



**INFORMATION EXCHANGE AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION (SSA)  
AND  
THE MARYLAND DEPARTMENT OF HUMAN RESOURCES**

- A. PURPOSE:** The purpose of this Information Exchange Agreement ("IEA") is to establish terms, conditions, and safeguards under which SSA will disclose to the State Agency certain information, records, or data (herein "data") to assist the State Agency in administering certain federally funded state-administered benefit programs (including state-funded state supplementary payment programs under Title XVI of the Social Security Act) identified in this IEA. By entering into this IEA, the State Agency agrees to comply with:
- the terms and conditions set forth in the Computer Matching and Privacy Protection Act Agreement ("CMPPA Agreement") attached as **Attachment 1**, governing the State Agency's use of the data disclosed from SSA's Privacy Act System of Records; and
  - all other terms and conditions set forth in this IEA.
- B. PROGRAMS AND DATA EXCHANGE SYSTEMS:** (1) The State Agency will use the data received or accessed from SSA under this IEA for the purpose of administering the federally funded, state-administered programs identified in **Table 1** below. In **Table 1**, the State Agency has identified: (a) each federally funded, state-administered program that it administers; and (b) each SSA data exchange system to which the State Agency needs access in order to administer the identified program. The list of SSA's data exchange systems is attached as **Attachment 2**:

**TABLE 1**

<b>FEDERALLY FUNDED BENEFIT PROGRAMS</b>	
Program	SSA Data Exchange System(s)
<input checked="" type="checkbox"/> Medicaid	<i>SDX, BENDEX, EVS, SVES, Quarters of Coverage, Prisoner Query, SOLQ</i>
<input checked="" type="checkbox"/> Temporary Assistance to Needy Families (TANF)	<i>SDX, BENDEX, EVS, SVES, Quarters of Coverage, Prisoner Query, SOLQ</i>
<input checked="" type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP- formally Food Stamps)	<i>SDX, BENDEX, EVS, SVES, Quarters of Coverage, Prisoner Query, SOLQ</i>
<input type="checkbox"/> Unemployment Compensation (Federal)	
<input type="checkbox"/> Unemployment Compensation (State)	
<input type="checkbox"/> State Child Support Agency	
<input checked="" type="checkbox"/> Low-Income Home Energy Assistance Program (LI-HEAP) : Maryland Energy Assistance Programs (MEAP)	<i>SDX, BENDEX, EVS, SVES</i>
<input type="checkbox"/> Workers Compensation	



<input type="checkbox"/> Vocational Rehabilitation Services	
<input checked="" type="checkbox"/> Foster Care (IV-E) :Foster Care And Adoption Assistance	<i>SDX, BENDEX, EVS, SVES</i>
<input type="checkbox"/> State Health Insurance Program (S-CHIP)	
<input type="checkbox"/> Women, Infants and Children (W.I.C.)	
<input checked="" type="checkbox"/> Medicare Savings Programs (MSP)	<i>SDX, BENDEX, EVS, SVES, LIS</i>
<input checked="" type="checkbox"/> Medicare 1144 (Outreach)	<i>SDX, BENDEX, EVS, SVES, Outreach</i>
<input checked="" type="checkbox"/> Other Federally Funded, State-Administered Programs (List Below)	
Program	SSA Data Exchange System(s)
Child Care Subsidy Program (also known as Purchase of Care)	<i>SDX, BENDEX, EVS, SVES</i>

(2) The State Agency will use each identified data exchange system *only* for the purpose of administering the specific program for which access to the data exchange system is provided. SSA data exchange systems are protected by the Privacy Act and federal law prohibits the use of SSA's data for any purpose other than the purpose of administering the specific program for which such data is disclosed. In particular, the State Agency will use: (a) the **tax return data** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to Section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(1)(8); and (b) the **citizenship status data** disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants. The State Agency also acknowledges that SSA's citizenship data may be less than 50 percent current. Applicants for SSNs report their citizenship data at the time they apply for their SSNs; there is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

C. **PROGRAM QUESTIONNAIRE:** Prior to signing this IEA, the State Agency will complete and submit to SSA a program questionnaire for each of the federally funded, state-administered programs checked in **Table 1** above. SSA will not disclose any data under this IEA until it has received and approved the completed program questionnaire for each of the programs identified in **Table 1** above.

