |
| 2.4 BOWIE HEALTH CENTER..... | <u>9</u> | Deleted: 9 |
| 2.5 LARKIN CHASE NURSING AND REHABILITATION CENTER..... | <u>9</u> | Deleted: 9 |
| SECTION 3. PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY | <u>9</u> | Deleted: 9 |
| SECTION 4. PURPOSE OF SOLICITATION | <u>10</u> | Deleted: 10 |
| SECTION 5. SCOPE OF SERVICES FOR WHICH QUALIFICATIONS ARE REQUESTED | <u>11</u> | Deleted: 11 |
| 5.3 NEGOTIATION OF STRUCTURE AND FINANCING OF MOST RESPONSIVE PROPOSALS, SELECTION OF ACQUIRER, AND COMPLETION OF SYSTEM TRANSFER..... | <u>11</u> | Deleted: 11 |
| 5.4 KEY PERSONNEL | <u>12</u> | Deleted: 12 |
| 5.5 DURATION OF SERVICES TO BE PERFORMED | <u>12</u> | Deleted: 13 |
| 5.6 COMPENSATION AND METHOD OF PAYMENT | <u>13</u> | Deleted: 14 |
| 5.7 PROFESSIONAL LIABILITY INSURANCE..... | <u>14</u> | Deleted: 15 |
| SECTION 6. INFORMATION ON REQUEST FOR | <u>15</u> | Deleted: 15 |
| QUALIFICATIONS AND RESPONSES | <u>15</u> | Deleted: 15 |
| 6.1 ISSUING OFFICE AND PROCUREMENT OFFICER | <u>15</u> | Deleted: 15 |
| 6.2 QUESTIONS | <u>15</u> | Deleted: 15 |
| 6.3 REQUIREMENTS AND DEADLINE FOR SUBMISSION OF RESPONSES ... | <u>15</u> | Deleted: 16 |
| 6.4 NEGOTIATIONS AND REVIEW OF RESPONSES | <u>16</u> | Deleted: 16 |
| 6.5 POTENTIAL AWARD OF CONTRACT..... | <u>16</u> | Deleted: 16 |
| 6.6 RESPONSE AFFIDAVIT AND RESIDENT AGENT..... | <u>16</u> | Deleted: 17 |
| 6.7 REVISIONS TO THE RFP | <u>17</u> | Deleted: 18 |
| 6.8 RFP CANCELLATION / REJECTION..... | <u>18</u> | Deleted: 18 |
| 6.9 INCURRED EXPENSES | <u>18</u> | Deleted: 18 |
| 6.10 ECONOMY OF PREPARATION..... | <u>18</u> | Deleted: 18 |
| 6.11 MINORITY BUSINESS ENTERPRISES (MBE) | <u>18</u> | Deleted: 18 |
| 6.12 PROPRIETARY INFORMATION | <u>19</u> | Deleted: 19 |
| 6.13 ARREARAGES..... | <u>19</u> | Deleted: 19 |
| 6.14 VERIFICATION OF REGISTRATION AND TAX PAYMENT | <u>19</u> | Deleted: 19 |
| 6.15 FALSE STATEMENTS | <u>20</u> | Deleted: 20 |
| 6.16 ELECTRONIC FUNDS TRANSFER..... | <u>20</u> | Deleted: 20 |
| 6.17 DISCLOSURE OF CONFLICTS OF INTEREST..... | <u>20</u> | Deleted: 20 |
| SECTION 7. PROPOSAL FORMAT..... | <u>20</u> | Deleted: 20 |
| 7.1 GENERAL..... | <u>20</u> | Deleted: 20 |
| 7.2 TECHNICAL RESPONSE..... | <u>21</u> | Deleted: 21 |
| 7.3 PRICE RESPONSE | <u>24</u> | Deleted: 24 |
| SECTION 8. EVALUATION PROCEDURE..... | <u>24</u> | Deleted: 24 |

| | | |
|-----------------------------------------------------------------|-----------|-------------|
| 8.1 EVALUATION COMMITTEE..... | <u>24</u> | Deleted: 24 |
| 8.2 DISCUSSIONS/ORAL PRESENTATIONS..... | <u>25</u> | Deleted: 25 |
| 8.3 TECHNICAL RESPONSE EVALUATION CRITERIA | <u>25</u> | Deleted: 25 |
| 8.4 PRICE RESPONSE EVALUATION | <u>25</u> | Deleted: 25 |
| 8.5 WEIGHTING OF TECHNICAL AND PRICE RESPONSES..... | <u>25</u> | Deleted: 25 |
| 8.6 POTENTIAL AWARD OF CONTRACT..... | <u>26</u> | Deleted: 26 |
| SECTION 9 – GENERAL CONTRACT TERMS | <u>26</u> | Deleted: 26 |
| 9.1 MARYLAND LAW PREVAILS | <u>26</u> | Deleted: 26 |
| 9.2 CONFLICT OF INTEREST LAW | <u>26</u> | Deleted: 26 |
| 9.3 NON-DISCRIMINATION IN EMPLOYMENT | <u>26</u> | Deleted: 26 |
| 9.4 CONTINGENT FEE PROHIBITION | <u>27</u> | Deleted: 26 |
| 9.5 TERMINATION FOR DEFAULT..... | <u>27</u> | Deleted: 27 |
| 9.6 TERMINATION FOR CONVENIENCE..... | <u>28</u> | Deleted: 27 |
| 9.7 TAX EXEMPTIONS | <u>28</u> | Deleted: 28 |
| 9.8 NON-ASSIGNMENT..... | <u>28</u> | Deleted: 28 |
| 9.9 DOCUMENTS RETENTION AND INSPECTION | <u>28</u> | Deleted: 28 |
| 9.10 INDEMNITY (HOLD HARMLESS) CLAUSE | <u>29</u> | Deleted: 28 |
| 9.11 INCORPORATION BY REFERENCE | <u>30</u> | Deleted: 29 |
| 9.12 ANTI-BRIBERY | <u>30</u> | Deleted: 30 |
| 9.13 PATENTS, COPYRIGHTS, TRADE SECRETS & INDEMNIFICATION | <u>31</u> | Deleted: 30 |
| 9.14 STATE CONTRACT PREVAILS | <u>31</u> | Deleted: 31 |
| 9.15 CHANGE ORDERS AND SUSPENSION OF WORK..... | <u>31</u> | Deleted: 31 |
| 9.16 RIGHTS IN DATA..... | <u>32</u> | Deleted: 31 |
| 9.17 DELAYS AND EXTENSIONS OF TIME..... | <u>32</u> | Deleted: 31 |
| 9.18 POLITICAL CONTRIBUTION DISCLOSURE | <u>33</u> | Deleted: 32 |
| 9.19 COMPLIANCE WITH LAWS..... | <u>33</u> | Deleted: 32 |
| 9.20 PROHIBITION OF SEXUAL HARASSMENT | <u>34</u> | Deleted: 33 |
| 9.21 COMMERCIAL NONDISCRIMINATION | <u>34</u> | Deleted: 33 |
| SECTION 10. CONTRACT FORMATION | <u>35</u> | Deleted: 34 |
| | | Deleted: 34 |
| | | Deleted: 35 |

