Montgomery County Government

Office of Procurement
MONTGOMERY COUNTY, MD

Request for Proposals (RFP) for

for

RFP #1194839

Medical Insurance Services and Administration for Montgomery County

Office of Human Resources

NOTICE OF SOLICITATION

RFP #1194839

Medical Insurance Services and Administration for Montgomery County

<table>
<tr><td>RFP SUMMARY</td><td colspan="6">Montgomery County, Maryland is soliciting proposals for the provision of Medical Insurance Services and Administration for Montgomery County as outlined in this RFP.
The County has established a health care benefit program for all eligible employees, retirees and their covered dependents. The County desires to provide medical benefit plans, which require certain administrative and claims processing services. The intent of this RFP is to select up to three (3) Contractors to provide health care claims processing services and administrative services effective January 1, 2028.</td></tr>
<tr><td>RFP ISSUE DATE</td><td colspan="6">9/10/2026</td></tr>
<tr><td>PROPOSAL DUE DATE</td><td colspan="6">Proposals are due on Friday,10/23/2026 no later than 3:00 PM EST.</td></tr>
<tr><td rowspan="3">RFP TYPE</td><td colspan="2">Services Contract</td><td colspan="2">Construction Contract</td><td colspan="2">Goods Contract</td></tr>
<tr><td>☒ Yes</td><td>☐ No</td><td rowspan="2">☐ Yes</td><td rowspan="2">☒ No</td><td rowspan="2">☐ Yes</td><td rowspan="2">☒ No</td></tr>
<tr><td colspan="2">Professional Services</td></tr>
<tr><td rowspan="2">WAGE LAW APPLICABILITY</td><td colspan="2">Services Contract
(Wage Requirements Law)</td><td colspan="2">Construction Contract
(Prevailing Wage Law)</td><td colspan="2">Goods Contract</td></tr>
<tr><td>☒ Yes</td><td>☐ No</td><td>☐ Yes</td><td>☒ No</td><td colspan="2">Not applicable</td></tr>
<tr><td>PRE-SUBMISSION CONFERENCE</td><td colspan="6">A pre-submission conference will be held on Tuesday, 9/29/2026 at 1:00 PM EST. It is highly recommended that all proposers attend.
Microsoft Teams meeting:
https://teams.microsoft.com/meet/258265007043296?p=vjqpeNXI5vgrA17T6m
Meeting ID: 258 265 007 043 296, Passcode: Sa9CH3LP
Or dial in by phone
+1 443-692-5768, Phone conference ID: 283 156 284#</td></tr>
<tr><td>RFP QUESTIONS</td><td colspan="3">Technical Questions Contact
Jennifer Shovlin from the Office of Human Resources via email at
Jennifer.Shovlin@montgomerycountymd.gov</td><td colspan="3">Procurement Questions Contact
Segyung Yaeger via email at
Segyung.Yaeger@montgomerycountymd.gov .</td></tr>
<tr><td>RFP QUESTIONS DUE DATE</td><td colspan="6">Vendor Questions are due on Friday, 10/2/2026 no later than 3:00 PM EST.
Answers to questions will be addressed via a written Solicitation Amendment.</td></tr>
<tr><td>PERFORMANCE BOND</td><td colspan="3">☐ YES</td><td colspan="3">☒ NO</td></tr>
<tr><td>PROPOSAL SUBMISSION PROCESS</td><td colspan="6">Prospective offerors must submit their proposals electronically via BidNet Direct.</td></tr>
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Attachments to be provided to Offerors Upon Submission of Signed Attachment H - Intent to Respond Form:

Any prospective offeror wishing to participate in this RFP must complete Attachment H - Intent to Respond Form and email the completed form to Jennifer.Shovlin@montgomerycountymd.gov no later than October 2, 2026, at 3:00 PM EST. Upon review and approval of the form, Attachments 1-14 (census data and historical experience files) will be provided only to these prospective offerors.

The vendors agree that the information shared will be kept strictly confidential and will not be disclosed to any third party without prior written consent from the County, except as required by law.

1. EXPERIENCE, CAREFIRST and UHC
2. EXPERIENCE, CAREFIRST_HCC
3. EXPERIENCE, KAISER_MCG - Provider report

4. EXPERIENCE, KAISER_MCG High Cost Claimant
5. EXPERIENCE, KAISER_MCG Periodic Utilization Report Package
6. EXPERIENCE, UHC_MontgomeryCountyGovernment_LargeLoss 2025
7. EXPERIENCE, UHC_MontgomeryCountyGovernment_LargeLoss 2026
8. EXPERIENCE, UHC_MontgomeryCountyGovernment_LargeLoss 2024
9. EXPERIENCE, UHC_MontgomeryCountyGovernment_LargeLoss 2023
10. EXPERIENCE, CAREFIRST_Provider Report
11. EXPERIENCE, UHC_Provider Report
12. Claim Detail File - CareFirst
13. Claim Detail File - UHC
14. Census

SECTION 1. INTENT

1.1. Background

Montgomery County, Maryland (hereafter, "County" or "MCG") borders the nation's capital and with over one million residents, is one of the State's most populous and ethnically diverse counties. The County, with a tax-supported operating budget of approximately $2.5 billion, is comprised of Executive, Judicial, and Legislative branches. The County Government is organized by departments, offices, boards, and commissions by related activity. The functions of the Montgomery County Government are:

General Government
Public Safety
Transportation
Health and Human Services
Libraries, Culture and Recreation
Community Development and Housing
Environment
Other County Functions

The Office of Human Resources (hereafter, "OHR") is responsible for providing a variety of human resource-related services to all County departments. The County employs approximately 9,300 permanent and 2,700 temporary/seasonal employees.

OHR services include salary administration, employee development and training, recruitment and testing, EEO and diversity management, employee benefits, occupational medical services, and policy development, guidance, and interpretation.

OHR's Health and Employee Welfare team is responsible for the provision and administration of the County' benefits programs to eligible employees, retirees, and their dependents. Additional information regarding the County's Health and Welfare programs is available at the following: https://www.montgomerycountymd.gov/office-human-resources/health-insurance

1.2. RFP Goals

The County has established a health care benefit program for all eligible employees, retirees and their covered dependents. The County desires to provide medical benefit plans, which require certain administrative and claims processing services. The intent of this RFP is to select up to three (3) Contractors to provide health care claims processing services and related administrative services effective January 1, 2028.

Offerors interested in submitting proposals for more than one medical benefit plan (e.g. Fully-insured and Self-Insured) must submit a separate proposal for each. Each proposal will be reviewed independently and in accordance with Section 4 – Evaluation Criteria and Method of Award. NOTE: See Proposal Submissions section for additional information on requirements on how to submit proposals.

Any prospective offeror must complete and submit **Attachment H-Intent to Respond Form** of this RFP to obtain the census data, historical claims experience, and other attachments as listed on pages 2 and 3 of this RFP by due date and time as listed on page 2 of the RFP.

SECTION 2. SCOPE OF WORK

2.1. General Requirements

2.1.1 The Contractors selected under this RFP must provide medical benefit plans and all services related to the administration of the current medical benefits for the existing self-insured POS and EPO/HMO plans (medical only) and fully-insured HMO plan (medical, prescription, and vision).

The County's Plans must be set up with Medical Necessity with no loss of grandfathered status and must align with current plan design.

The County reserves the right under the Contract(s) that are executed as a result of this RFP, to negotiate a change in coverage under the Plans that is within the general scope of the Contract(s) with the Contractors at any time during the contract term subject to mutual written agreement of the parties via a written Contract Amendment.

2.2. Service Requirements

2.2.1. MCG currently offers the following plans to its active and retired employees and their covered dependents. Contracts resulting from this RFP must comply with the following structure:

2.2.1.1 Actives and Retirees Medical (including Medicare retirees)

- CareFirst - BlueChoice Advantage POS High (Medical only)
- CareFirst – BlueChoice Advantage POS Standard (Medical only)
- United Healthcare – Select EPO (In-Network Medical only)
- Kaiser Permanente – HMO Select (In-Network Medical, Prescription, and Vision)

2.2.1.2 Retirees only (grandfathered group)

- CareFirst – Indemnity Medical and Prescription

2.2.2. Current Plan Information:

2.2.2.1 Eligibility: All merit full-time employees and merit part-time employees (standard working conditions of 20 hours per week). Full-scope Temporary non-merit employees are eligible to participate but are responsible for paying 100% of the employer/employee cost share amount.

- Active employees are eligible on their date of hire, but do not become effective until completed paperwork with selected benefits is submitted to the Health Insurance Team within 60 days of the date of hire or at the time a qualifying event occurs.
- Retiree health insurance is effective the first of the month upon retirement from the County. Retirees may make changes to their benefits' elections anytime during the year.
- Upon termination from the County, employees are entitled to benefits until receipt of their final paycheck covering the last pay period in which they were employed.

2.2.2.2 The County provides benefits to employees, retirees, and covered dependents for several Participating Agencies. The following Participating Agencies are structured under the County's plans for billing and claims for Active employees, Pre-Medicare retirees, Medicare retirees, and COBRA participants:

Agency Name
Arts & Humanities Council of Montgomery County
Bethesda Urban Partnership
Chevy Chase Village
Chevy Chase Village of, Section 3
Chevy Chase Village of, Section 5
Circuit Court Maryland
District Court of Maryland
Housing Opportunity Commission
Montgomery County Volunteer Fire & Rescue Association
Montgomery Community Television
Revenue Authority
State Dept. of Assessment & Taxation (Retiree population only)
The Strathmore Hall Foundation, Inc.
Town of Chevy Chase View
Town of Garrett Park
Town of Glen Echo
Town of Somerset
Village of Friendship Heights
Washington Suburban Transit Commission

2.2.3. Experience history for current plans (Attachments 1 through 13) will only be released to offerors that complete and submit Attachment H-Intent to Respond Form under this RFP by due date and time as listed on page 2 of the RFP.

2.2.4. Employer Contributions:

2.2.4.1 Full-Time and Part-time Employees:

80% of the cost for the HMO plans
80% of the cost for the EPO plans
80% of the cost for the POS plan

2.2.4.2 Retirees:
Minimum of 50% of the cost for all plans

2.2.5. Current Plan Funding:

2.2.5.1 The Kaiser HMO Plan is fully insured.

2.2.5.2 The CareFirst plans are self-insured Administrative Services Organization (ASO) with specific stop loss of $1,000,000.