D. **TRANSFER OF DATA:** SSA will transmit the data to the State Agency under this IEA using the data transmission method identified in **Table 2** below:

**TABLE 2**

**TRANSFER OF DATA**



- Data will be transmitted directly between SSA and the State Agency.
- Data will be transmitted directly between SSA and State of Maryland Annapolis Data Center (State Transmission/Transfer Component ("STC")) by CONNECT: DIRECT, a secure mechanism approved by SSA. The STC will serve as the conduit between SSA and the State Agency pursuant to the State STC Agreement.
- Data will be transmitted directly between SSA and the Interstate Connection Network ("ICON"). ICON is a wide area telecommunications network connecting state agencies that administer the state unemployment insurance laws. When receiving data through ICON, the State Agency will comply with the "Systems Security Requirements for SSA Web Access to SSA Information Through the ICON," attached as **Attachment 3**.

**E. SECURITY PROCEDURES:** The State Agency will comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology guidelines. In addition, the State Agency will comply with SSA's "Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration," attached as **Attachment 4**. For any tax return data, the State Agency will also comply with the "Tax Information Security Guidelines for Federal, State and Local Agencies," Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (IRS) website: <http://www.irs.gov/pub/irs-pdf/p1075.pdf>. This IRS Publication 1075 is incorporated by reference into this IEA.

**F. CONTRACTOR/AGENT RESPONSIBILITIES:** The State Agency will restrict access to the data obtained from SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this IEA. At SSA's request, the State Agency will obtain from each of its contractors and agents a current list of the employees of its contractors and agents who have access to SSA data disclosed under this IEA. The State Agency will require its contractors, agents, and all employees of such contractors or agents with authorized access to the SSA data disclosed under this IEA, to comply with the terms and conditions set forth in this IEA, and not to duplicate, disseminate, or disclose such data without obtaining SSA's prior written approval. In addition, the State Agency will comply with the limitations on use, duplication, and redisclosure of SSA data set forth in Section IX. of the CMPPA Agreement, especially with respect to its contractors and agents.

**G. SAFEGUARDING AND REPORTING RESPONSIBILITIES FOR PERSONALLY IDENTIFIABLE INFORMATION ("PII"):**

1. The State Agency will ensure that its employees, contractors, and agents:
  - a. properly safeguard PII furnished by SSA under this IEA from loss, theft or inadvertent disclosure;
  - b. understand that they are responsible for safeguarding this information at all times, regardless of whether or not the State employee, contractor, or agent is at his or her regular duty station;



- c. ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
  - d. send emails containing PII only if encrypted or if to and from addresses that are secure; and
  - e. limit disclosure of the information and details relating to a PII loss only to those with a need to know.
2. If an employee of the State Agency or an employee of the State Agency's contractor or agent becomes aware of suspected or actual loss of PII, he or she must immediately contact the State Agency official responsible for Systems Security designated below or his or her delegate. That State Agency official or delegate must then notify the SSA Regional Office Contact and the SSA Systems Security Contact identified below. If, for any reason, the responsible State Agency official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within 1 hour, the responsible State Agency official or delegate must call SSA's Network Customer Service Center ("NCSC") at 410-965-7777 or toll free at 1-888-772-6661 to report the actual or suspected loss. The responsible State Agency official or delegate will use the worksheet, attached as **Attachment 5**, to quickly gather and organize information about the incident. The responsible State Agency official or delegate must provide to SSA timely updates as any additional information about the loss of PII becomes available.
  3. SSA will make the necessary contact within SSA to file a formal report in accordance with SSA procedures. SSA will notify the Department of Homeland Security's United States Computer Emergency Readiness Team if loss or potential loss of PII related to a data exchange under this IEA occurs.
  4. If the State Agency experiences a loss or breach of data, it will determine whether or not to provide notice to individuals whose data has been lost or breached and bear any costs associated with the notice or any mitigation.