KEY INFORMATION SUMMARY SHEET
Prince George's County Hospital Authority
Request for Proposals
for
Financial and Partnering Advisory Services and System
Transfer Finalization
for the Prince George's County Hospital Authority

Submit Proposals to:

Prince George's County Hospital Authority
Attention: Kenneth E. Glover, Chair
9200 Basil Court, Suite 308
Largo, Maryland 20774
pgchospauth@aol.com

Solicitation Issue Date: Monday, March 30, 2009

Closing Date and Time: Tuesday, April 14, 2009, 5:00 PM

NOTICES:

1. Prospective Respondents who have received this document from a source other than the Prince George's County Hospital Authority should regularly consult the Authority's web site: <http://www.co.pg.md.us/Government/AgencyIndex/pgcha> so that they will be aware of any amendments to the Request for Proposals and other communications.
2. A contract under this RFP can be awarded only after passage of the legislation currently pending in the Maryland State House and Senate, and numbered SB-1039 and HB-1486

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO
RESPOND TO THIS SOLICITATION**

SECTION 1. BACKGROUND

1.1 COUNTY PROFILE

The second largest jurisdiction in Maryland with a population of 828,770 people, Prince George's County wraps around the eastern boundary of Washington, D.C. and includes urban, suburban and rural areas. Estimates forecast that the County population will increase to 950,250 by 2020. The County has more high school and college graduates, and boasts a higher median income, than national averages.

With almost 900 technology companies employing 33,600 highly-trained workers, the County has the second highest number of technology, defense and aerospace companies of any jurisdiction in Maryland. Major employers include Computer Sciences Corporation, Safeway, ATK, Greenhorne & O'Mara, Stinger, Ghaffarian Technologies, and Verizon. The County has nearly a dozen federal labs and agencies and the University of Maryland's flagship campus at College Park.¹

1.2 COUNTY HEALTH STATUS

Heart disease is Prince George's County's leading cause of death, with rates slightly higher than the State's average. Rates of diabetes, HIV, accidents, assaults and infant mortality are also above Maryland averages, while rates of cancer, respiratory disease, Alzheimer's and suicide are lower. The County is served by five acute care hospitals licensed for a total of 851 beds. It has a higher percentage of low birth weight infants and women receiving late or no prenatal care than the Maryland average. More than half of Prince George's County residents seek care outside the jurisdiction.

SECTION 2. DIMENSIONS HEALTHCARE SYSTEM

The Dimensions Healthcare System (DHS or Dimensions) is a private, not-for-profit corporation established in 1983 that operates four health care facilities in Prince George's County and has a 25% ownership interest in a fifth nursing and rehabilitation center (hereafter referred to as the "County health care system" or "health care system"). In 2006, DHS provided care to 21,000 acute care hospital patients, 121,500 emergency department patients, and almost 14,000 patients

¹ Maryland Department of Business and Economic Development, Prince George's County, Maryland Brief Economic Facts, 2007-2008, www.ChooseMaryland.org

requiring inpatient and outpatient surgery. The facilities, described below, are leased to Dimensions by the Prince George's County government pursuant to a long term Master Lease Agreement. DHS is one of the County's largest employers, with 2,500 employees.

2.1 PRINCE GEORGE'S HOSPITAL CENTER

The Prince George's Hospital Center (PGHC), located at 3001 Hospital Drive, Cheverly, MD 20785, was licensed in fiscal year 2008 for 264 acute care beds, including 157 medical-surgical, 24 medical-surgical intensive care, 10 coronary care, 40 obstetric, 8 pediatric, and 25 adult psychiatric beds. PGHC operates a 60-bassinet newborn service, including a 20-bassinet Level IIIb neonatal intensive care unit. The emergency department includes 44 treatment spaces. In addition to two C-section operating rooms, the surgical services include eight mixed use operating rooms, one inpatient general purpose operating room, and four procedure rooms. PGHC offers the only cardiac surgery and elective percutaneous coronary intervention service in the Southern Maryland region, which includes Prince George's, Calvert, Charles, and St. Mary's counties. The Maryland Institute for Emergency Medical Services Systems (MIEMSS) has designated PGHC as a Level II Trauma Center and a Perinatal Referral Center for the Southern Maryland region. Utilization data for key services at PGHC are summarized below:

| Prince George's County Hospital Center | Utilization (2006) |
|---------------------------------------------------|-------------------------------|
| Total Inpatient Discharges (Ex. NB) | 14,931 |
| Medical-Surgical | 10,625 |
| Obstetric | 3,006 |
| Newborn | 2,709 |
| Pediatric | 161 |
| Psychiatric | 1,139 |
| Emergency Department Visits | 47,973 |
| Inpatient Surgical Cases | 3,986 |
| Outpatient Surgical Cases | 3,870 |
| Trauma Patients | 3,115 |

Source: Maryland Health Care Commission (Data reported for inpatient discharges is from the HSCRC Discharge Abstract Data Base for calendar year 2006; data for ED visits is from the HSCRC Financial Data Base for fiscal year 2006; data on inpatient surgical cases is from the HSCRC Discharge Data Base for calendar year 2006; data on outpatient surgery cases is from the MHCC Ambulatory Surgery Provider Directory, 2006; and data on trauma patients is from MIEMSS for the period June 2006-May 2007.)