2.2.5.3 The United Health Care Services Select EPO plan is self-insured ASO with specific stop-loss of $1,000,000.

2.2.6. Wellness Initiatives:

2.2.6.1 It is the County's mission to maintain a comprehensive Wellness Initiative for eligible employees. This RFP includes specific questions (see Attachment E-Technical and Financial Proposal Forms) included to describe information regarding Offerors' ability to provide the services necessary to ensure the success of this initiative.

2.2.6.2 Offerors should present a wellness strategy that aligns with Montgomery County's existing and branded initiatives, which may be accessed through the following link: https://www.montgomerycountymd.gov/office-human-resources/livewell

2.2.6.3 The Offerors' wellness support, credits, and services is considered a key part of the County's benefits program, and all offerors are expected to provide options for the County based on the requirements outlined in Attachment E-Technical and Financial Proposal Form.

2.2.7. Offerors must provide written advance notice of no less than 90 days to MCG prior to introducing, implementing, or making available any new program, service, vendor partnership, or point solution (e.g., digital health programs, disease management vendors, musculoskeletal solutions, behavioral health platforms, etc.) that would be offered to or activated for MCG plan participants. If the change includes a new or increased cost component, a minimum of 180 days is required. Such notice must include, at a minimum:

2.2.7.1 A description of the program or service, including the target population and anticipated member impact.

2.2.7.2 The cost to MCG, whether embedded in administrative fees, charged on a per-member, per-employee, per-claim, or other basis, or funded through plan assets.

2.2.7.3 Whether the program replaces, modifies, or supplements an existing program or service.

2.2.7.4 Confirmation that MCG retains the sole right to approve, decline, or defer activation of any such program or service prior to implementation.

2.2.8. Offerors must complete Attachment E – Technical and Financial Proposal Form for each corresponding product line to be proposed. Each offeror is asked to carefully review this attachment, which includes instruction tabs for reference.

2.2.9. Geographic Accessibility Report:

2.2.9.1 Offerors must provide a Geographic Accessibility Report for the proposed medical networks using the employee zip codes provided within each product line under Attachment E-Technical and Financial Proposal Form. The Geographic Accessibility Report must be included in the designated worksheet within each product line of Attachment E-Technical and Financial Proposal Form.

2.2.9.2 Offerors must use the standards outlined in each product line Attachment E – Technical and Financial Proposal Form to determine if the service area covers an employee.

2.2.10. Run-out Claims:

2.2.10.1 Contractors awarded the Contract(s) under this RFP must assume the current carriers will pay the run-out claims.

2.2.10.2 The Contractor(s) must perform both preparatory work that needs to be provided before the coverage year or new contract term starts, such as participating in the County's open enrollment every October, and follow-up or run-out period work. The follow-up/run-out period work includes processing claims incurred before the end of the coverage year but submitted for payment after the end of the coverage year, for that coverage year even though the preparatory work and run-out period or follow-up work will be performed outside the calendar and coverage year.

2.2.11. Requested Plan Design: Offerors must submit proposals for the current plan designs and for plan design modifications outlined in the objectives of each product line under Attachment E – Technical and Financial Proposal Form instructions sheet.

2.2.12. Enrollment Assistance: Offerors must demonstrate their ability to provide enrollment support to the County including communications, attendance as requested at employee benefit meetings (estimated at eight to ten meetings per year), administration, and any other services that the County deems appropriate.

2.2.13. Care Management: Offerors must demonstrate their ability to provide innovative care management solutions to treat and prevent chronic conditions and provide support for other medical conditions as shown under Attachment E – Technical and Financial Proposal Form. Solution may include, but are not limited to, maternity support, complex care, menopause support, musculoskeletal, and cancer support.

2.2.14. Offerors must provide a minimum of $35,000 annually for innovative initiatives the County wishes to accomplish to enhance the communication and engagement of plan tools and services, such as virtual decision-making support that includes information about all plans and vendors.

2.3. Performance Metrics and Contract Management

2.3.1. Certain tasks are critical to the successful implementation and ongoing operation of the County's healthcare programs. The successful Contractors must agree to the performance standards and associated fees at risk for not meeting the standards which are outlined in Attachment E-Technical and Financial Proposal Form. The performance guarantees will reflect the amount the parties agree is a reasonable estimate of damages the County will incur in the event a performance standard is not met by the Contractors.

2.3.2. Upon approval of the performance guarantees and execution of the Contracts that result from this RFP, the Contractors are required to provide a written report, within 45 days of the close of each quarter, on all standards that were met and not met with backup information. The Contractors will pay liquidated damages as an adjustment on the next administrative fee/premium invoice.

SECTION 3. SUBMISSION INSTRUCTIONS

3.1. Proposal Submissions

3.1.1. Failure of an offeror to submit all required proposal submissions may render its proposal unacceptable as determined by the Director, Office of Procurement.

3.1.2. Offerors must electronically submit their proposal through BidNet Direct in the format detailed below. Proposals will be evaluated only on material that is submitted. The offeror must submit sufficient information to enable the Qualification Selection Committee (QSC) to evaluate the offeror's capabilities and experience.

The offeror is responsible for ensuring that the materials uploaded to BidNet Direct are properly formatted and not corrupted. Offerors should carefully check their submissions on BidNet Direct following upload to confirm that all documents were properly uploaded and legible. Offerors will not be allowed to submit or supplement any missing, corrupted, or illegible documents after the solicitation has closed.

Proposals must include the following information (including labeled sections numbered as shown):

3.1.2.1. A **cover letter** with a brief description of the firm, including the offeror's name, address, telephone number, and email address. **The offeror's cover letter MUST indicate which medical benefit plan (1. Fully-Insured, 2. Self-Insured) the offeror wants to be considered for, either 1. Fully-Insured, 2. Self-Insured, or both plans. Offerors must upload their proposals in BidNet in the correct submission folder to be considered. There will be a 1. Fully-Insured and a 2. Self-Insured submission folder.**

3.1.2.2. The completed **Acknowledgment Page** of this solicitation, signed by a person authorized to bind the offeror to the proposal (see Attachment B).

3.1.2.3. At least three **References** that may be contacted to attest to the quality and timeliness of the offeror's work of similar nature and scope as that required by the County in this solicitation (see Attachment C).

3.1.2.4. If this solicitation is subject to the **Wage Requirements Law** (see Notice of Solicitation), the offeror must submit the appropriate Wage Requirements Law Certification forms. Failure to submit and complete the required material information on the form(s) may cause the offeror's proposal to be unacceptable under County law, and the proposal may be rejected.

3.1.2.5. The Minority, Female, Disabled Persons Subcontractor Performance Plan.

To ensure a contract can move forward as a result of this solicitation, this plan must be submitted with the offeror's proposal.

Note: Offerors who are seeking additional MFD participation evaluation scoring points (See Section 4), as well as MFD Criteria Evaluation Points for RFPs) MUST complete and submit this form with its proposal submission.

*The Purchasing Category Related to the MFD Participation Evaluation Factor for this solicitation is indicated on the Notice of Solicitation.

3.1.2.6. The Minority Business Program and Offeror's Representation (see Sample of MFD Report of Payments Received)

Note: Offerors who are seeking additional MFD participation evaluation scoring points described under Section 4 below, should complete and submit this form with its proposal submission.

3.1.2.7. The Local Business Subcontracting Performance Plan

Note: Only applies to Offerors who are responding to High Dollar Contracts (with an initial contract that is estimated to exceed $10 million) in accordance with County Code Article XVII of Chapter 11B: Local Business Subcontracting Program, should complete and submit this form with its proposal submission.

3.1.2.8. Attachment E-Technical and Financial Form including all required samples/documents outlined in the Attachment and the RFP.

3.1.2.9. W-9 showing the legal name of the company the contract will be under.

NOTE: Offerors MUST submit a complete package for EACH medical benefit plan they wish to be considered for. Please make sure your cover letter indicates the plan and that you upload your proposal in the correct BidNet submission folder – 1. Fully-Insured or 2. Self-Insured.

3.2. Award Submissions

Prior to the execution of a contract, the following items must be submitted:

3.2.1. The Minority, Female, Disabled Person Subcontractor Performance Plan (for contract value greater than $50,000).

3.2.2. Offeror's Certification of Cost and Price (for contract value greater than $100,000).

3.2.3. Certificate of Insurance (see Attachment F).

3.2.3.1. The proposed contract awardee must provide the applicable insurance coverage, and all costs for this coverage must be calculated into offeror's proposal price.

3.2.4. If this solicitation is subject to the Wage Requirements Law (see Notice of Solicitation), then the offeror must submit the Certification of Posting the Wage Requirements Notices.

3.2.5. If this solicitation is for a High Dollar Value Contract (with an initial contract award that is estimated to exceed $10 million), then the Offeror must submit a Local Business Subcontracting Performance Plan.

SECTION 4. EVALUATION CRITERIA AND METHOD OF AWARD

4.1. Evaluation Criteria

Pass/Fail Phase:
The Qualification and Selection Committee (QSC) will evaluate the mandatory requirement based on the following criteria. Offerors must answer "yes" to the question in this phase to obtain a passing score (upon QSC verification) and proceed to the Written Proposal Evaluation. An Offeror that did not submit Attachment H-Intent to Respond Form in accordance with the RFP will not proceed any further and its proposal will not be evaluated.

Please provide a Yes or No answer under question 1 of this chart (mandatory requirement):

	Question	Yes	No
1.	Did Offeror submit Attachment H, Intent to Respond Form prior to the proposal due date and time?		

The QSC will evaluate the proposals based on the following criteria:

4.1.1. Written Evaluation Criteria

Criteria		Maximum Points
Technical Proposal Score		
I.	**Provider Networks**	
a.	Match of top providers used (Disruption Analysis)	25
b.	Geographic Access	5
c.	Provider Network Selection, Credentials & Stability	8
Provider Networks Total		**38**
II.	**Administration & Programs**	
a.	Care Management/Medical Rx Management/Member Engagement/Wellness	15
b.	Innovative Solutions	5
c.	Claims Administration/Eligibility Procedures	5
d.	Account Management/Customer Service/Online Capabilities	10
e.	Data Requirements/Reporting	5
Administration & Programs Total		**40**
III. Plan Design Considerations	**Compliance with Specifications**	
a.	Compliance w/ RFP Instructions	2
b.	Form Submission	2
c.	Appropriateness of Responses	1
Compliance with Specifications Total		**5**
Technical Proposal Subtotal		**83**
Price Proposal Score		
IV.	**Price Proposal**	
a.	Repricing/CPT Analysis (Self-funded costs), Self-Insured Fixed Fees, or Fully-Insured Premiums/Fixed Pricing,	25
b.	Performance Guarantees	10
c.	Financial Credits	10
Price Proposal Subtotal		**45**

Local Business Preference (LBP)	**16**
MFD Participation* (Must EXCEED set % goal of applicable purchasing category)	**16**
Highest possible QSC score for written proposal evaluation:	**160**

*MFD Participation Requirements and Examples: [MFD Criteria Form]

4.1.2. Interview Evaluation Criteria

Criteria		Maximum Points
Interview Score		
I.	**Response to Finalist Questions**	**18**
II.	**Presentation**	
a.	Administration of Plan	5
b.	Innovative Wellness & Disease Management	5
c.	EDI File Management	3
d.	Member Resources	4
e.	Knowledge & Professionalism & Effective use of time	3
Presentation Subtotal		**20**
III.	**Pricing / BAFO / Performance Guarantees**	**18**
IV.	**Local Business Preference (LBP)**	**7**
V.	**MFD Participation* (Must EXCEED set % goal of applicable purchasing category)**	**7**
Highest possible QSC score for interview evaluation:		**70**

*MFD Participation Requirements and Examples: [MFD Criteria Form]

4.2. Selection and Award

4.2.1. Upon receipt of proposals, the Qualification Selection Committee (QSC) will review and evaluate only those proposals receiving a “Pass” score on the mandatory requirement under the Pass/Fail Phase in accordance with the evaluation criteria listed under Section 4.1.1.