**H. POINTS OF CONTACT:**

**FOR SSA**

**Philadelphia Regional Office:**

Prasanna Kartha, Data Exchange Coordinator  
 Bernard Daniels, Social Insurance Specialist  
 Center For Program Support  
 300 Spring Garden Street  
 Philadelphia, PA 19123  
 Phone: 215-597-1962 or 215-597-2354  
 Fax: 215-597-5206  
[Prasanna.Kartha@ssa.gov](mailto:Prasanna.Kartha@ssa.gov) or  
[Bernard.A.Daniels@ssa.gov](mailto:Bernard.A.Daniels@ssa.gov)

**Data Exchange Issues:**

Guy Fortson  
 Office of Electronic Information Exchange  
 GD10 East High Rise  
 6401 Security Boulevard  
 Baltimore, MD 21235  
 Phone: (410) 597-1103  
 Fax: (410) 597-0841  
 Email: [guy.fortson@ssa.gov](mailto:guy.fortson@ssa.gov)

**Systems Issues:**

Pamela Riley

**Systems Security Issues:**

Michael G. Johnson



Office of Earnings, Enumeration &  
Administrative Systems  
DIVES/Data Exchange Branch  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-7993  
Fax: (410) 966-3147  
Email: [Pamela.Riley@ssa.gov](mailto:Pamela.Riley@ssa.gov)

Director  
Office of Electronic Information Exchange  
Office of Strategic Services  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-0266  
Fax: (410) 966-0527  
Email: [Michael.G.Johnson@ssa.gov](mailto:Michael.G.Johnson@ssa.gov)

### **FOR STATE AGENCY**

#### **Agreement Issues:**

Rosemary Malone  
Deputy Executive Director  
Family Investment Administration - Office of  
Programs Maryland Department of Human  
Resources  
311 W. Saratoga Street  
Baltimore, MD 21201  
410 767 7949 (Work)  
410 333 6581 (Fax)  
[RMalone@dhr.state.md.us](mailto:RMalone@dhr.state.md.us)

#### **Technical Issues:**

Greg Yaculak  
Director of Data and Network Security  
Office of Technology for Human Services  
Maryland Department of Human Resources  
311 W. Saratoga St.  
Baltimore MD 21201  
410-767-7652 (wk)  
410-333-0433 (fax)  
[Gyaculak@dhr.state.md.us](mailto:Gyaculak@dhr.state.md.us)

- I. DURATION:** The effective date of this IEA is January 1, 2010. This IEA will remain in effect for as long as: (1) a CMPPA Agreement governing this IEA is in effect between SSA and the State or the State Agency; and (2) the State Agency submits a certification in accordance with Section J. below at least 30 days before the expiration and renewal of such CMPPA Agreement.
- J. CERTIFICATION AND PROGRAM CHANGES:** At least 30 days before the expiration and renewal of the State CMPPA Agreement governing this IEA, the State Agency will certify in writing to SSA that: (1) it is in compliance with the terms and conditions of this IEA; (2) the data exchange processes under this IEA have been and will be conducted without change; and (3) it will, upon SSA's request, provide audit reports or other documents that demonstrate review and oversight activities. If there are substantive changes in any of the programs or data exchange processes listed in this IEA, the parties will modify the IEA in accordance with Section K. below and the State Agency will submit for SSA's approval new program questionnaires under Section C. above describing such changes prior to using SSA's data to administer such new or changed program.