2.2 GLADYS SPELLMAN SPECIALTY HOSPITAL AND NURSING CENTER

The Gladys Spellman Specialty Hospital and Nursing Center, located adjacent to the Prince George's Hospital Center at 2900 Mercy Lane, Cheverly, MD 20785, is licensed for 52 special hospital-chronic beds and 55 comprehensive care facility or nursing home beds. The chronic hospital facility beds serve primarily patients requiring ventilator support. Utilization data for the nursing home and chronic hospital services are provided below:

| Gladys Spellman Specialty Hospital and Nursing Center | Utilization (2005/2006) |
|--------------------------------------------------------------|--------------------------------|
| Nursing Home | |
| Admissions | 47 |
| Discharges (ex. Deaths) | 37 |
| Patient Days | 18,967 |
| Special Hospital-Chronic | |
| Discharges | 197 |
| Patient Days | 18,135 |

nursing home utilization is from the 2006 MHCC Long Term Care Survey; and, data reported for the Special Hospital-Chronic beds is from the MHCC Subacute Care Survey for calendar year 2005.)

2.3 LAUREL REGIONAL HOSPITAL

The Laurel Regional Hospital (LRH), located at 7300 Van Dusen Road, Laurel, MD 20707, was licensed in fiscal year 2008 for 95 acute care beds, including 47 medical-surgical, 10 medical-surgical intensive care, 16 definitive observation/stepdown, 10 obstetric, 12 adult psychiatric beds, and 28 special hospital rehabilitation beds. LRH operates a 9-bassinets newborn service, and the emergency department includes 30 treatment spaces. In addition to one C-section operating room, the surgical services at LRH include seven mixed use operating rooms and three procedure rooms. Utilization data for key services at LRH are summarized below:

| Laurel Regional Hospital | Utilization (2006) |
|-------------------------------------|---------------------------|
| Total Inpatient Discharges (Ex. NB) | 6,173 |
| Medical-Surgical | 4,806 |
| Obstetric | 767 |
| Newborn | 661 |
| Pediatric | 0 |
| Psychiatric | 600 |

| | |
|-----------------------------------|--------|
| Special-Hospital Rehab Discharges | 327 |
| Emergency Department Visits | 35,729 |
| Inpatient Surgical Cases | 1,487 |
| Outpatient Surgical Cases | 4,459 |

Source: Maryland Health Care Commission (Data reported for inpatient and rehabilitation discharges is from the HSCRC Discharge Abstract Data Base for calendar year 2006; data for ED visits is from the HSCRC Financial Data Base for fiscal year 2006; data on inpatient surgical cases is from the HSCRC Discharge Data Base for calendar year 2006; and, data on outpatient surgery cases is from the MHCC Ambulatory Surgery Provider Directory, 2006.)

2.4 BOWIE HEALTH CENTER

The Bowie Health Center, located at 15001 Health Center Drive, Bowie, MD 20716, is licensed as a Freestanding Medical Facility. It has 21 treatment spaces and provides emergency care services 16-hours/day, 7 days/week. Utilization data for Bowie Health Center is provided below:

| Bowie Health Center | Utilization (2006) |
|---------------------|--------------------|
| Emergency Visits | 37,817 |

Source: Maryland Health Care Commission (Data reported for emergency visits is from the HSCRC Financial Data Base for calendar year 2006.)

2.5 LARKIN CHASE NURSING AND REHABILITATION CENTER

The Larkin Chase Nursing and Rehabilitation Center, located on the Bowie Health Center campus at 15005 Health Center Drive, Bowie, MD 20716, is licensed for 119 comprehensive care facility or nursing home beds.

SECTION 3. PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY

Dimensions has experienced severe fiscal difficulties over the past decade, including bond indebtedness, unfunded pension obligations, high rates of uncompensated care, and other challenges that have compromised the health care system's ability to meet the needs of the residents of Prince George's County and the surrounding jurisdictions. As a consequence, both the State and County have had to provide short-term financial support to the system, and both seek to effect a long-term solution by transferring the system to a new owner

capable of providing financial stability and enhancing the breadth and quality of the health care provided to the people of the County and the Southern Maryland region.

Accordingly, during its 2008 session, the Maryland General Assembly passed an emergency bill, House Bill 1039, creating the Prince George's County Hospital Authority. A 7-member public body appointed jointly by the Governor, Prince George's County Executive the Prince George's County Council, and the presiding officers of the General Assembly, the Authority's mission is to implement an open, transparent, and competitive bidding process for the purpose of facilitating the acquisition of the health care system by an entity or entities providing health care services inside or outside the State. Under the law, before the Authority issues the Request for Proposals, the State and County are required to reach agreement on the amount of long-term public funding they will commit to help support and facilitate the acquisition and the stabilization and enhancement of the system. In March 2009, emergency legislation was issued, SB 1039, which extended until May 2010 the time for the Authority to complete its work, provided Certificate of Need flexibility, and provided that certain (named) State and County agencies would serve as consultants to the Authority, if requested by the Authority. It is the goal of the Authority to transfer the health care system, in its entirety, to one or more entities.

SECTION 4. PURPOSE OF SOLICITATION

The purpose of this solicitation is to seek consulting services to assist the Prince George's County Hospital Authority to assess bids received from entities interested in purchasing the healthcare system in whole or in part, to facilitate partnerships to ensure the transfer of the system in its entirety, to work with State and County agencies as outlined in pending legislation, to work out financially viable structures – examining alternate financing solutions, to assist the Authority in drafting needed documents, and to oversee the finalized transfer of the healthcare system.

This RFP is **not** being conducted under the provisions of the Maryland Procurement Law (Division II of the State Finance & Procurement Article and Code of Maryland Regulations (COMAR) Title 21).

SECTION 5. SCOPE OF SERVICES FOR WHICH QUALIFICATIONS ARE REQUESTED

(Section 5.1 as described in the Authority's 7/24/08 Solicitation has been completed, and the Authority is hereby withdrawing Section 5.2 as described in that Solicitation.)

Respondents may elect to submit joint, collaborative responses with one or more other firms to ensure appropriate qualifications for the full range of services required.