4.2.2. Interviews will be conducted with the offerors that achieve at least a score of 90 points based on the QSC’s score for each written proposal. The interview criteria that will then be utilized are listed under Section 4.1.2.

4.2.3. The QSC will make its award recommendation of the highest ranked offeror based on the QSC's combined written and interview scores, and its responsibility determination.

4.2.4. The Using Department Head will review and forward the QSC recommendation with concurrence, objection, or amendment to the Director, Office of Procurement.

4.2.5. The Director, Office of Procurement, may approve, approve with conditions, or reject the Using Department Head's recommendation.

4.2.6. Upon approval of a recommended award to a proposed awardee(s), by the Director, Office of Procurement, the County will enter into negotiations with the proposed awardee(s). If a Contract cannot be successfully negotiated with the proposed awardee(s), the Using Department may proceed to negotiations with the next highest ranked offeror after obtaining approval from the Director. If the Director approves, negotiations may be held simultaneously or successively with one or more offerors prior to making an award.

4.2.7. After the successful conclusion of negotiations, the Director will publicly post the name(s) of the proposed awardee(s).

4.2.8. The County reserves the right to cancel the solicitation. The solicitation cancellation will be publicly posted.

4.3. Protest and Appeals Process

4.3.1. Any Offeror who is aggrieved may file a protest. Any Offeror who is aggrieved in connection with a formal solicitation must deliver a written protest to the Director, Office of Procurement: (a) within ten (10) days after the Director, Office of Procurement, publicly posts the proposed contract award, if the offeror seeks as a remedy the award of the contract or costs under Section 11B-36(h) of the Montgomery County Code, or (b) before the solicitation proposal submission due date and time, if the offeror seeks as a remedy the cancellation or amendment of the solicitation.

4.3.2. Each protest must contain a protest filing fee in the amount of $500 (US currency). If the fee is paid by check, the check must be made out to "Montgomery County Government."

4.3.3. The Director, Office of Procurement, may return the filing fee to the protesting offeror, if the protest is sustained.

4.3.4. The Director, Office of Procurement, must dismiss any protest not timely received.

4.3.5. Only an offeror who is "aggrieved" may file a protest. "Aggrieved" means that the offeror who files the protest can demonstrate it may be eligible for an award of the contract if the protest is sustained.

4.3.6. Each protest must contain the following:

4.3.6.1. Identification of the solicitation;

4.3.6.2. Protesting offeror's name, address and telephone number;

4.3.6.3. A statement supporting that the offeror is aggrieved;

4.3.6.4. Specification of all grounds for the protest, including:

4.3.6.5. A submission of detailed facts and all relevant documents;

4.3.6.6. Citation to relevant language in the solicitation, regulations, or law relied upon; and,

4.3.6.7. All other matters which the Offeror contends with support of its protest.

4.3.6.8. Factual allegations regarding information not appearing on the face of the solicitation or offer must be supported by affidavit based on personal knowledge.

4.3.6.9. If proposal preparation costs are sought, the protesting offeror must provide evidence supporting the costs claimed by affidavit based on personal knowledge.

4.4. The burden of production of all relevant evidence, data, and documents, and the burden of persuasion to support the protest is on the offeror making the protest.

SECTION 5. PERFORMANCE PERIOD

5.1. Term

The effective date of the Contracts resulting from this RFP is January 1, 2028, upon signature by the Director, Office of Procurement, and ends on December 31, 2030. The Contractor(s) must also perform all work in accordance with time periods stated in the Scope of Work. Before this term for performance ends, the Director at his/her sole option may (but is not required to) renew the term. The Contractors' satisfactory performance does not guarantee a renewal of the term. The Director may exercise this option to renew this term two (2) times for one (1) year each.

SECTION 6. COMPENSATION AND PRICE ADJUSTMENTS

6.1. Compensation

6.1.1. For self-insured plans, the Contractor(s) will be paid for claims within ten (10) business days of receipt and acceptance of a true and correct invoice submitted by the Contractor on a weekly basis and in a form approved by the County.

6.1.2. For self-insured plans, the Contractor will be paid the administrative fees within thirty (30) business days of receipt and acceptance of a true and correct invoice submitted by the Contractor on a monthly basis and in a format approved by the County.

6.1.3. For fully-insured plans, monthly premiums for all enrolled Members of the Contractor's Plan will be billed to the County.

6.1.3.1. The County will determine the total monthly premium payable based on the number of Members enrolled in the Contractor's Plan and the premium rate for those enrolled Members. The total monthly premiums will be due and payable to the Contractor within fifteen (15) business days of the County's receipt and acceptance of a true and correct invoice submitted by the Contractor on a monthly basis and in a form approved by the County.

6.1.3.2. Monthly premium payments by the County will be subject to retroactive adjustment for Member enrollments, Member disenrollments, and Member changes in premium status for a period of six months from the effective date of the Member enrollment, disenrollment, or change of premium status in the Contractor's Plan, except as provided otherwise under the Insurance Article of the Maryland Code and the requirements of the federal Patient Protection and Affordable Care Act (PPACA), which may from time to time be amended.

6.1.3.3. If a Member's enrollment is effective within the first fifteen (15) days of the month, the full month's premium payment will be due for such member. If a

Member's enrollment is effective within the last fifteen (15) days of the month, no premium payment will be due for such Member for that month, except as provided otherwise under the Insurance Article of the Maryland Code, as it may be amended from time to time.

6.1.3.4. If a Member's enrollment terminates within the first fifteen (15) days of the month, no monthly premium payment shall be due for such Member for that month. If the Member's enrollment terminates after the fifteenth (15) day of the month, the total monthly premium payment for such Member shall be due, except as provided otherwise under the Insurance Article of the Maryland Code, as it may be amended from time to time.

6.2. Price Adjustments

6.2.1. With the exception of Stop Loss for the self-insured plans and the premiums for the fully insured plans, prices are firm for a period of three years after execution of the Contract(s). For the Contract year starting January 1, 2031 and beyond, a request for a price adjustment for the administrative services fees is subject to the following:

6.2.1.1 A request for a price adjustment accompanied by supporting documentation justifying the Contractor’s request must be submitted in writing to the Director, Office of Human Resources or designee, at least One-Hundred and Eighty (180) days prior to contract expiration date. A request for any price adjustment may not be approved unless the Contractor submits to the County sufficient justification to support that the Contractor’s request is based on its net increases in costs in delivering the services under the Contract.

6.2.1.2 A price adjustment must not be approved which exceeds 3% of the previous Contract year’s administrative service fees.

6.2.1.3 The County will approve only one price adjustment for each Contract term, if a price adjustment is approved.

6.2.1.4 Approval or rejection by the Director, Office of Procurement, or designee.

6.2.1.5 A price adjustment, if approved, will be effective at the start of the new contract year (January 1st) and will be reflected in a written Contract amendment.

6.2.2. If applicable, Medicare Advantage rates are determined and set by the Federal Social Security Administration’s Centers for Medicaid/Medicare Services (CMS) division and are updated annually. Upon notice from CMS, the County must be notified by the Contractor awarded the fully-insured Contract under this RFP of any changes that will occur to the approved rates for this program. Any changes to the rates established by CMS will be effective January 1st of each Coverage Year.

6.2.3. The Contractor may request to adjust administrative fees, up or down, during this period in the event of plan design changes, modifications to the definition of Eligible Employees or Eligible Retirees, or significant demographic changes in the enrollment participation. ‘Significant demographic changes’ are changes in the volume within coverage, or across coverages, of more than 15 percent.

SECTION 7. CONTRACT ADMINISTRATOR

7.1. Authority

7.1.1. The Director, Office of Procurement, is the delegated contracting officer. Therefore, the Director, Office of Procurement, must approve amendments, modifications, or changes to the terms, conditions, or minority, female, and disabled subcontractor plans in writing.

7.2. Duties

7.2.1. The contract administrator's duties are defined in the General Conditions of Contract between County & Contractor (See Attachment A).

7.3. Contact

The Contract Administrator for any contract resulting from this solicitation is Karen Bass, Health Insurance Manager, and they can be contacted via phone at 240-777-5054 or via email at Karen.Bass@montgomerycountymd.gov.

SECTION 8. ETHICS

8.1. As a result of being awarded a contract resulting from this solicitation, the successful Contractor may be ineligible for the award of related contracts. In this regard, Montgomery County Code Sections 11B-52 (b) and (c) state the following:

A Contractor providing an analysis or recommendation to the County concerning a particular matter must not, without first obtaining the written consent of the Chief Administrative Officer:

[…]

(b) Assist another party in the matter or another person if the person has a direct and substantial interest in the matter; or

(c) Seek or obtain economic benefit from the matter in addition to payment to the contractor by the County.

SECTION 9. INSTRUCTIONS, CONDITIONS AND NOTICES

9.1. Instructions

9.1.1. Registered Vendor

9.1.1.1. The first step in doing business with Montgomery County is to become a registered vendor in the on-line County Vendor Registration System (CVRS). Go to the following website to register: (Home Page – Montgomery County Vendor Registration System)

9.1.2. Acknowledgement

9.1.2.1. The offeror must include the signed Acknowledgment page indicating agreement with all the provisions, terms and conditions of this solicitation (see Attachment B).