**K. MODIFICATION:** Modifications to this IEA must be in writing and agreed to by the parties.

**L. TERMINATION:** The parties may terminate this IEA at any time upon mutual written consent. In addition, either party may unilaterally terminate this IEA upon 90 days advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow under this IEA, or terminate this IEA, if SSA, in its sole discretion, determines that the State Agency (including its employees, contractors, and agents) has: (1) made an unauthorized use or disclosure of SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this IEA or the CMPPA Agreement.

**M. INTEGRATION:** This IEA, including all attachments, constitutes the entire agreement of the parties with respect to its subject matter. There have been no representations, warranties, or promises made outside of this IEA. This IEA shall take precedence over any other document that may be in conflict with it.

#### **ATTACHMENTS**

- 1 – CMPPA Agreement
- 2 – SSA Data Exchange Systems
- 3 – Systems Security Requirements for SSA Web Access to SSA Information Through ICON
- 4 – Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration
- 5 – PII Loss Reporting Worksheet



N. **SSA AUTHORIZED SIGNATURE:** The signatory below warrants and represents that he or she has the competent authority on behalf of SSA to enter into the obligations set forth in this IEA.

**SOCIAL SECURITY ADMINISTRATION**



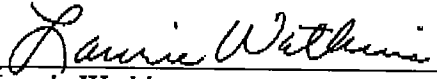
Michael C. Gallagher  
Assistant Deputy Commissioner  
for Budget, Finance and Management

5/13/07  
Date



**O. REGIONAL AND STATE AGENCY SIGNATURES:**


**SOCIAL SECURITY ADMINISTRATION  
REGION III**

  
\_\_\_\_\_  
Laurie Watkins  
Regional Commissioner  
Philadelphia

9/14/09  
\_\_\_\_\_  
Date

**MARYLAND DEPARTMENT OF HUMAN RESOURCES**

The signatory below warrants and represents that he or she has the competent authority on behalf of the State Agency to enter into the obligations set forth in this IEA.

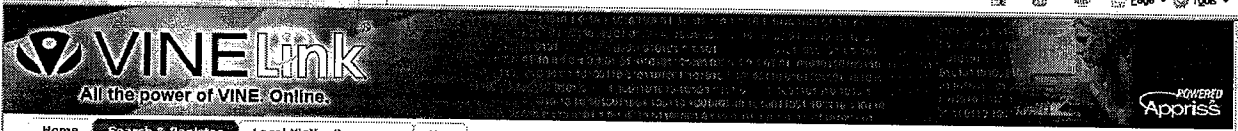
  
\_\_\_\_\_  
Brenda Donald  
Secretary, Maryland Department of Human Resources

9.10.09  
\_\_\_\_\_  
Date



## Attachment 1-8 – VINELink





Home Search & Register Local Victim Resources Map

Offender VINE Courts Probation/Parole

Maryland Statewide  
VINE Service Number : (866) 634-8463

Select the Facility that you would like to search.

- All Facilities
- Department of Corrections
- Choose Facility

Enter the Offender ID or Offender's First and Last Name.

\*Offender ID:

- or -

\*Last Name:

\*First Name:

*Note that the first name can be a partial search, entering "JO" will match "JOHN", "JOE" etc.*

\*Indicates Required Field

Enter the following information if known.

Date of Birth:

*mm/dd/yyyy (4-digit year is required)*

- or -

Age Range:

## Attachment 1-9 – Standard Services Contract

# ATTACHMENT D—STANDARD SERVICES CONTRACT

## THE DEPARTMENT OF HUMAN RESOURCES

**THIS CONTRACT** is made this \_\_\_\_ day of \_\_\_\_, \_\_\_\_ by and between the Department of Human Resources, an agency of the State of Maryland whose primary business address is 311 W. Saratoga Street, Baltimore, Maryland 21201 (hereinafter the “Department”) and \_\_\_\_ (hereinafter “Contractor”), whose primary business address is \_\_\_\_.