The purpose of this solicitation is to seek consulting services to assist the Prince George's County Hospital Authority to assess bids received from entities interested in purchasing the healthcare system in whole or in part, to facilitate partnerships to ensure the transfer of the system in its entirety, to work with State and County agencies as outlined in pending legislation, to work out financially viable structures – examining alternate financing solutions, to assist the Authority in drafting needed documents, and to oversee the finalized transfer of the healthcare system.

5.3 NEGOTIATION OF STRUCTURE AND FINANCING OF MOST RESPONSIVE PROPOSALS, SELECTION OF ACQUIRER, AND COMPLETION OF SYSTEM TRANSFER

The Respondent must demonstrate its qualifications to perform the tasks set forth below, as directed by the Authority. Further refinement of the scope and details of these tasks may be necessary as the project evolves.

A. Work Plan and Timeline: Prepare a work plan and timeline for the negotiation of the structure and financing of the most responsive proposals, the selection of the acquirer(s), and the completion of the transaction(s).

B. Evaluation of Responsive Proposals: Assist the Authority in evaluating responsive proposals, including the potential acquirers' financial assumptions, resources, operational capacities, and plans to enhance the financial stability and quality of the health care system.

C. Structuring and Financing of Most Responsive Proposals, and Selection of Acquirer: Conduct and advise on negotiations regarding the structure and financing of the most responsive proposals, and assist the Authority in selecting and reaching agreement with the winning bidder.

D. Exploring and seeking counsel regarding financing, regulatory, and structure options with/from the following Maryland and Prince George's County agencies:

Department of Health and Mental Hygiene; the Prince George's County Health Department; the Maryland Health Care Commission; the Maryland Health Services Cost Review Commission; the Department of Business and Economic Development; the Prince George's County Economic Development Corporation; the Maryland Health and Higher Education Financing Authority; the Maryland Institute of Emergency Medical Services System The Governor's Office of Homeland Security; the Community Health Resources Commission; and the Maryland Life Sciences Advisory Board.

E. Document Preparation and Review: Develop on behalf of the Authority and in consultation with approved bidders such transactional documents as are necessary to effectuate the completion of any asset transfers or changes in health care governance. The Respondent shall assist the Authority in assuring that the required documents satisfy or otherwise comply with applicable legal, regulatory, tax, and financing requirements and/or standards.

F. Completing the Transaction: Coordinate and assist the Authority in all actions necessary to close the deal, including negotiating final terms, resolving any regulatory or financing issues, and preparing the letter of intent, definitive purchase agreement, and other closing documents necessary to complete the transaction. These services will not include legal representation of any of the parties to the transaction.

5.4 KEY PERSONNEL

The Respondent must demonstrate its qualifications to assemble a project team of key personnel with the necessary qualifications and experience to perform the services described in Section 5.3. The Respondent must demonstrate that its key personnel will develop close, positive working relationships with the Authority, and that it will notify the Authority of any proposed changes to personnel, with the understanding that any personnel changes shall be approved by the Authority.

5.5 DURATION OF SERVICES TO BE PERFORMED

Any contract for the scope of services outlined in Section 5.3 shall be for a period of up to six months. The contract shall also include options for the Authority to renew up to two times ***either or both of the contracts*** for an additional 6 months. The Authority may also, at its discretion, request that work be ceased under the contract if a cessation of work becomes necessary to comply with the requirements of Chapter 680. The exercise of this right to renew or to cease work under the contract is the Authority's unilateral option which it may or may not exercise in its sole, subjective discretion. In the event that the Authority exercises its discretion to terminate the contract, the Respondent shall not be entitled to any payments other than those for services incurred prior to the

termination date. In no event shall the Authority be obligated to pay anticipatory profits, wind down costs, or other damages or expenses of any kind.

5.6 COMPENSATION AND METHOD OF PAYMENT

A. General Provisions: The Authority seeks qualifications from firms which could provide the requested services under a time and materials contract with fixed unit prices, with the Authority paying only for actual usage at the fixed unit price. Any contract which results from this RFP shall contain a total expenditure ceiling that shall not be exceeded without the prior approval of the Authority. Respondents shall provide a draft work plan reflecting a description of the tasks and deliverables necessary to complete the services described in Section 5.3, including the start and end times for each, and the estimated number of hours required to complete each task or deliverable. The draft work plan shall also identify any risks that would impede completion of the task or deliverable within time estimates. The Respondent shall provide monthly billing reports that summarize the extent to which specified tasks identified on the workplan have been completed and an estimate of the extent to which such billable hours have underestimated or overestimated the hours specified for the completion of the task in the workplan.

The draft work plan should also include quotes for hourly rates in designated labor categories, with such rates fully loaded with direct and indirect charges. In specifying the labor categories, the plan should delineate each category's requirements for experience and proficiency, and how all proposed personnel meet the requirements of their designated labor category. Respondents may also include in the work plan a fixed melded hourly rate for all professionals, and a separate fixed melded hourly rate for all para-professionals.

Any Respondents awarded a contract as a result of this RFP shall be required to deliver a final work plan which shall be subject to the Authority's Contract Manager's approval. Any variations from the approved final work plan will require the written consent of the Authority's Contract Manager.

The Department will reimburse the contractor only for allowable costs incurred by the contractor, as provided for in COMAR 21.09.01.03, not to exceed the total amount of the approved contract.

The Department reserves the right to reduce or withhold contract payment in the event the contractor does not provide the Department with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract.

Funding for any contract(s) resulting from this RFP is dependent upon appropriations from the Maryland General Assembly. If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the Department's rights or the Contractor's rights under any other termination clause in the contract. The effect of termination of the contract hereunder will be to discharge both the Contractor and the Department from future performance of the contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred, but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

B. Retainage: Five percent (5%) of the invoiced amount will be retained by the Department. The amount retained is billable in conjunction with the final payment of the contract, or final payment of the initial term and each option year if there are options to renew. Payment of the amount retained will be authorized upon satisfactory completion and/or delivery of all contract deliverables in a timely manner or as specified in the contract. Contract deliverables provided late, incomplete, or not at all may result in forfeiture of some, or all, of the amount retained, as determined by the Department..

5.7 PROFESSIONAL LIABILITY INSURANCE

Respondents must demonstrate that they carry professional liability insurance. in the following amounts: \$1,000,000.00 in the aggregate and \$300,000.00 per occurrence.