9.1.3. Optional Pre-Submission Conference

9.1.3.1. If a Pre-submission Conference is held, it is recommended that prospective offerors attend this pre-submission conference. For information regarding the date, time, and place of the conference, please see Notice of Solicitation, page 1 of this solicitation.

9.1.4. Proposals

9.1.4.1. The offeror must electronically submit their proposal through BidNet Direct. Proposals received after the date and time specified will not be considered and will be denied by the BidNet Direct system.

9.1.4.2. It is the offeror's responsibility to follow all steps in BidNet Direct to completion to ensure submission of the proposal.

9.1.5. Proposal Withdrawal/Modification

9.1.5.1. The offeror can withdraw and make edits to a proposal before a solicitation's closing date and time. To withdraw your proposal, log into BidNet Direct and click "Solicitations" then "Bid Management" and follow the withdrawal process. If you need help withdrawing your proposal, please call BidNet Direct's Support Department at 800-835- 4603, Option 2. Your withdrawal and resubmission must occur before the closing date and time.

9.1.6. Questions

9.1.6.1. All technical and non-technical questions pertaining to this solicitation are to be directed to the individuals whose names are indicated on the Notice of Solicitation, page 1 of this solicitation.

9.1.6.2. The Office of Procurement has an electronic "Frequently Asked Questions" section on its website that may answer your questions.

9.1.7. Obtaining Solicitation Amendments

9.1.7.1. What are they?

When the County determines that material changes to the solicitation document or material information needs to be disseminated to prospective offerors it will issue a formal amendment to a solicitation. However, not all solicitations will need an amendment. Any information given to an offeror in response to a request will be furnished to all offerors through an amendment to this solicitation, if such information is deemed necessary for the preparation of solicitations, or if the lack of such information would be detrimental to the uninformed offerors. Only solicitation amendments issued by the Director, Office of Procurement will be considered binding on the County. Verbal explanations, instructions, or statements made by a County employee or representative to an offeror are not binding and should not be taken to supersede the terms of the solicitation.

9.1.7.2. How do I identify if a solicitation has an amendment?

Offerors are responsible for checking the website periodically to remain informed of any solicitation amendments. Solicitation amendments may occur any time prior to the proposal due date and time. As a courtesy, the Office of Procurement may email solicitation amendments to holders of record with valid email addresses. However, it is the responsibility of the offeror to frequently visit the Office of Procurement's website to obtain solicitation amendments.

9.1.7.3. What am I required to do for the Amendment?

OFFERORS MUST ACKNOWLEDGE RECEIPT OF ANY AND ALL SOLICITATION AMENDMENTS, to the place designated, and prior to the hour and date specified in the solicitation (as amended) for receipt of offers. This can be easily done in at least one of the following ways:

9.1.7.3.1. By filling-in the “Amendment Number” and “Date” of the amendment(s) under the Acknowledgment of Solicitation Amendments title; or

9.1.7.3.2. By returning one signed copy of the amendment with the Offeror’s response to the solicitation.

9.1.8. Maryland State Department of Assessments & Taxation (MD-SDAT)

9.1.8.1. Contractors doing business in the State of Maryland are required to be in ‘Good Standing’ with MD-SDAT; this may not be applicable for individuals, sole proprietorships or partnerships.

9.1.8.2. The County will require, if applicable, a copy of a Certificate of Good Standing from SDAT prior to entering into a contract with your firm.

9.1.8.3. The County will verify this status on the MD-SDAT website.

9.1.8.4. If your firm has a ‘Forfeit’ status from MD-SDAT the County cannot enter into a contract with your firm until this status has been rectified with the MD-SDAT.

9.1.8.5. If this status is not rectified in a timely manner with MD-SDAT, then your firm may be declared non-responsible and your proposal will be rejected.

9.1.8.6. Information can be found at MD-SDAT and MD-SDAT FAQ.

9.2. Conditions

9.2.1. Acceptance Time

9.2.1.1. By submission of a proposal under this solicitation, the offeror agrees that County has 180 days after the due date to accept the proposal. The County reserves the right to reject, as unacceptable, any offer that specifies less than 180 days of acceptance time. Upon mutual agreement between the County and the offeror, the acceptance time for the offeror’s proposal may be extended.

9.2.2. Contract Documents

The following documents will be incorporated into the contract resulting from this solicitation:

9.2.2.1. General Conditions of Contract between County & Contractor (Attachment A).

9.2.2.2. Minority-owned Business Addendum to the General Conditions of Contract between County & Contractor and its companion document entitled, “Minority, Female, Disabled Person Subcontractor Performance Plan"

9.2.2.3. Offeror’s Certification of Cost & Price (for contracts above $100,000).

9.2.2.4. Wage Requirements Law (WRL) for Services Addendum to the General Conditions of Contract between the County and Contractor and its companion documents entitled, “Wage Requirements Certification," and “501(c)(3) Non-profit Organization’s Employee’s Wage and Health Insurance Form."

9.2.2.5. All representations and certifications listed in this document.

9.2.2.6. Mandatory Insurance Requirements.

9.2.2.7. [Prevailing Wage Requirements] (only for a construction contract between the County and Contractor).

9.2.2.8. [Prevailing Wage Local Hiring Report] (if applicable).

9.2.2.9. [Prevailing Wage Law Local Hiring Attestation] (if applicable).

9.2.3. Determination of Responsibility

9.2.3.1. The Offeror has the burden of demonstrating, affirmatively, its responsibility in connection with this solicitation. A debarred potential offeror must automatically be considered non-responsible in connection with this solicitation. The County reserves the right to consider an offeror non-responsible who has previously failed to perform properly or to complete contracts, in a timely manner, or if investigation shows the offeror is unable to perform the requirements of the contract. An offeror may be requested at any time by the Director, Office of Procurement or the Using Department to provide additional information, references and other documentation and information that relate to the determination of responsibility. Failure of an offeror to furnish requested information may constitute grounds for a finding of non-responsibility of the prospective offeror.

9.2.3.2. Qualification of Offerors

9.2.3.2.1. Offerors may be required to furnish satisfactory evidence that they are qualified dealers or manufacturers of the items listed or are regularly engaged in performing the services for which they are submitting a proposal, and that they maintain a regularly established place of business.

9.2.3.2.2. An authorized representative of the County may visit any prospective contractor's plant, place of business or place where the services are performed to determine ability, capacity, reliability, financial stability and other factor(s) necessary to perform the contract.

9.2.3.3. Upon the County's request, an offeror must submit information about its reputation, past performance, business and financial capability, and other factors to demonstrate that the offeror can satisfy the County's needs and requirements for this solicitation.

9.2.3.4. The Director may deny the award, renewal, or assignment of a contract to or for any offeror who is in default of payment of any money due the County.

9.2.3.5. The factors that may be considered in connection with a determination of responsibility include, but are not limited to:

9.2.3.5.1. The ability, capacity, organization, facilities, and skill of the offeror to perform the contract or provide the goods, services, or construction (work) required.

9.2.3.5.2. The ability of the offeror to perform the contract or provide the work within the time specified without delay, interruption or interference.

9.2.3.5.3. The integrity, reputation and experience of the offeror and its key personnel.

9.2.3.5.4. The quality of performance of previous contracts or work for the County or other entities. Past unsatisfactory performance, for any reason, is sufficient to justify a finding of non-responsibility.

9.2.3.5.5. The offeror’s previous and existing compliance with laws and ordinances relating to the contract or work.

9.2.3.5.6. The sufficiency of financial resources of the offeror to perform the contract or provide the work.

9.2.3.5.7. The certification of an appropriate accounting system, if required by the contract type.

9.2.3.5.8. Past debarment or suspension by the County or other governmental entity.

9.2.4. Joint Procurement

9.2.4.1. The following entities within Montgomery County must be able to purchase directly from any contract resulting from this Solicitation:

9.2.4.1.1. Maryland-National Capital Park & Planning Commission (M-NCPPC),

9.2.4.1.2. Montgomery College (MC),

9.2.4.1.3. Montgomery County Public Schools (MCPS),

9.2.4.1.4. Montgomery County Revenue Authority,

9.2.4.1.5. Montgomery County Housing Opportunities Commission (HOC),

9.2.4.1.6. Washington Suburban Sanitary Commission (WSSC), and

9.2.4.1.7. Municipalities & Special Tax Districts in Montgomery County.

9.2.4.2. While this RFP is prepared on behalf of Montgomery County, it is intended to apply for the benefit of the above-named entities as though they were expressly named throughout the document. Each of these entities may purchase from the successful vendor under the same prices and goods and/or services of the contract with Montgomery County, in accordance with each entity's respective laws and regulations, or an entity may choose not to procure from the successful bidder at the entity's sole discretion. If one of the above-named entities elects to purchase under the contract, the price shall be determined by using unit costs and other pertinent costs that are provided in the bid. Montgomery County is not liable for any costs, payments, invoices, or damages incurred by the above jurisdictions. Each entity above will be solely responsible for its own purchases and will contract directly with the offeror under the entity’s own procurement laws and regulations. ANY SPECIAL DISCOUNTS UNIQUE TO A PARTICULAR ENTITY (e.g. Montgomery County Public Schools educational discounts) SHOULD BE OFFERED TO THAT ENTITY.

9.2.5. Late Proposals

9.2.5.1. Proposals in response to this solicitation received after the due date and time specified in the solicitation are considered late and will not, under any circumstances, be considered for any award resulting from the Solicitation.

9.2.6. Minority, Female, Disabled Person Program Compliance

9.2.6.1. Under County law, this solicitation is subject to the Montgomery County Code (Part II. Chapter 11B. Article XIV) and the Montgomery County Procurement Regulations (COMCOR 11B.00.01.07) regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.

9.2.6.2. Information regarding the County's MFD program entitled "Minority-owned Business Addendum to the General Conditions of Contract between County and Contractor" can be found on the Office of Procurement website. The companion document entitled "Minority, Female, Disabled Person Subcontractor Performance Plan" can be found on the Office of Procurement website as well.

9.2.7. Montgomery County Code and Procurement Regulations

9.2.7.1. The Montgomery County Code and the Montgomery County Procurement Regulations are applicable to this solicitation and any contract awarded pursuant to this solicitation.

9.2.8. Payment Terms

9.2.8.1. The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("P-card") or a Single Use Account ("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's P-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

9.2.9. Prevailing Wage (County Code Sections 11B-33-C and 20-75)

9.2.9.1. The Prevailing Wage Law applies to all construction contracts and to mechanical systems services contracts that meet minimum threshold contract values. Unless otherwise excluded by County law, a County-financed construction contract and a mechanical systems service contract that meet minimum threshold contract values are subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. You can find additional information regarding the County's prevailing wage requirements.