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

### 1. DEFINITIONS

- 1.1 **Department** means the Department of Human Resources.
- 1.2 \_\_\_\_\_ means \_\_\_\_\_, a unit within the Department.
- 1.3 **Procurement Officer** means \_\_\_\_\_, \_\_\_\_\_, Room \_\_\_\_\_, \_\_\_\_\_, MD  
; \_\_\_\_\_; Fax: \_\_\_\_\_.
- 1.4 **State Project Manager** means \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Room \_\_\_\_\_, \_\_\_\_\_, MD  
; \_\_\_\_\_; Fax: \_\_\_\_\_, or designee, who is the sole point of contact relating to this Contract and the services provided hereunder.
- 1.5 **Bid** means the Response by a Bidder in response to the Invitation for Bids, ADPICS Number N00R \_\_\_\_\_.
- 1.6 **IFB** means the Invitation for Bids.
- 1.7 **State** means the State of Maryland.

### 2. SCOPE OF WORK

- 2.1. Insert a brief version of the language from Section 1.1 of the Solicitation here

These services shall be provided in accordance with this Contract and the following Attachments which are attached and incorporated herein by reference:

**The IFB  
Attachments A through  
The Bid Submission from Bidder**

If there is any conflict between this Contract and the Attachments, the terms of the Contract shall govern. If there is any conflict among the Attachments, the following order of precedence shall determine the prevailing provision:

**Attachment 1 - The IFB**

**Attachment 2 – Bid Submission from Bidder**  
**Attachment A – Pricing Proposal**  
**Attachment B – Bid/Proposal Affidavit**  
**Attachment C – Contract Affidavit**

- 2.2 The State Project Manager may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement, or conduct of the State Project Manager or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 This Contract is subject to State Finance and Procurement Article, Title 18. Additional information regarding the State's Living Wage requirement is contained in the attached Addendum entitled, "Living Wage Requirements for Service Contracts." It has been determined that this is a **Tier 1** Contract.

**3. TERM**

Unless otherwise terminated earlier as provided in this Contract, the term of this Contract shall be \_\_\_\_\_, commencing on or about \_\_\_\_\_ or the date approved by the Department and end on \_\_\_\_\_.

**4. CONTRACTOR'S PERSONNEL**

Contractor agrees that all personnel identified in its Bid, or personnel of equal qualifications, shall be assigned to perform the terms of the Contract. Personnel described in the Bid Submission may not be removed from the performance of the Contract as provided in Section \_\_\_\_\_ of the IFB.

**5. CONSIDERATION AND PAYMENT**

5.1 The consideration to be paid the Contractor shall be determined in accordance with the IFB and the Bid Form or Price Sheet. Any work performed by the Contractor in excess of the agreed upon \_\_\_\_\_, without the prior written approval of the State Project Manager is at the Contractor's risk of non-payment. The Contract will not exceed \_\_\_\_\_.

Insert Payment Terms from Solicitation here

**5.2 INVOICING**

A. 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, fails to perform in a satisfactory and timely manner, or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract.

B. Invoices must be addressed to:

**Voice:**  
**Fax:**

**Email:**

All invoices must be signed and dated in addition to including the Contractor's mailing address, the Contractor's Federal Tax ID number, which is \_\_\_\_\_, the State's assigned contract control number, the goods/services provided, the time period covered by the invoice, and the amount of requested payment.

C. Payments to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after receipt of an approved invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as applicable, are prohibited.

**6. COSTS AND PRICE CERTIFICATION**

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its bid, was inaccurate, incomplete, or not current.

**7. CONTINGENT FEE PROHIBITION**

The Contractor warrants and certifies 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 Contract, 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 any other consideration contingent on the making of this

Contract.

## 8. NON-AVAILABILITY OF FUNDING

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically 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 State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State 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 cost 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.