In addition, Respondents must show evidence of third party legal liability insurance for themselves and any subcontractor under the agreement covering claims arising from the operations and provided under this contract. These insurance coverages shall include the statutory limit for Workers' Compensation coverage and a minimum of \$1,000,000 aggregate for Commercial General Liability coverage. All coverages shall be provided by insurance companies licensed to do business in the State of Maryland and shall be endorsed to provide 30 day notice of cancellation or non-renewal to the Department's Contract Monitor.

SECTION 6. INFORMATION ON REQUEST FOR QUALIFICATIONS AND RESPONSES

6.1 ISSUING OFFICE AND PROCUREMENT OFFICER

The sole point of contact in the State for purposes of this Request for Qualifications (RFP) is the Chair of the Prince George's County Hospital Authority, who will serve as the Procurement Officer. His contact information is listed below:

Kenneth E. Glover, Chairman, Prince George's County Hospital Authority
PO Box 6779
Largo, Maryland 20792
(202) 315-3929

6.2 QUESTIONS

Questions will be accepted from prospective Respondents and should be submitted no later than one week before the closing date of this RFP to the Procurement Officer only. The Authority would prefer e-mail submission of questions to the following email address, pgchospauth@aol.com, but questions will be accepted by mail or facsimile. The Procurement Officer will decide whether an answer can be given before the closing date, based on the availability of time to research and communicate an answer. Answers to all substantive questions that are not clearly specific to the requestor only will be distributed to all potential Respondents known to have received a copy of this RFP.

Respondents are responsible for becoming fully informed regarding all circumstances, information, laws and any other matters that might, in any way, affect the Respondent's role and responsibilities. Any failure to become fully knowledgeable of such matters shall be at the Respondent's sole risk. The Authority assumes no responsibility for any interpretations made by Respondents on the basis of information provided in this RFP or through any other sources.

6.3 REQUIREMENTS AND DEADLINE FOR SUBMISSION OF RESPONSES

An unbound, clearly marked original and eleven (11) printed copies of the Response must be received at the address on the Key Information Summary

Sheet, and no later than the date and time listed on the Summary Sheet. The original shall be clearly identified and shall bear the original signature of the individual authorized to commit the firm in blue ink. An additional copy of the Response must also be provided on a CD-ROM disk. Respondents must also designate and provide all contact information for the person who will serve as the Respondent's single point of contact for purposes of the response to this RFP and any communications regarding the response.

6.4 NEGOTIATIONS AND REVIEW OF RESPONSES

Written and/or oral communications, exchange of information, and negotiations before or after the receipt of responses may be undertaken to promote understanding of the RFP requirements and the responses. All responses shall be reviewed and evaluated to determine which Respondents are most qualified to meet the Authority's requests, needs, and standards for the fulfillment of its mandate under Chapter 680 of the 2008 Laws of Maryland, including relevant legislation passed since the establishment of the Hospital Authority. The Authority reserves the right to reject any and all responses to its Request for Qualifications, and to investigate the qualifications of all firms to whom an award is contemplated. The Authority also reserves the right to award a contract to one or more Respondents with or without the benefit of oral presentations from any party.

6.5 POTENTIAL AWARD OF CONTRACT

Following receipt and review of the responses, a short list of the most qualified proposals will be developed for consideration of a contract award or awards. Respondents submitting these proposals may be required to make further At its discretion, however, the Authority may instead proceed directly to negotiations and/or the award of one or more contracts with one or more Respondents. Respondents may be required to submit best and final offers.

6.6 RESPONSE AFFIDAVIT AND RESIDENT AGENT

At all times during the term of any contract resulting from this RFP, Respondents: 1) must be qualified to do business in the State of Maryland; 2) may not be in arrears with respect to any monies due and owing the State of Maryland or Prince George's County, including but not limited to the payment of taxes and employee benefits; 3) shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under the contract; and 4) shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under the contract.

Respondents must submit a completed Response Affidavit, Attachment B, with their Technical Response. If an item on this Affidavit is not applicable, it should be so indicated. All blanks are to contain either an answer or a Not Applicable designation.

All corporations doing business in Maryland are required by law to be registered with the State of Maryland's, Department of Assessments and Taxation, and Department of Labor, Licensing and Regulation. Corporations that are not incorporated within the State of Maryland are required to have a resident agent. The resident agent must be either an individual (not the corporation itself) with an address within the boundaries of Maryland or a corporation that represents other corporations as a resident agent. Further, both corporations and individuals must verify that they carry no tax liability by contacting the Comptroller's Office.

The successful respondent shall be responsible for ensuring that all subcontractors meet these requirements, and further, that the contractor and all subcontractors shall meet these requirements for the duration of the contract, including option years.

Any potential respondent who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation, at (410) 767-1330. It is strongly recommended that potential respondents and subcontractors be completely registered prior to the due date for receipt of proposals. Failure to register may result in an respondent's proposal being deemed unacceptable.

6.7 REVISIONS TO THE RFP

If it becomes necessary to revise this RFP, amendments will be provided to all prospective Respondents that were sent this RFP or otherwise are known by the Procurement Officer to have obtained the RFP. Failure to acknowledge receipt does not relieve the Respondent from complying with all terms of any such amendment. Amendments, along with the RFP itself, shall also be posted on the State's and County's websites, and the Hospital Authority's website:
<http://www.co.pg.md.us/Government/AgencyIndex>.

Any amendment to this contract must first be agreed to in writing by both parties and approved by the Procurement Officer, or other authorized officer of the Department, subject to any additional approvals as may be required by State law. No amendment to this contract shall be binding unless so approved.

6.8 RFP CANCELLATION / REJECTION

The Prince George's County Hospital Authority reserves the right to cancel this RFP at any time. The Authority also reserves the right to accept or reject in whole or in part any and all responses received in response to this RFP and to waive or permit cure of minor irregularities in any manner necessary to serve the best interests of the Authority. Respondents whose responses are not accepted or will not be considered further for the potential award of a contract will be notified in writing.

6.9 INCURRED EXPENSES

The Authority will not be responsible for any costs incurred by a Respondent in preparing and submitting a response or in performing any other activities relative to this solicitation.

6.10 ECONOMY OF PREPARATION

Responses should be prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to meet the requirements of this RFP.