9.2.9.2. An aggrieved employee is a third-party beneficiary of this Contract, and the employee may, by civil action, recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney's fee.

9.2.10. Services Contract (County Code 11B-33A)

9.2.10.1. Under County law, a solicitation for a contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements related to wage amounts that contractor must pay its employees. If an offeror fails to submit and complete the required material information on the Wage Requirements Certification form, its proposal may be deemed unacceptable and rejected under County law.

9.2.10.2. Information regarding the County's Wage Requirements Law (WRL) can be found on the Office of Procurement website. Contractor must comply with the "Wage Requirements Law (WRL) for Services Contracts Addendum to The General Conditions of Contract between County and Contractor".

9.3. Notices

9.3.1. Proprietary & Confidential Information

9.3.1.1. The County has unlimited data rights regarding proposals submitted in response to its solicitations. "Unlimited data rights" means that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by offerors in response to this or any solicitation issued by the County. However, information that is deemed to be confidential commercial or financial information, as defined by the Maryland Information Act (MPIA), Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601, will be exempted from disclosure if the offeror can show that the information at issue is both customarily and actually treated as private by its owner and was provided to the government under an assurance of privacy.

9.3.1.2. It is the responsibility of the offeror to clearly identify each part of the offer that it believes is confidential commercial or financial information by stamping the bottom right-hand corner of each pertinent page with large boldface letters stating the words "confidential" or "proprietary." However, the County, by law, must apply the MPIA's requirements for public information disclosure deemed proprietary and confidential; therefore, even information marked as such by the Offeror may still require public disclosure.

9.3.1.3. With regard to any portion of the proposal that is not stamped as proprietary or confidential, the offeror expressly waives any claim against the County with respect to the County's conclusion that the information was not proprietary or confidential, and subsequent release of the information to the public in accordance with the MPIA.

9.3.2. Public Posting

9.3.2.1. It is the responsibility of the offeror, per Section 3.2.2 of the Procurement Regulations, to keep informed of the current status of any proposed award for a contract in which the offeror is interested.

9.3.2.2. Notice of a decision to make an award will be accomplished by a public posting of the proposed awardee(s). Offerors will not be individually notified that they were not selected for an award.

9.3.2.3. Information regarding the proposed award under this solicitation, or any solicitation issued by the Montgomery County Office of Procurement, will be posted on Montgomery County's website.

9.3.3. Solicitation Preparation Expenses

9.3.3.1. All costs incurred in the preparation and submission of an offeror's proposal will be borne by the offeror and shall not be incurred in anticipation of receiving reimbursement from the County.

9.3.4. Tie Scoring

9.3.4.1. In case of a tie in the numerical Qualification Selection Committee scoring, the tie will be resolved by offering the proposed contract to the offeror who has its principal place of business in Montgomery County, Maryland. If there is a tie between two or more offers, each of whom have its principal place of business in Montgomery County, Maryland, then the tie will be resolved in accordance with the criteria stated under Procurement Regulation 4.1.2.4(f). See Procurement Regulations for additional information.

9.3.5. Health Insurance Preference

9.3.5.1. Only a proposal from a Certified Small Business with Health Insurance that submits a certificate issued by Montgomery County Department of Health and Human Services at the date and time of proposal submission will receive a % evaluation factor that will be utilized to recalculate an Offeror's QSC written or interview score(s) for the Method of Award process, in accordance with the criteria stated under Procurement Regulation 11B.77.01.06. See Procurement Regulations for additional information.

9.3.6. Local Business Preference

9.3.6.1. Only an Offeror who: (1) has a valid local business certification when the business submits a timely proposal; or (2) has applied for local business certification prior to the due date/time to submit a proposal, will receive an evaluation factor worth 10% of the total points under an RFP, in accordance with Executive Regulations 13-20. Also, refer to Local Business Preference Program.

ATTACHMENT A.
MONTGOMERY COUNTY, MARYLAND
GENERAL TERMS AND CONDITIONS OF CONTRACT

1. **DEFINITIONS.** As used in this Contract, the following words have the following meanings:

   1.1. **"County Data"** means all data created by or in any way originating with the County, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the County, whether such data or output is stored on the County's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the County or by the Contractor.

   1.2. **"Contractor Data"** means all data created by or in any way originating with the Contractor, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the Contractor, whether such data or output is stored on the County's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the County or by the Contractor.

   1.3. **"Data Breach"** means the unauthorized access of Personal Information (PI), Individually Identifiable Health Information, and/or non-public County Data in the possession of the Contractor by a non-authorized person(s).

   1.4. **"Deliverable"** means any of the goods, services, documents and/or materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data created and/or provided by Contractor or its subcontractor(s) specifically for the County under a contract.

   1.5. **"Individually Identifiable Health Information"** means information that is a subset of health information, including demographic information collected from an individual, and:

   (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and
   (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and
      (a) that identifies the individual; or
      (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

   1.6. **"Personal Information (PI)"** means personal data as defined in the Protection of Information by Government Agencies Act, currently found at MD Code Ann., State Government, §10-1301(c), as amended.

   1.7. "**Protected Health Information" (PHI)** means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.

   1.8. **"Security Incident"** means the potentially unauthorized access by a non-authorized person(s) to Personal Information (PI), Individually Identifiable Health Information, and/or non-public County Data that the Contractor believes could reasonably result in the use, disclosure or theft of such information within the possession or control of the Contractor. A security incident may or may not turn into a Data Breach.

2. ACCOUNTING SYSTEM, ACCURATE INFORMATION, AND AUDIT

2.1. The Contractor certifies that all information the Contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes.

2.2. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The Contractor certifies that the Contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

2.3 The County may examine the Contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The Contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the Contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The Contractor must include the preceding language of this paragraph in all first-tier subcontracts.

3. ASSIGNMENTS AND SUBCONTRACTS

3.1 The Contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the Contractor from responsibility for performance of this contract.

3.2 The Contractor must identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the Contractor, and who will be involved in any application development and/or operations.

3.3 Any subcontract for any work hereunder must comport with the terms of this contract and County law and must include any other terms and conditions that the County deems necessary to protect its interests. The Contractor must not employ any subcontractor that is a debarred or suspended person under County Code §11B-37. The Contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors and any persons either directly or indirectly employed by them. Nothing contained in the Contract documents creates any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the Contractor.

4. CHANGES

4.1. The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed, upon a finding that such change is in the best interests of the County. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the Contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The Contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

5. COMPLIANCE WITH APPLICABLE LAWS

5.1 Contractor must comply with all applicable Federal, State, County, and local laws and regulations including, but not necessarily limited to, the ones listed herein. The Contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations.

5.2. Americans With Disabilities Act. The Contractor agrees to comply with the nondiscrimination requirements of Titles I and II, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5, and, without limitation, 28 C.F.R. § 35.200 et seq.

5.3. Accessibility of Web Content and Mobile Applications.

5.3.1. Contractor warrants that any information technology it provides to or develops for the County under this contract complies fully with Americans with Disability Act accessibility requirements for online content and mobile applications, as set forth at 28 C.F.R. 35.200.

5.3.2. Contractor must make available its current Voluntary Product Accessibility Template (“VPAT”), which describes the extent to which the application conforms to Level A and Level AA success criteria and conformance requirements specified in WCAG 2.1, and must update such VPAT from time to time in accordance with its standard practices and not less than annually. Contactor must also provide copies of its VPAT upon County request.

5.3.3. The Contractor’s services must comply in all material respects with Web Content Accessibility Guidelines (WCAG) 2.1 Level AA success criteria and conformance requirements. Contractor’s conformance to WCAG 2.1, Level AA is a material contractual obligation.

5.3.4. In the event the County receives any complaints, or has concerns regarding the accessibility of the Contractor’s services, the Contractor must promptly provide the County with a written response outlining its plan to address such complaints or concerns, or must provide written notice that it is unable to resolve them. The Contractor must address such complaints or concerns and must communicate regularly and promptly with the County regarding the status of any remediation efforts.

5.4. Displaced Service Workers Protection Act. The Contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

5.5. Earned Sick and Safe Leave. Montgomery County's Earned Sick and Safe Leave Law, found at Sections 27-76 through 27-82 of the County Code, became effective October 1, 2016. An employer doing business in the County, as defined under the statute, must comply with this law. This includes an employer vendor awarded a County contract. A vendor may obtain information regarding this law at http://www.montgomerycountymd.gov/humanrights/.

5.6. Ethics Requirements/Political Contributions.

5.6.1. The Contractor must comply with the ethics provisions contained in Chapters 11B and 19A of the Montgomery County Code, which include the following:

(a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
(b) a prohibition against kickbacks. Section 11B-51(b).
(c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
(d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
(e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
(f) a prohibition against contingent fees. Section 11B-53.

5.6.2. Through signature of this contract, the contractor certifies that the contractor has filed an initial statement with the Maryland State Board of Elections in compliance with MD Code Ann., *Election Law*, §14-104(b)(1), or is not required to file an initial statement as per MD Code Ann., *Election Law*, §14-104(c)(2).

5.7. Hazardous and Toxic Substances. Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The Contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

5.8. Immigration Reform and Control Act. The Contractor warrants that both the Contractor and its subcontractors do not, and will not, hire, recruit or refer for a fee, for employment under this Contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The Contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

5.9. Intergovernmental Purchasing. Certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to Md. Code Ann., State Fin. and Proc., §13-110(c).

5.10. Non-Conviction of Bribery. The Contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

5.11. Non-Discrimination in Employment. The Contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

5.11.1. The Contractor assures the County that, in accordance with applicable law, it does not, and will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

5.11.2. The Contractor must bind its subcontractors to the provisions of this section.

5.12. No Retaliation. Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

5.13. Prevailing Wage. The County's prevailing wage law, as found at §11B-33C of the County Code, applies to certain construction and mechanical systems service contracts. To the extent applicable, the County's prevailing wage requirements are enumerated within the "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor." If applicable to this contract, the Addendum will be attached to the contract, and will be incorporated herein by reference, and made a part thereof.

5.14. Workplace Safety. The Contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

6. CONFIDENTIAL AND PROPRIETARY INFORMATION AND MATERIALS.

6.1. Subject to the Maryland Public Information Act (Md. Code Ann., Gen. Prov. §4-101, *et. seq.*) and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) must be held in confidence by the other party. Each party is, however, permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its personnel and agents to the extent that such disclosure is necessary for the performance of their duties under this contract.

6.2. Each party must advise each of its personnel and agents to whom any of the other party's confidential information is to be disclosed of the obligations hereunder.