## 9. NON-HIRING OF STATE OFFICIALS AND EMPLOYEES

No official or employee of the State, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

## 10. INDEPENDENT CONTRACTOR STATUS

The Contractor is an independent Contractor and neither the Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the State or the Department. Nothing contained in this Contract is intended or should be construed as creating the relationship of co-partners, joint ventures, or an association between the State or the Department and the Contractor.

From any amount due the Contractor, there will be no deductions for federal income tax or FICA payments, or for any State income tax, or for any other purposes that are associated with any employer-employee relationship, unless required by law. Payment of federal income tax, FICA, and any State income tax is the responsibility of the Contractor.

## 11. MARYLAND LAW

The place of performance of this Contract shall be the State of Maryland. This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

## **12. COMPLIANCE WITH LAWS**

The Contractor hereby warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified.
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, or the Federal Government, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract.
- C. It shall comply with all applicable federal, State and local governmental laws, regulations and standards applicable to its activities and obligations under this Contract.
- D. 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.

## **13. PRE-EXISTING REGULATIONS**

In accordance with the provisions of §11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in COMAR Title 21 in effect on the date of execution of this Contract are applicable to this Contract.

## **14. SUBCONTRACTING AND SUCCESSOR IN INTEREST**

**14.1** The Contractor shall not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State Project Manager. The Contractor shall not assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State Project Manager. Any such subcontract or assignment, including the terms and conditions of any such agreement, shall be subject to the unilateral determination of the State Project Manager to protect the interest of the State. The Department shall not be responsible for the fulfillment of the Contractor's obligation to the subcontractors.

**14.2** The Contractor shall notify the State Project Manager, in writing, regarding its intent or thirty (30) days before its final decision, to merge, acquire or be acquired by another organization (novation). The Contractor shall provide the State Project Manager with the documentation required by COMAR 21.05.02.24.

**14.3** The Contractor shall notify the State Project Manager, in writing, within twenty-four (24) hours of a filing of bankruptcy and identify the Department and the State of

Maryland as a secured creditor.

## **15. PROMPT PAYMENT OF SUBCONTRACTORS**

**15.1** The Contractor shall ensure that all subcontractors, including MBE subcontractors, are promptly paid any undisputed amount to which the subcontractor is entitled. An undisputed amount is an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

**15.2** If the Contractor withholds payment of an undisputed amount to its subcontractors, the Department, may, at its sole option and discretion: a) refuse to process further payments to the Contractor until payment to the subcontractor is verified; b) suspend all or some of the contract work without affecting the completion date(s) for the contract work; c) pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due; d) place a payment for an undisputed amount in an interest-bearing escrow account; or e) take other or further actions as appropriate to resolve the withheld payment.

**15.3** Upon completion of the contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

**15.4** The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

**15.5** To ensure compliance with certified MBE subcontract participation goals, and to monitor compliance with the terms of the contract, the Department shall take action to remedy noncompliance consistent with COMAR 21.11.03.13.

**15.6** An act, failure to act, or decision of a procurement officer or a representative of the Department, concerning a withheld payment between the Contractor and subcontractor under Section 15 herein, may not affect the rights of the contracting parties under any other provision of law, be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding, or result in liability against or prejudice the rights of the Department.

## **16. NONDISCRIMINATION IN EMPLOYMENT**

The Contractor shall not discriminate against any employee or applicant for employment because of marital status, race, color, religion, sex, age, physical or mental disability, national origin, or sexual orientation. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination because of their race, color, religion, sex, age, physical or mental

disability, national origin, or sexual orientation. The Contractor shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the State Project Manager or by the governmental agency exercising jurisdiction, setting forth the substance of this clause.