6.11 MINORITY BUSINESS ENTERPRISES (MBE)

Minority Business Enterprises are strongly encouraged to respond to this solicitation, and non-MBE firms are strongly encouraged to engage in outreach and other efforts to collaborate and sub-contract with MBE firms so as to enable their inclusion in the non-MBE firm's response to this RFP. MBE Respondents are encouraged to obtain MBE certification from the Maryland Department of Transportation, Office of Minority Business Enterprise or the Prince Georges County Office of Central Services, Minority Business Enterprise Division. All certification-related questions should be directed to:

For Maryland Certification:
Office of Minority Business Enterprise
Maryland Department of Transportation
P.O. Box 8755
BWI Airport, Maryland 21240-0755
(410) 859-7328
http://www.mdot.state.md.us/MBE_Program/

For Prince Georges County Certification:
Prince Georges County Office of Central Services
Minority Business Enterprise Division - 16 -
1400 McCormick Drive, Suite 281 Largo, Maryland 20774 Tel: (301) 883-6480
Fax: (301) 883-6479
<http://www.princegeorgescountymd.gov> (under the Office of Central Services
Minority Business Development Division link)

Current directories of all MBEs certified by the State and the County are also available at these offices and websites.

6.12 PROPRIETARY INFORMATION

Respondents must clearly and specifically identify those portions of their responses that are considered confidential, proprietary commercial information or trade secrets, and provide justification as to why they are so considered. This information is to be placed after the Title Page and before the Table of Contents of the response. Respondents must indicate each page or section that is considered confidential; it is not sufficient simply to preface the response with a proprietary statement. The Authority is not subject to the State Public Information Act, Title 10, Subtitle 6 of the State Government Article.

6.13 ARREARAGES

By submitting a response to this solicitation, each Respondent represents that it is not in arrears in the payment of any obligations due and owing the State of Maryland or Prince George's County. This includes the payment of taxes and employee benefits. The Respondent shall not become in arrears during the term of any contract if selected for a contract award.

6.14 VERIFICATION OF REGISTRATION AND TAX PAYMENT

Before a corporation can do business in the State, it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The Authority strongly recommends that any potential Respondent complete registration prior to the due date for receipt of responses. Failure to do so may disqualify an otherwise successful Respondent from final consideration and recommendation for a contract award.

6.15 FALSE STATEMENTS

In connection with this RFP, a person may not willfully: (1) falsify, conceal, or suppress a material fact by any scheme or device; (2) make a false or fraudulent statement or representation of a material fact; (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact. Proposals shall be submitted with the following statement signed by Respondents' duly authorized officer or representative: "I solemnly affirm under the penalties of perjury that the contents of the foregoing proposal are true to the best of my knowledge, information, and belief."

6.16 ELECTRONIC FUNDS TRANSFER

By submitting a response to this solicitation, the Respondent agrees that in the event that its response results ultimately in a contract award, it will accept payments by electronic funds transfer.

6.17 DISCLOSURE OF CONFLICTS OF INTEREST

Any Respondent receiving a contract award as a result of this solicitation shall be required either to provide a list of its clients or to sign a conflict of interest disclosure statement. The list of clients and/or disclosure statement must include any current or past financial interest in or other affiliation with Dimensions Health Corporation or any affiliated entity.

SECTION 7. PROPOSAL FORMAT

7.1 GENERAL

The Respondent's Response should be prepared in a straightforward and concise manner, detailing the Respondent's capabilities to satisfy the requirements of this RFP and should conform to the outline set forth in Section 8.2.B below.

A. Transmittal Letter

Technical proposals are to be accompanied by a brief transmittal letter prepared on the respondent's letterhead, and signed by an individual who is authorized to commit the respondent to the services and requirements as stated in the RFP and proposals. This transmittal letter shall include:

1. The name, title, address, telephone number, and electronic mail address of the person authorized to bind the respondent to the contract, who will receive all official notices concerning this RFP; and
2. The Respondent's Federal Tax Identification Number or Social Security Number.
3. Acknowledgement of the receipt of any amendments/addenda to the RFP.

B. Confidentiality of Proposals

The copy marked "PIA" of any proposal submitted in response to this RFP must identify all parts of the technical and financial proposal that the respondent deems to contain trade secrets or information of a confidential and/or proprietary nature. (see Part II, section 1.1,A) This copy must also include a statement by the respondent regarding the rationale for the parts so identified. Compliance with this requirement is set forth in Part IV, Section 2.14, #2. Note that a blanket statement by an respondent that its entire proposal is confidential or proprietary is unacceptable.

C. Duration of Offer

A proposal submitted in response to this solicitation is binding upon the respondent and is considered irrevocable for a minimum of 120 days following the closing date for receipt of initial proposals or the closing date for or receipt of a best and final offer, if any. This period may be extended by written mutual agreement between the respondent and the State.

7.2 TECHNICAL RESPONSE

A. General:

Respondents must submit, under separate cover, a clearly marked unbound original and eleven (11) bound copies of the Technical Response in a separate sealed envelope titled "Response to Prince George's County Hospital Authority's Solicitation for 5.3 One additional copy must be provided on a CD-ROM disk.

B. Outline:

Table of Contents

Tab 1 – Qualifications

The Respondent shall provide evidence that it has the qualifications and experience necessary to perform the services to be performed under any contract to be awarded as a result of this RFP, including a detailed description of selected engagements with an explanation of how they demonstrate the ability to provide the services.

Tab 2 – Executive Summary

The Respondent shall condense and highlight the contents of the Technical Response in a separate section titled “Executive Summary”. The summary shall provide a broad overview of the Respondent’s understanding of the contents of the RFP and of how the Respondent’s response meets the scope of services requested in Section 5.3. If any addendum or amendments have been issued to this RFP, the Respondent shall acknowledge receipt of the same in this section. Also, any exceptions to this RFP or any of the attachments must be clearly identified in this section. Exceptions may result in the proposal being deemed unacceptable.

Tab 3 – Proposed Work Plan

The Respondent should submit a detailed description of its qualifications and proposed plan to provide the services outlined in the RFP. It should include the likely methods and techniques the Respondent would utilize and its plan and capacity to manage the overall project and subordinate tasks within applicable deadlines.

Tab 4 - Response Affidavit (Attachment B) – Must be completed and signed by an individual authorized to bind the Respondent. All questions are to be answered on Attachment B. If a question is not applicable it should be so indicated.

Tab 5 – Summary of Corporate Experience and Capability

The Respondent should describe its significant experience in the provision of acquisition and financial advisory services, with particular emphasis, on its experience in the valuation, marketing, and solicitation of acquirers, and the financing and closing of hospital and health care system acquisitions. The Respondent should also describe its experience in public finance and working with the Governmental agencies named in Section 5.3(D), above.

Tab 6 – Corporate References

The Respondent should provide the names, addresses, telephone numbers and any other contact information of at least three current clients that may be

contacted as references. The Authority reserves the right to call any known former or current client.

Tab 7 – Corporate Fiscal Responsibility

The Respondent should provide evidence of its financial ability to carry out any contract which may ultimately be awarded as a result of this RFP. Examples of evidence of financial ability may include, but are not limited to: 1) Recently audited (or best available) financial statements, including a certification by the Chief Financial Officer (or equivalent officer) that the statements are accurate and reliable; 2) Lines of credit; 3) Successful financial track record; 4) Adequate working capital; and 5) Financial rating such as Dunn and Bradstreet

Tab 8 – Key Personnel

A. The Respondent should identify the specific individuals and any subcontractors who will be assigned or used to provide any services under any contract which may result from this RFP. The Respondent should include a resume for each individual and/or subcontractors named, including the name and contact information of at least one recent client of such individuals and/or subcontractors who may be contacted as a reference for them.

B. The Respondent should identify the person or persons to perform work on a day-to-day basis under each of the tasks referred to in 5.3, and should explain how their qualifications and experience relate to the responsibilities they will undertake.

C. The Respondent should specify the division of responsibility envisioned among these individuals and their availability to perform contract services during the term of any contract. For each individual identified, the Respondent should indicate the percentage of time that person will be available for performance on any contract.

Tab 9 - Approach to Managing Clients and Organizing Projects

The Respondent should describe its standard approach to managing clients. It should include, at a minimum, how staff is assigned to complete both routine and special tasks, the approach to minimizing billable hours to clients, and decision-making on how much oversight and/or leadership is required to complete both routine and special tasks.

Tab 10 - Preparation of Presentations, Training, and Analysis Skills

A. The Respondent should describe its experience in the development of presentations to groups such as potential acquirers, credit rating agencies,

investment bankers, investors, and others as appropriate. The Respondent should attach a sample(s) of recent, relevant presentations.

B. The Respondent should attach as an exhibit any example of work which highlights experience in hospital acquisition and financial advisory services, and any other experience that provides insight into the Respondent's ability in financial analysis and management, and ability to organize and complete projects for clients.

C. The Respondent should describe the manner in which it assured that the documents used to effectuate and complete the acquisition and transfer of hospital assets in prior situations met applicable legal, financing, tax, and regulatory requirements.

Tab 11 – Professional Liability Insurance

The Respondent should provide documentary evidence of professional liability insurance, including coverage and deductible amounts. The insurance should be in the amount of \$1,000,000.00 in the aggregate and \$300,000 per occurrence.

7.3 PRICE RESPONSE

Respondents must submit an unbound, clearly marked original and eleven (11) bound copies of the Price Proposal in a separate sealed enveloped titled "Response for Services Requested in Section 5.3" One additional copy shall be provided on a CD-ROM disk. The Price Response shall be signed by an official authorized to bind the Respondent.

SECTION 8. EVALUATION PROCEDURE

8.1 EVALUATION COMMITTEE

The Procurement Officer shall establish an Evaluation Committee. The Procurement Officer reserves the right to reject in whole or in part any and all responses received as a result of this RFP, to waive minor irregularities in responses, and to enter into discussions with all responsible Respondents in any manner deemed necessary to serve the best interest of the Authority, Prince George's County, and the State. Respondents who will not be considered for a contract award will be notified in writing.

8.2 DISCUSSIONS/ORAL PRESENTATIONS

All Respondents who appear to be well qualified may be required to make oral presentations and participate in discussions with the Evaluation Committee. All responses shall be reviewed and evaluated to determine which Respondents are most qualified to meet the Authority's requests, needs, and standards for the fulfillment of its mandate under Chapter 680 of the 2008 Laws of Maryland, and SB-1039 (or the final bill when passed). The Authority reserves the right to reject any and all responses to this Request for Qualifications, and to investigate the qualifications of all firms to whom the award is contemplated. The Authority reserves the right to award a contract to one or more Respondents with or without the benefit of oral presentations from any party.

8.3 TECHNICAL RESPONSE EVALUATION CRITERIA

The Evaluation Committee will conduct its evaluation of the Technical Responses received on the basis of the following criteria:

- A. Work plan and approach to providing the services to be performed under any contract and pursuant to the Authority's enabling statute, Chapter 680 of the 2008 Laws of Maryland;
- B. Experience and qualifications of proposed staff in providing acquisition and financial advisory services for large, complex acquisitions of hospitals and related health care facilities;
- C. Corporate experience and capability in performing work involving the acquisition of hospitals and related health care facilities, in assisting boards or public bodies in evaluating proposals and negotiating transactions, and in producing high quality deliverables within fixed costs and timeframes.

8.4 PRICE RESPONSE EVALUATION

Price Responses will not be opened until the evaluation of the Technical Response to the RFP is complete.

8.5 WEIGHTING OF TECHNICAL AND PRICE RESPONSES

In evaluating proposals, the Technical Responses will have greater weight than the Price Responses.

8.6 POTENTIAL AWARD OF CONTRACT

Following receipt and review of the responses, a short list of the most qualified firms will be developed for consideration of a contract award or awards. These firms may be required to make further presentations, or to engage in a second stage of the process by responding to a Request for Proposals. At its discretion, however, the Authority may instead proceed directly to negotiations and/or the award of one or more contracts with one or more Respondents. Respondents may be required to submit best and final offers.

The successful Respondent(s) will be required to enter into and sign a formal Contract with the Authority with reasonable adjustments acceptable to the Authority. This RFP shall be incorporated in and become part of the Contract. The contract language will control over any language contained in this RFP that conflicts with the Contract.

SECTION 9. – GENERAL CONTRACT TERMS

9.1 MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

9.2 CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Gov't. Article, §15-501 et seq.,

9.3 NON-DISCRIMINATION IN EMPLOYMENT

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified

individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

9.4 CONTINGENT FEE PROHIBITION

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this agreement.

9.5 TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct any deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the Department may terminate the contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the Department's option, become the State's property. The Department shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Department can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

9.6 TERMINATION FOR CONVENIENCE

The Department may terminate the performance of work under this contract in accordance with this clause, in whole, or from time to time in part, whenever the Department shall determine that the termination is in the best interest of the State. The Department will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Contractor shall not be reimbursed for any anticipatory profits, which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

9.7 TAX EXEMPTIONS

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply.

9.8 NON-ASSIGNMENT

The Contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the Department's contract monitor.

9.9 DOCUMENTS RETENTION AND INSPECTION

The Contractor and sub-contractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

9.10 INDEMNITY (HOLD HARMLESS) CLAUSE

A. Definitions:

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the Contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and employees.
- (3) "Subcontractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

B. Indemnification by Contractors

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of the State

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph.

The State has no obligation to provide legal counsel or legal defense to the Contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

D. Notice of Cooperation in Litigation

The Contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against the Contractor or its sub-contractors regarding any matter resulting from or relating to the Contractor's obligations under this contract, and will cooperate, assist and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's obligations under this contract.

9.11 INCORPORATION BY REFERENCE

All terms and conditions of the solicitation, and any amendments thereto, are made a part of this contract. In the event of contract award, the contract shall consist of the RFP, including all addenda, exhibits, and attachments, and the entire proposal submitted by the successful respondent except for any portions specifically excluded by contract. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

9.12 ANTI-BRIBERY

Potential contractors and contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

9.13 PATENTS, COPYRIGHTS, TRADE SECRETS & INDEMNIFICATION

If the contractor furnishes any design, device, material process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use the item or items. The contractor hereby grants to the Department a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

If any products furnished by the contractor become, or in the contractor's opinion are likely to become, the subject of a claim of infringement, the contractor will, at its option: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

9.14 STATE CONTRACT PREVAILS

Whenever a Vendor/Contractor's Standard Contract is used along with this State's RFP document, including Section V of the RFP as the Contract document, this RFP document, including Section V of this RFP as the Contract document, shall prevail in the event of conflict between any provision of the two contracts when the State determines it to be in its best interest.

9.15 CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, § 13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the Contractor in writing to suspend,

delay, or interrupt all or any part of the work for a period of time as the procurement officer may determine to be appropriate for the convenience of the State.

9.16 RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Department of Health & Mental Hygiene (DHMH).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to DHMH and shall become and remain the exclusive property of DHMH during and upon termination or completion of the services required to be performed under this contract.

DHMH shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

The contractor agrees that, at all times during the term of this contract and thereafter, the works created and services performed shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this contract are not works for hire for DHMH, the contractor hereby transfers and assigns to DHMH all of its rights, title and interest (including all intellectual property rights) to all products created under this contract, and will cooperate reasonably with DHMH in effectuating and registering any necessary assignments.

The contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore the markings.

9.17 DELAYS AND EXTENSIONS OF TIME

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control without the fault or negligence of either the Contractor or the subcontractors or suppliers.

9.18 POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with the Annotated Code of Maryland, Election Law Article, §§ 14-101—14-108, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, or an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

9.19 COMPLIANCE WITH LAWS

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

A. It is qualified to do business in the State of Maryland and that it will take any action as, from time to time hereafter, may be necessary to remain so qualified;

B. It shall comply with all Federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

C. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

9.20 PROHIBITION OF SEXUAL HARASSMENT

The Contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the Contractor shall include this clause, or a similar clause approved by DHMH, in all sub-contracts. The Contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

9.21 COMMERCIAL NONDISCRIMINATION

A. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

B. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's

Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

SECTION 10. CONTRACT FORMATION

Upon recommendation for award the Respondent / Contractor will be instructed to complete, sign and date the pages of this section. In so doing, the Respondent binds itself to all of the provisions, terms, and specifications contained in the contract.

- A. **PARTIES TO THE CONTRACT** -- Each party to this agreement represents and warrants to the other that it has the full right, power, and authority to execute this contract. The contractual agreement resulting from this RFP is by and between _____ and _____, hereinafter called the *Contractor* or the *Vendor*, and the Prince George's County Hospital Authority, hereinafter called the "Authority".

IN CONSIDERATION of the premises and the covenants herein contained, the parties agree as follows:

- B. **CONTRACT TERM AND PRICE**-- The official commencement and termination dates of the original contract period and any options, and the total contract price including any options shall be:

| <i>Contract Term</i> | <i>Begin</i> | <i>End</i> | <i>Amount</i> | <i>NTE</i> |
|---------------------------|--------------|------------|---------------|------------|
| <i>Base Contract</i> | _____ | _____ | \$ _____ | _____ |
| <i>Option #1 (if any)</i> | _____ | _____ | \$ _____ | _____ |
| <i>Option #2 (if any)</i> | _____ | _____ | \$ _____ | _____ |

Total Amount of Options \$ _____

Total Potential Cost of Contract with Options \$ _____

D. CONTRACT AND APPROVAL IDENTIFIERS -- Identifiers for this contract shall include, but not necessarily be limited to:

The Contract Number: _____

ADPICS Number: _____

EMaryland Market Place Contractor Registration Number*:

*Note: Contract will not be awarded without eMM registration number.

E. INCORPORATION BY REFERENCE

This contract, identified in Section D of this Part V consists of the RFP document including all Exhibits, Appendices and Addenda, and the successful Respondent's entire final proposal including both the financial and the technical elements dated _____ (technical element) _____ (financial element), which are incorporated into this contract by reference.

Note: Incorporation by reference does not necessarily create a public record permissible for disclosure.

In Witness Whereof, the parties hereto have set their hands and seals:

(Signatory for the **CONTRACTOR**)

(Signatory for the **AUTHORITY**)

By: _____

By: _____

OR DESIGNEE

(Signature)

(Signature)

Name(Typed)

Name(Typed)

Title(Typed)

Title(Typed)

Date

Date of signing