6.3. The provisions of this Section do not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

7. CONSTRUCTION, CONFLICTING TERMS, AND VENUE.

7.1. This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern.

7.2. Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the Contractor, and in the event of any inconsistency, these General Terms and Conditions of Contract, together with any Addenda thereto, supersede any terms and conditions supplied by the Contractor.

7.3. For purposes of litigation involving this contract, except for contract Disputes discussed in Section 11, Disputes, below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

8. CONTRACT ADMINISTRATION.

8.1. The County's contract administrator is the Department representative designated by the Director, Office of Procurement, in writing, and is authorized to:

(1) serve as liaison between the County and the Contractor;
(2) give direction to the Contractor to ensure satisfactory and complete performance;
(3) monitor and inspect the Contractor's performance to ensure acceptable timeliness and quality;
(4) serve as records custodian for this contract, including wage and prevailing wage requirements;
(5) accept or reject the Contractor's performance;
(6) furnish timely written notice of the Contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
(7) prepare required reports;
(8) approve or reject invoices for payment;
(9) recommend contract modifications or terminations to the Director, Office of Procurement;
(10) issue notices to proceed; and
(11) monitor and verify compliance with any MFD Performance Plan.

8.2. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

9. COST AND PRICING DATA

9.1. Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost and pricing data be obtained from proposed awardees/contractors in certain situations. The Contractor guarantees that any cost and pricing data provided to the County will be accurate and complete. The Contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The Contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor

10. DISPUTES.

10.1. Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute the Contractor must proceed diligently with contract performance.

10.2. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for purposes of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator).

10.3. The Contractor must notify the County's contract administrator of a claim in writing, and must make a good faith effort to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee.

10.4. The Contractor must file a dispute with the Director within 30 days of the event giving rise to the claim (unless the contract provides otherwise), whether or not the contract administrator has responded to the written notice of claim or resolved the claim. The Contractor waives any dispute not timely filed. The Director, Office of Procurement, must dismiss a dispute that is not timely filed.

10.5. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information necessary for determination of the dispute. All relevant documentation must be provided with the written dispute.

10.6. If the Director denies a dispute, in whole or in part, the Contractor may file a contract dispute appeal with the County's Chief Administrative Officer (CAO). The dispute appeal must be filed within 30 days after the party receives the Director's decision. If no decision is rendered by the Director within 45 days of the Director's receipt of the dispute, and the parties have not agreed to an extension of time, then the dispute appeal must be filed within 75 days after the party filed the dispute. Upon receipt of the contract dispute appeal, the CAO must review the dispute de novo, but the CAO must not consider any grounds except those presented by the filing party in the initial dispute filing. The dispute appeal must identify the relief sought and all grounds and materials supporting the request for relief. The appealing party must provide a copy of the dispute appeal to the opposing party, the Director and the County Attorney.

10.7. The Contractor may pursue judicial review of the final decision of the CAO to the Circuit Court in accordance with the Maryland Rules governing judicial review of administrative agency decision (Maryland Rules 7-201, et. seq.) and as provided under Section 11B-35(d) of the Code. Either the Contractor or the County may appeal the Circuit Court's decision to the appellate courts of Maryland.

10.8. At the County's option, the Contractor agrees to be made a party to any related dispute involving another contractor.

11. DOCUMENTS, MATERIALS AND DATA – OWNERSHIP AND USE

11.1. All documents, materials, and/or data generated as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies.

11.2. The Contractor must not access County user accounts or data, except:

(a) as necessary to provide the goods and services described in this contract;
(b) as required by the express terms of this contract;
(c) in response to service or technical issues; or
(d) at the County's written request.

11.3. The Contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials, and data prepared or developed by the Contractor or supplied by the County. Except as may otherwise be set forth in this contract, Contractor must not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any information or material provided to Contractor by the County or developed by Contractor relating to the contract.

12. DURATION OF OBLIGATION.

12.1. The Contractor agrees that all of Contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive Contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

13. ENTIRE AGREEMENT.

13.1. There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

14. GUARANTEE AND WARRANTY.

14.1. The Contractor guarantees all goods, services, and construction provided under the contract, including any products or materials used in the course of providing the goods, services, and/or construction. The Contractor further guarantees that all products offered (or used in the installation of those products) carry a guarantee and/or warranty against any and all defects. These guarantees are in effect for one year from the date of the County's acceptance of the goods, services or construction, unless a longer period is: (1) agreed upon by the Parties in the contract; (2) provided by the manufacturer; or (3) specified in the County's written solicitation.

14.2. The Contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no additional cost to the County and to the County's satisfaction.

14.3. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.

14.4. All warranties and guarantees must be in effect from the date of the County's acceptance of the goods, services, or construction.

14.5. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the specifications.

14.6. The Contractor guarantees that all work will be accomplished in a workmanlike manner, and the Contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods and performing the services or construction.

15. GENERAL INDEMNIFICATION AND HOLD HARMLESS.

15.1. The Contractor is responsible for any loss, personal injury, bodily injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the Contractor's negligence or failure to perform any contractual obligations. The Contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the Contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the Contractor must defend the County in any action or suit brought against the County arising out of the Contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the Contractor is deemed to be the negligence of the Contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

16. INDEPENDENT CONTRACTOR.

16.1. The Contractor is an independent contractor. The Contractor and the Contractor's employees or agents are not agents of the County.

17. INSPECTIONS.

17.1. The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the Contractor's place of business) and times (including the period of preparation or manufacture).

18. INSURANCE.

18.1. Prior to contract execution by the County, the Contractor must obtain, at its own cost and expense, the minimum insurance specified by the County, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. The minimum limits of coverage listed must not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the Contractor to the County, nor is failure by the County to request evidence of this insurance in any way be construed as a waiver of Contractor's obligation to provide the insurance coverage specified.

18.2. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Prior to award of this contract, and prior to any contract modification extending the term of the Contract, and upon request by the County, the Contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance, as evidence of compliance with this provision. If requested by the County, the Contractor must provide a copy of any and all insurance policies to the County.

18.3. The Contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies where required by Minimum Insurance Requirements.

18.4. Contractor must provide to the County at least 30 days written notice of a cancellation of, or a material change to, an insurance policy. A cancelled policy must be replaced with a new policy including the same insurance coverage(s) type and limits equal to or greater than the expired policy(s). A copy of the new Certificate of Insurance must be provided promptly to the County. In no event may the insurance coverage be less than that shown on the applicable Minimum Insurance Requirements documentation provided by the County.

19. INTELLECTUAL PROPERTY.

19.1. Ownership of all copyrights, patents, trademarks, trade secrets, and any other intellectual property existing prior to the Effective Date of this contract remains with the party that owned such rights immediately prior to the Effective Date ("Pre-Existing Intellectual Property").

19.2. If the Contractor will be preparing, providing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, design, process, device, material, or other item that is subject to a copyright, trademark, patent, or other property or privacy right, then the Contractor must obtain all necessary licenses, authorizations, permissions, and approvals related to its use and obtain all necessary licenses, authorizations, permissions, and approvals to permit the County to use such item(s) pursuant to the County's rights granted under the contract.

19.3. The Contractor agrees that any and all Deliverable(s) are the sole property of the County and must be available to the County at any time. The County has the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this contract. Deliverables do not include Pre-Existing Intellectual Property.

19.4. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverable(s), Contractor grants to the County a license to use such Pre-Existing Intellectual Property in connection with the County's permitted use of the Deliverable(s).

20. LIMITATION OF COUNTY'S LIABILITY.

20.1. Any obligation or liability of the County arising in any way from this contract is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc., §§5-301, et seq. (the "LGTCA"), the immunities and prohibited actions with respect to the County and its personnel set forth in Md. Code Ann., Cts. & Jud. Proc., §§5-501, et. seq., and the provisions governing contract claims against the County set forth in Md. Code Ann., Cts. & Jud. Proc. §5-5a-02, (together the "Applicable County Liability Statutes"), all as amended from time to time. Any indemnification given by the County in this contract is not intended to create any rights or causes of action in any third parties or to increase the County's liability above the caps provided in the Applicable County Liability Statutes, as applicable.

21. NON-INFRINGEMENT AND INDEMNIFICATION.

21.1. The Contractor warrants that the Deliverables provided to the County do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party.

21.2. To the extent any Deliverable(s) incorporates any third party's intellectual property, Contractor warrants that Contractor has the right to use such third-party intellectual property in connection with provision of the Deliverable and that it has obtained, to the extent necessary, permission for the County to use the third-party intellectual property in connection with the County's permitted use of the Deliverable(s).

21.3. The Contractor must protect, indemnify, and hold harmless the County, and its agents and employees, from and against any and all claims, suits, actions, liabilities, damages, losses, demands, and judgments (including, without limitation, litigation costs, lost employee time, and counsel fees) arising out of or in connection with any third party claim based upon or arising out of any allegation of infringement, misappropriation, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, the Contractor-provided products/services this contract and/or the performance by the Contractor of any of its activities or obligations under this contract.

21.4. If any equipment, software, services (including methods) products or other intellectual property used or furnished by the Contractor is, or in the Contractor's reasonable judgment is likely to be, held to constitute an infringing product, the Contractor must, at its expense and option, either:

(a) Procure the right for the County to continue using the Product(s);
(b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
(c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the contract, or only alters the Product(s) to a degree that the County agrees to and accepts in writing.

21.5. The Contractor must report to the County, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to any product, service, or data delivered under this contract.

22. PAYMENT AUTHORITY.

22.1. No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the Contractor for legal fees, late fees, or shipping fees that are not provided for in the contract. The Contractor must not perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the Contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the Contractor for the work.

22.2. If this contract provides for an additional contract term beyond its initial term, continuation of Contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued Contractor performance in a subsequent fiscal period, Contractor's performance must end without further notice from, or cost to, the County. The Contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the Contractor must not undertake any performance under this Contract until the Contractor receives a purchase order or contract amendment from the County that authorizes the Contractor to perform work for the next contract term.

23. P-CARD OR SUA PAYMENT METHODS

23.1. The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account("SUA") method of payment, if the Contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the Contractor must accept the County's p-card or a SUA method of payment, as applicable. Contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

24. PERSONAL PROPERTY.

24.1. All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

25. PRIVACY AND INFORMATION SECURITY.

25.1. Encryption of Data at Rest. The Contractor must ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all Personal Information, unless the Contractor presents a justifiable position approved by the County that Personal Information must be stored on a portable device in order to accomplish work as defined in the contract.

25.2. Health Insurance Portability and Accountability Act (HIPAA). Contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, Contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when Contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any Protected Health Information that is obtained from, provided to, made available to, or created by, or for, the Contractor or the County.

25.3. Maryland Protection of Information by Government Agencies ("PIGA"). In any contract under which Contractor is to perform services and the County may disclose to Contractor Personal Information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the Personal Information disclosed to the Contractor; and (b) are reasonably designed to help protect the Personal Information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses Personal Information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the Personal Information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's Personal Information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301, *et seq*.

25.4. No Sale or Redisclosure. Any data provided by the County to the Contractor under this contract that constitutes personal records or sensitive data, both as defined by Md. Code Ann., State Gov't § 10-1702, or geolocation data must not be sold or redisclosed by the Contractor. Contractor must bind its subcontractors to these no-sale and no-redisclosure requirements.

25.5. Payment Card Industry Compliance. In any contract where the Contractor provides a system or service that involves processing credit card payments ("Payment Solution"), the Contractor must ensure that the Payment Solution is compliant with the Payment Card Industry Data Security Standard ("PCIDSS"), as determined and verified by the County's Department of Finance. The Payment Solution must process credit card payments using a Merchant ID ("MID") obtained by the County's Department of Finance and held in the County's name as the merchant of record unless the Department of Finance determines, in its sole discretion, that use of a County MID is not feasible for the specific Payment Solution. Use of an MID obtained and held by the Contractor in the Contractor's name as merchant of record is prohibited unless the Contractor obtains prior written approval from the County's Department of Finance. Approval may be granted only as a last resort measure when the Department of Finance determines that no technically or operationally feasible County-issued MID configuration is available. Any such approval will be limited, conditional, and subject to additional security, reporting, and monitoring requirements as established by the Department of Finance. The Contractor must comply with all requirements set forth in the County's PCI Security Addendum and Vendor Security Addendum.

25.6. Protection of County Data. Contractor must safeguard the confidentiality, integrity and availability of County Data and comply with the following conditions:

(a) Contractor must implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures must be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own personal data and non-public data of similar kind.
(b) Contractor must ensure that all County Data is backed up and is recoverable by the Contractor.
(c) All personal data must be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the personal data.
(d) County Data must not be copied, disclosed or retained by the Contractor for subsequent use in any transaction that does not include the County.
(e) All County Data must be stored solely in data centers located in the United States. Contractor must not allow its employees, agents or subcontractors to store County data on portable devices, including personal computers, except for devices that are used and kept only at its data centers located in the United States. The Contractor must not permit its personnel and contractors to access County Data remotely except as may be required to provide technical support.

(f) Prohibition on Use of County Data for AI Training:
Contractor must not use, and must not permit any third party to use, any County Data for the purposes of training, fine-tuning, or otherwise improving any artificial intelligence (AI), machine learning (ML), or similar models, including large language models, neural networks, or any data processing tools that derive insights or functionality through algorithmic training, unless specifically defined in the contract.

(g) No Derivative Works from County Data:
Contractor must not create, or assist in the creation of, any derivative works or data sets based on County Data for the purpose of developing or enhancing any AI models or algorithms.

(h) Data Segregation:
Contractor must implement appropriate technical and organizational measures to ensure that County Data is segregated from any data sets used for AI training.

(i) Prior consent to AI Features:
Contractor must not introduce or make AI features available without explicit County approval. County must retain decision-making authority over the use of AI, even when Contractor introduces new features after the contract is signed.

26. RIGHT TO REMOVE INDIVIDUALS.

26.1. The County has the right at any time to require that the Contractor remove from involvement with the contract any Contractor employee, agent or representative who the County believes is detrimental to its working relationship with the Contractor or to the provision of services to the public.

27. SECURITY INCIDENT OR DATA BREACH NOTIFICATION AND LIABILITY.

27.1. The Contractor must report a Security Incident to the County within twenty-four (24) hours.

27.2. The Contractor must take all commercially reasonable measures to fully investigate a Security Incident and to confirm whether a Data Breach has occurred.

27.3. In the event the Contractor learns of, or reasonably believes that there has been, a Data Breach, the Contractor must:

(a) Notify the County's contract administrator no later than three (3) business days by telephone and email. Contractor's report must include, to the extent known:

1. The nature of the unauthorized use or disclosure;
2. Identification of the data used or disclosed;
3. Identification of any individual(s) whose personal information or PHI was used or disclosed;
4. Identification of the individual(s) or group(s) who made the unauthorized use and/or received the unauthorized disclosure;
5. What action Contractor has taken and/or plans to take to mitigate any damages arising out of the breach.
6. Any other such information as reasonably requested by the County.

(b) Take all commercially reasonable measures to fully to investigate and resolve the Data Breach;

(c) Cooperate with the County and provide the County with any information needed by the County to comply with its legal obligations pursuant to the PIGA, HIPAA, and any other applicable laws. Such information may include, but is not necessarily limited to, the names and contact information of all persons whose personal information was acquired and/or was possessed by the Contractor as part of its performance under the contract;

(d) Keep the County apprised of the status of Contractor's investigation insofar as it pertains to County Data and/or the contract, including, but not limited to, advising the County when any element of the Contractor's initial report, set forth in Paragraph 28.3 above, that was unknown becomes known;

(e) Promptly implement appropriate remedial measures, if necessary; and;

(f) Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

27.4. If a Data Breach is a direct result of the Contractor's breach of its contractual obligations to encrypt personal data or otherwise prevent its release, the Contractor must bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) a credit monitoring service required by state (or federal) law; (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

28. TERMINATION FOR CONVENIENCE.

28.1. This contract may be terminated by the County, in whole or in part, upon written notice to the Contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Payment for goods and/or services provided pursuant to the contract, and accepted by the County prior to the date of termination, will be compensated in accordance with the contract.

28.2. If the contract is terminated for convenience, the Contractor may seek reimbursement for actual, reasonable expenses incurred by the Contractor, prior to the date of notification of termination, specifically in connection with the Contractor's good faith efforts to perform, or prepare to perform, the subject contract. The Contractor is not entitled to reimbursement of costs for items that may be repurposed or returned by the Contractor. The Contractor is not entitled to recovery of anticipated profit, ordinary costs of doing business, or shared costs (i.e., a percentage of contractor's general operating costs). The Contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

29. TERMINATION FOR DEFAULT.

29.1. The Director, Office of Procurement, may terminate the contract in whole or in part, whenever the Director, Office of Procurement, determines that the Contractor is:

a) defaulting in performance or is not complying with any provision of this contract;
b) failing to make satisfactory progress in the prosecution of the contract; or
c) endangering the performance of this contract.

29.2. The Director, Office of Procurement, will provide the Contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the Contract immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure.

29.3. In addition to any other remedies provided by law or the contract, the Contractor must compensate the County for additional costs incurred by the County to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

30. TIME.

30.1. Time is of the essence.

31. TRANSITION FOLLOWING TERMINATION.

31.1. Upon termination or the expiration of the contract, the Contractor must, upon request by the County:

a) Return to the County all County Data in a mutually agreed-upon format; and

b) Preserve, maintain, and protect all County Data for a period of up to ninety (90) days after the termination or expiration date, so that the County can ensure that all returned data is readable.

31.2. Following the ninety (90) day retention period, or earlier if directed by the County, Contractor must, unless legally prohibited from doing so, securely dispose of all County Data in Contractor's possession in all of its forms.

31.3. County Data must be permanently deleted and must not be recoverable, according to NIST guidelines for media sanitization (NIST SP 800-88); and certificates of destruction must be provided to the County.

31.4. Upon request by the County, Contractor must perform preparatory and/or close-out work to assist the County in transitioning services to a new vendor to ensure continuity of services.

32. WORK UNDER THE CONTRACT.

32.1. Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

ATTACHMENT B.
ACKNOWLEDGEMENT PAGE

Acknowledgement

The offeror must include a signed acknowledgment that all the provisions, terms and conditions of this solicitation are agreeable to the offeror and may, at the County's option, be made applicable in any contract issued as a result of this solicitation. Offers that do not include such an acknowledgment may be rejected. Executing and returning (with the offer) the acknowledgment shown below will satisfy this requirement.

The undersigned agrees that all the provisions, terms and conditions of this solicitation may, at the County's option, be made applicable in any contract issued as a result of this solicitation.

Business Firm's Legal Name (printed):	
Business Address:	
Printed Name, Title and E-Mail of Person Authorized to Sign Proposal:	
Signature:	
Date:	

Name and Signature Requirements for Proposals and Contracts

The correct and full legal business name of the offeror must be used in proposals received and on all contracts issued as a result of this solicitation. A trade name (i.e., a shortened or different name under which the firm does business) must not be used when the legal name is different. Corporations must have names that comply with State law, which requires a suffix indicating the corporate status of the business (e.g. Inc., Incorporated, etc.). Trade names may be indicated by individuals or corporations with the individual or corporate name followed by “t/a” (trading as) or “d/b/a’ (doing business as), respectively. The offeror’s signature on the proposal, contract, amendment(s) or related correspondence, must conform to the following:

> *All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of this offer or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the offeror or contractor.*

Acknowledgment of Solicitation Amendments

The Offeror acknowledges receipt of the following amendment(s) to the solicitation:

Amendment Number	Date

ATTACHMENT C.
REFERENCES

You are requested to provide at least three references to the County with your proposal. The three (3) references must be from individuals or firms for whom work of a similar scope has been performed within the last three years. Names for references shall be individuals who directly supervised or had direct knowledge of the services or goods provided.

Reference #1

Item	**Please fill in the information**
Name of the Company:	
Address (street, city, state, zip):	
Contact Person Name:	
Contact Person Email:	
Contact Person Cell Phone:	
Contact Person Office Phone:	

Reference #2

Item	**Please fill in the information**
Name of the Company:	
Address (street, city, state, zip):	
Contact Person Name:	
Contact Person Email:	
Contact Person Cell Phone:	
Contact Person Office Phone:	

Reference #3

Item	**Please fill in the information**
Name of the Company:	
Address (street, city, state, zip):	
Contact Person Name:	
Contact Person Email:	
Contact Person Cell Phone:	
Contact Person Office Phone:	

ATTACHMENT D.
COST AND PRICE REQUIREMENTS

By submitting a proposal, offeror, if selected for negotiation, grants the Contracting Officer or an authorized representative the right to examine those books, records, documents and any other supporting data that will permit adequate evaluation of the proposed price. This right may be exercised at any time prior to award of a contract. The Montgomery County Government may utilize an independent contractor for cost and price analysis or to examine your books and records.

The Cost/price for any resultant contract will be negotiated on the basis of the successful offeror's normal estimating and/or accounting system or the system set forth in Cost Accounting Standards Board Disclosure Statement as required by Public Law 100-679.

Prior to contract execution, the proposed awardee may be required to provide the following information;

Latest and previous year's financial statement or profit and loss statement.

Burdened rate verification detailing the composition and value of the elements of Fringe Benefits, Overhead, General and Administrative Overhead, Profit or Fee.

Offeror's Certification of Cost and Price information.

ATTACHMENT E.
TECHNICAL AND FINANCIAL PROPOSAL FORM

Note: The Technical and Financial Proposal Form is provided as a separate Excel attachment. Offerors shall complete and submit the Excel file with their proposals.

ATTACHMENT F.
MANDATORY INSURANCE REQUIREMENTS

Medical Insurance Services and Administration for Montgomery County

Prior to the execution of the contract by the County, the proposed awardee/contractor and their contractors (if requested by County) must obtain, at their own cost and expense, the following *minimum* (not maximum) insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/contractor shall provide a copy of the insurance policies and additional insured endorsements. The minimum limits of coverage listed below shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee / contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary. Coverage pursuant to this Section shall not include any provision that would bar, restrict, or preclude coverage for claims by Montgomery County against Contractor, including but not limited to "cross-liability" or "insured vs insured" exclusion provisions.

Commercial General Liability

A minimum limit of liability of ***two million dollars ($2,000,000)***, per occurrence, for bodily injury and property damage coverage per occurrence including the following coverages:

Contractual Liability
Premises and Operations
Independent Contractors
Products and Completed Operations

Professional Liability (Errors and Omissions Liability Including Medical Malpractice)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract in an amount of not less than:

Each Claim	***$ 5,000,000***
Annual Aggregate	***$ 25,000,000***

In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.

Cyber / Professional Liability Insurance, in an amount of not less than ***ten million dollars ($10,000,000)*** per claim and ***twenty five million dollars ($25,000,000)*** annual aggregate, *covering all acts, errors, omissions, negligence, infringement of intellectual property, network / cyber and privacy risks (including coverage for unauthorized access, failure of security, virus transmission, data damage/destruction/corruption, breach of privacy perils, unintentional or wrongful disclosure of information, as well as notification costs and regulatory defense)* in the performance of services hereby contracted for with Montgomery County, Maryland or on behalf of Montgomery County, Maryland hereunder. Such minimum insurance shall be maintained in force at all times during the term of the agreement and for a period of 3 years thereafter for services completed during the term of the agreement.

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on Contractor's commercial general, automobile insurance, and contractor's excess/umbrella insurance if used to satisfy the Contractor's minimum insurance requirements under this contract, for liability arising out of contractor's products, goods and services provided under this contract. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to Customer and failure to request evidence of this insurance shall in no way be construed as a waiver of Contractor's obligation to provide the minimum insurance coverage specified.

Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County, Maryland
Office of Human Resources / Jenna Shovlin
101 Monroe Street, 7th Floor
Rockville, Maryland 20850

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "Agreement") is made by and between Montgomery County, Maryland (hereinafter referred to as "Covered Entity"), and ____ (hereinafter referred to as "Business Associate"). Covered Entity and Business Associate shall collectively be known herein as the "Parties."

I. GENERAL

A. Covered Entity has a business relationship with Business Associate that is memorialized in Montgomery County Contract # _____________ (the "Underlying Agreement"), pursuant to which Business Associate may be considered a "business associate" of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, "HIPAA"), as all are amended from time to time; and

B. The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information ("PHI") as that term is defined under HIPAA; and

C. For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

D. This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate's obligations to comply with the the Maryland Confidentiality of Medical Records Act (Md. Code Ann., Health-General I §§4-301 *et seq*.) ("MCMRA") or other applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate's performance of the Underlying Agreement; and

E. This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

F. The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

II. DEFINITIONS.

A. The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

B. Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

1. "Breach" is defined at 45 CFR § 164.402.

2. "Business Associate" is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean [Insert Name of Business Associate].

3. "Covered Entity" is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

4. "Designated Record Set" is defined at 45 CFR §164.501.

5. "Individual" is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

6. "Protected Health Information" or "PHI" is defined at 45 CFR § 160.103.

7. "Required By Law" is defined at 45 CFR § 164.103.

8. "Secretary" means the Secretary of the U.S. Department of Health and Human Services or designee.

9. "Security Incident" is defined at 45 CFR § 164.304.

10. "Unsecured Protected Health Information" or "Unsecured PHI" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

III. PERMISSIBLE USE AND DISCLOSURE OF PHI

A. Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA, MCMRA, or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

B. Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

C. Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

D. Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

E. Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

F. Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section III.F must:

1. Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

2. Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3. Be in substantially the same form as Exhibit A hereto;

4. Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

5. Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

6. Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

7. If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

8. Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

9. State whether the PHI was actually acquired or viewed;

10. Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

11. Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address;

and

12. Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III.F.4 – III.F.11 above.

G. Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

H. In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

I. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

J. Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

K. Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

L. To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by

Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

M. A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

N. To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

O. Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

P. Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

Q. Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

R. Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

S. Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

T. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

U. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying

Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

V. Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

IV. TERM AND TERMINATION.

A. Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

2. Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

3. If neither termination nor cure is feasible, report the violation to the Secretary.

4. This Article IV, Term and Termination, Paragraph B, is in addition to the provisions set forth in Paragraph 27, Termination for Default of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement, in which “Business Associate” is “Contractor” and “Covered Entity” is “County” for purposes of this Agreement.

C. Effect of Termination.

1. Except as provided in Section IV.C.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s),

employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

3. Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, the MCMRA, or other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

V. CONSIDERATION. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

VI. CAUSES OF ACTION IN THE EVENT OF BREACH. As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the Maryland law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys’ fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in Paragraph 18, “Indemnification”, of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

VII. MODIFICATION; AMENDMENT. This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES. Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

IX. COMPLIANCE WITH STATE LAW. The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

X. MISCELLANEOUS.

A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

B. Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Hilary Taylor
Deputy Privacy Official
Montgomery County, Maryland
Office of the County Attorney
101 Monroe Street, 12th Floor
Rockville, Maryland 20850
(240) 777-6731 (Voice)
Hilary.Taylor@Montgomerycountymd.gov

Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: ______________________________

____

Attention: ______________________________

Phone: ______________________________

D. Maryland Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of Maryland, without regard to choice of law principles.

E. Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

F. Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

SIGNATURE PAGE FOLLOWS

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

(INSERT NAME OF BUSINESS ASSOCIATE)	MONTGOMERY COUNTY, MARYLAND
By: ______________________	By: ______________________
Name: ______________________	Name: ______________________
Title: ______________________	Title: ______________________
Date: ______________________	Date: ______________________

EXHIBIT A

FORM OF NOTIFICATION

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Montgomery County, Maryland, (the "County") and
- ____(Business Associate).

Business Associate hereby notifies the County that there has been a Breach**,** Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an "Incident") that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

____

____

Date of the Incident: ___________________________

Date of discovery of the Incident: ________________________

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

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

Number of individuals affected by the Incident:

____

Names and addresses of individuals affected by the Incident:

(Attach additional pages as
necessary)____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

____

____

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

____

____

____

Contact information to ask questions or learn additional information:

Name: ____

Title: ____

Address: ____

____

Email Address: _______________________________________

Phone Number: _______________________________________

MONTGOMERY COUNTY, MARYLAND
Attachment H
RFP #1194839

INTENT TO RESPOND – FORM

Any prospective offeror wishing to participate in Montgomery County RFP #1194839 Medical Insurance Services and Administration for Montgomery County must complete this intent to respond form prior to the deadline. Upon completion and review of your initial qualifications below, census data and historical experience will be shared with you. Additional clarification of your qualifications may be required by the County prior to releasing these details.

Please confirm that you are an authorized representative and that your organization is qualified to directly provide medical health plan administration services to Montgomery County Government (MCG).

- [x] Yes – My organization is directly qualified and currently provides medical health plan administration services as a licensed NAIC insurance company or administrator. I am authorized to complete this form.

- [ ] No – My organization is not directly qualified to provide medical administration services. Below is our reason for consideration for participation:

Date of Submission to MCG:
Organization / Company Name:
Authorized Representative:
Primary Contact for RFP
(Name, Title, Address, Phone, Email)

Signature Authorized Individual: ____

Please provide a listing of all email addresses that you would like included for distribution of the census data and historical experience files:

ATTACHMENT I.
WEB-LINKS FOR DOCUMENTS AND FORMS

Click the following link to access forms 1-21 listed below: https://www.montgomerycountymd.gov/office-procurement/solicitations-contracts/solicitation-forms.

1. County Vendor Registration System.
2. Procurement Frequently Asked Questions.
3. MD-SDAT and MD-SDAT Frequently Asked Questions FAQ.
4. Minority, Female, Disabled Person Participation Evaluation Points for RFPs.
5. Minority, Female, Disabled Person Program Information.
6. Minority, Female, Disabled Person Subcontractor Performance Plan.
7. Minority Business Program & Offeror's Representation.
8. Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor.
9. Sample MFD Report of Payments Received.
10. Offeror's Certification of Cost & Price.
11. Prevailing Wage Requirements for Construction Contract Addendum.
12. Prevailing Wage Requirements Information.
13. Solicitation Postings and Amendments.
14. Wage Requirement Law Payroll Reporting.
15. Wage Requirements Certification Form and 501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form.
16. Wage Requirements for Services Contracts Addendum.
17. Wage Requirements Law Information.
18. Wage Requirements Law, Independent Contractor Certification.
19. Local Business Subcontracting Performance Plan.
20. Prevailing Wage Local Hiring Report.
21. Prevailing Wage Law Local Hiring Attestation.

Documents 22 through 37 can be accessed at the following link: Documents 22-37

22. Medical Comparison Chart
23. CareFirst High Option POS Evidence of Coverage
24. CareFirst Standard Option POS SBC
25. CareFirst Standard Option POS Evidence of Coverage
26. CareFirst Standard & High Option POS Summary Highlights (page 5)
27. CareFirst High Option POS SBC
28. CareFirst Indemnity Evidence of Coverage

29. CareFirst Indemnity Summary
30. CareFirst Indemnity SBC
31. United Healthcare EPO Evidence of Coverage
32. United Healthcare EPO (Medicare) Evidence of Coverage
33. United Healthcare EPO SBC
34. United Healthcare EPO Summary
35. Kaiser HMO Evidence of Coverage
36. Kaiser HMO (Medicare) Evidence of Coverage
37. Kaiser HMO SBC
38. Kaiser HMO Summary (Actives)
39. Kaiser HMO Summary (Medicare)