**17. NONDISCRIMINATION IN PROGRAMS/AMERICANS WITH DISABILITIES ACT COMPLIANCE**

The Contractor agrees that, in providing any aid, benefit, service, program, or activity, under this Contract on behalf of the Department, it will not: (a) deny any individual the opportunity to participate in or benefit from the aid, benefit or service equal to that provided others; (b) provide a qualified individual with a disability with any aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others; (c) provide different or separate aid, benefits, or service to individuals or classes of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others; (d) deny a qualified individual with a disability the opportunity to participate as a member of any planning or advisory boards; or, (e) otherwise limit opportunity enjoyed by others receiving the aid, benefit, or service.

The Contractor agrees further to not utilize criteria or methods of administration that have the effect of subjecting anyone to discrimination on the basis of disability, or have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the Department of Human Resources' program with respect to individuals with disabilities.

**18. CONFIDENTIALITY AND SAFEGUARDING CLIENT INFORMATION**

Except in accordance with a court order, neither party shall use or disclose any information concerning a recipient of the services provided under this Contract for any purposes not directly connected with the administration of such services, except upon written consent of the other party and the recipient or his/her responsible parent, guardian, or legal representative or as required by §§ 10-611, et seq., State Government Article and Human Services Article §§ 1-201 to 1-205, Maryland Annotated Code and COMAR 07.01.07.

Nothing in this Contract shall prevent the Department or the Contractor from using and disclosing statistical data derived from information concerning a recipient of the services provided under this Contract so long as that statistical data does not identify any recipient of such services.

**19. DELAYS AND EXTENSIONS OF TIME**

The Contractor agrees to perform this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. Time extensions

may 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 State Contract, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or the delays of a subcontractor or supplier arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor, subcontractor, or suppliers.

## **20. INDEMNIFICATION**

**20.1** The Contractor shall indemnify the State against liability for any suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

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

**20.3** The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract. The State shall only be liable up to the amount for which it is found liable under the Maryland Tort Claims Act, §§ 12-101, *et seq.*, State Government Article, Annotated Code of Maryland.

**20.4** The Contractor shall immediately notify the State Project Manager of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the 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 performance under this Contract.

## **21. SUSPENSION OF WORK**

The State Project Manager unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the State may determine to be appropriate for the benefit of the Department.

## **22. TERMINATION FOR CONVENIENCE**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or, from time to time, in part, whenever the State Project Manager shall determine that such termination is in the best interest of the State. The State will ensure that the Contractor is paid for all reasonable, allowable and allocable costs associated with the termination of this Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that 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 COMAR 21.07.01.12A (2).

### **23. TERMINATION FOR DEFAULT**

If the Contractor fails to fulfill its obligations under this Contract properly and in a timely manner, or otherwise violates any provision of the Contract, the State may terminate the Contract for default. The State Project Manager shall give the Contractor thirty (30) days prior written notice of such default, and if the Contractor has not submitted a corrective action plan within seven (7) days and cured such default within the thirty (30) day period, the State Project Manager may, by written notice, within five (5) days after expiration of this period, terminate the Contract. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the Contractor shall, at the State's option, become the Department's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance up to the effective date 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 State 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.

### **24. DISPUTES**

This Contract shall be subject to the provisions of Title 15, Subtitle 2, State Finance and Procurement Article, Annotated Code of Maryland, and COMAR 21.10. (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Contracts Administrator's decision. Unless a lesser period is provided by statute, regulation, or this Contract, the Contractor must file a written notice of claim with the State Project Manager within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under this Contract, the Contractor must submit to the State Project Manager its written claim containing the information specified in COMAR 21.10.04.02.

### **25. MERGER, AMENDMENTS, AND/OR MODIFICATIONS**

This Contract, together with the Attachments attached hereto and incorporated herein by reference, represents the complete, entire, total and final Contract between the Department and the Contractor. No other understanding or representation, oral or written, regarding the subject matter of this Contract, shall be deemed to exist or to bind the Department and the Contractor hereto, and any such understanding or representation existing prior to the execution of this Contract is hereby specifically and entirely superseded thereby. The Department and the Contractor expressly reserve the right to amend, alter, vary, modify or waive any provision of this Contract provided only that: