REQUEST FOR PROPOSALS (RFP)

ISSUE DATE: October 19, 2015

TITLE: Independent Third Party Medical Review Services

RFP Number: OHB16-01

ISSUING AGENCY: Commonwealth of Virginia
Department of Human Resource Management
James Monroe Building, 13th Floor,101 North 14th Street
Richmond, Virginia 23219

PERIOD OF CONTRACT: July 1, 2016 through June 30, 2019 with up to 3 one year extensions

Sealed proposals for furnishing services described herein will be received subject to the conditions cited herein until 2:00 p.m. December 10, 2015.

All Inquiries Must Be In Writing and Directed To:

Mr. Dan Hinderliter
Department of Human Resource Management
James Monroe Building, 13th Floor,101 North 14th Street
Richmond, Virginia 23219
Fax Number: (804) 225-2790
Email: dan.hinderliter@dhrm.viriginia.gov

SEND ALL PROPOSALS DIRECTLY TO THE ISSUING AGENCY ADDRESS SHOWN ABOVE.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

In compliance with this Request for Proposals, and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish materials and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

_____ Date: _____

_____ By: _____
(PRINTED NAME)

_____ _____
(SIGNATURE IN INK)

_____ Zip Code: _____ Title: _____

Fax Number: (____) _____ Telephone: (____) _____

PRE-PROPOSAL CONFERENCE: An optional pre-proposal conference will be held on Friday November 2, 2015, 10:00 a.m. in Conference Room C at the James Monroe Building. (Reference Paragraph 3.8) If special ADA accommodations are needed, please contact Kathryn Brooks at (804) 225-2131 by October 25, 2015.

TABLE OF CONTENTS

1.0 Introduction

2.0 Statement of Needs

3.0 Procurement Procedures

4.0 Form of Response and Criteria

5.0 General Terms and Conditions

6.0 Special Terms and Conditions

EXHIBITS

Exhibit 1 - Number of Appeals Processed

Exhibit 2 – Small, Women Owned And Minority Business

Exhibit 3 - Current Appeal Process Overview

APPENDICES

Appendix 1 - Current Standard Contract

Appendix 2 - Pricing Schedule

1.0 INTRODUCTION

1.1 Purpose

The purpose of this Request for Proposals (RFP) is to solicit sealed proposals to establish three or more contracts through competitive negotiation for the purchase of Independent Review Organization Services for the Department of Human Resource Management.

1.2 Background

The Department is seeking organizations capable of reviewing denials of care appealed by employees and their dependents covered by the Department's self-funded health insurance plans and providing specific consulting and research services upon the Department's request. Approximately 292,000 lives are covered under the Department's self-funded health insurance plans, including approximately 191,000 through the plan for active State employees, 36,000 through the plan for State Medicare-eligible retirees, and 65,000 through the Local Choice Plan for employees of various localities in Virginia.

The Contractor shall provide reviews of denials which shall pertain only to the issue of medical necessity or experimental/investigational status of a treatment or procedure. The term "Medically Necessary" is defined as a service required to identify or treat an illness, injury, or pregnancy related condition which a Provider has diagnosed or reasonably suspects. To be Medically Necessary, the service **must**: (1) be consistent with the diagnosis of the condition; (2) be in accordance with standards of generally accepted medical practice; (3) not be for the convenience of the patient, the patient's family, or the provider; and (4) be the most suitable, cost-effective supply or level of service which can be safely provided.

Please see exhibit one for work load statistics.

The Contractor shall provide consulting and research services, which will include reviews of health care treatments or clinical or benefit issues regarding medical services that will assist the Department on matters that do not involve a particular enrollee's grievance. Such issues may include, but are not limited to: analysis and assessment of specific therapies, the scope of appropriate referral practices and access to specialists, analysis of benefits, and assessments of emerging issues affecting the provision of medical care. It is anticipated that these projects may include and require thorough review of relevant and current medical and industry literature and policies, reference to, or copies of resource and references used and the submission of written reports of conclusions and opinions.

These consulting and research services shall be provided in response to specific requests by the Department. Offerors should propose a process and pricing through which consulting and research services shall be provided.

1.3 Policy Regarding Participation of Small, Women, and Minority Owned Businesses

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and small businesses owned by women and minorities and to encourage their participation in state procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and small businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Submission of a report of past efforts to utilize the goods and services of such businesses and plans for involvement on this contract are required. By submitting a proposal, Offerors certify that all information provided in response to this RFP is true and accurate. Failure to provide information required by this RFP will ultimately result in rejection of the proposal.

All information requested by this RFP on the ownership, utilization, and planned involvement of small businesses, women owned businesses, and minority owned businesses must be submitted. If an Offeror fails to submit all information requested, the purchasing agency will require prompt submission of missing information after the receipt of vendor proposals in order for a non-compliance proposal to be considered.

1.4 Appendices

Appendix 1 is the current standard contract.

Appendix 2 is the Pricing Schedule

2.0 **Statement of Needs**

2.1.a. Case Reviews

1. The contractor shall receive and control cases referred by the Department within one business day.

2. The contractor shall perform an initial review and assign cases to (a) professional reviewer(s) within two business days of receipt and control. The professional reviewer(s) shall be impartial and have expertise in the same or similar specialty as that of the treating provider. *Impartial* means the reviewer(s) have no relationship or association with (1) the covered employee or a member of the covered employee's immediate family, (2) the treating health care provider, the provider's employees, or the provider's affiliates, (3) the medical facility at which the service was or would be provided, the facility's employees, or the facilities affiliates, or (4) the development or manufacture of the drug, device, procedure or other therapy which has been denied in this case.

3. The contractor shall substantively review the case and respond to the Department within five business days of the assignment of the case to (a) professional reviewer(s).

4. The professional reviewer(s) shall examine the case as submitted and determine, with the burden of proof on the appellant, (1) that the denial was/was not objective, (2) that the denial was/was not the only clinically valid course of action, or that the denial was at least one of a range of more than one clinically valid courses of action, and (3) that the denial was consistent with the generally accepted principles guiding the provision of health care. *Generally accepted* means that the principles in question are supported by the prevailing actual practice of providers of care or by peer reviewed medical literature.

5. The decision of the contractor shall be documented as to (1) the credentials of the reviewer(s), (2) the impartiality of the reviewer(s), (3) the scope of the review, including any findings of fact with respect to material issues, and the bases for those findings, (4) each of the elements denoted in 2.1.4, and (5) the contractual authority to deny or to pay for the claim, whichever the determination may be.

6. The Department prefers that the Contractor have in place a process by which information from the Department may be submitted electronically to the Contractor and by which the Contractor's decision may be submitted electronically to the Department. The decision to use this electronic submission process is at the sole discretion of the Department, and may be made on a case-by-case basis. This process should be secure and allow for information to be submitted in a manner that is easily trackable. Examples of such systems include secure email, secure web portals, and secure facsimile. If costs vary depending on submission process chosen, separate pricing shall be provided.

2.1.b. Consulting and Research Services

1. The Contractor shall provide consulting and research services, which will include reviews of health care treatments or clinical or benefit issues regarding medical services that will assist the Department on matters that do not involve a particular enrollee's grievance. Such issues may include, but are not limited to: analysis and assessment of specific therapies, the scope of appropriate referral practices and access to specialists, analysis of benefits, and assessments of emerging issues affecting the provision of medical care. It is anticipated that these projects may include and require thorough review of relevant and current medical and industry literature and policies, reference to, or copies of resource and references used and the submission of written reports of conclusions and opinions.

2. These consulting and research services shall be provided in response to specific requests by the Department. Offerors should propose a process and pricing through which consulting and research services shall be provided.

2.2 Confidentiality, Privacy and Security of Protected Health Information (PHI)

All operations of the contractor shall be conducted in such a manner that all medical records are held in the utmost confidence, and such operations shall strictly adhere to the provisions of state and federal laws regarding confidentiality of medical information.

2.3 Mandatory Qualifications

The Offeror's proposal should detail their abilities to effectively provide the required services, including specifically addressing the offeror's ability to meet or exceed the mandatory qualifications listed below.

1. The offeror must have been engaged in the business of medical utilization review or medical peer review since, at least, January 1, 2000. Offeror must be accredited by URAC or by a similar nationally recognized accrediting organization.

2. The offeror must have reviewed at least 1,000 cases or providers.

3. The offeror must have documented care guidelines in all commonly disputed areas of practice and, specifically, in the areas of therapies (including physical, speech), cancer treatments, prescription drug therapy (including specialty drugs and genomic drug therapy), rehabilitation, mental illness and substance abuse.

4. The offeror must demonstrate that it has a panel of highly qualified reviewers across medical specialties who were selected for their service after a formal certification process.

5. The offeror must currently be the medical peer review or utilization review contractor for a single organization responsible for at least 100,000 lives.

6. The offeror must be compliant with the Affordable Care Act (ACA) and other federal and state regulations.

3.0 PROCUREMENT PROCEDURES

3.1 Method of Award

1. The Department will select three or four Offerors deemed to be fully qualified and best suited among those Offerors submitting proposals. The selection of Offerors will be based on the evaluation factors included in this RFP. Negotiations shall be conducted with the selected Offerors. Price shall be considered when selecting finalists for negotiation, but shall not be the sole determining factor.

2. After negotiations have been conducted with each selected Offeror, the Department will select the Offerors which, in its opinion, have made the best proposals. The Department shall award contracts to those Offerors. The Department may cancel this RFP, or reject proposals at any time prior to an award. The Department is not required to furnish a statement of the reason why a particular Offeror was not deemed to have made the best proposal (Section 2.2-4359, Code of Virginia).

3. The contract will incorporate by reference all the requirements, terms and conditions of this RFP and the Contractor's proposal, except as either or both may be amended through negotiation. All statements and representations, written or

verbal, relating to the award of this and renewal contracts must be construed to be consistent with the following.

3.2 Submission of Written Proposals

1. All proposals must be in the form requested. The data required in response to this RFP is subject to verification. Material errors shall be a basis for rejecting such a proposal. An hard copy original in a three ring binder, a redacted electronic version on CD ROM Disk, and four electronic copies of the original on separate CD Rom disks shall be delivered in a sealed box, and labeled as a proposal, with the words **"Do Not Open"** and **OHB16-01 Independent Review Organization Proposal** prominently displayed on the face of the box. Proposals must be received no later than 2:00 p.m. on December 10, 2015, by:

   Mr. Dan Hinderliter
   Department of Human Resource Management
   James Monroe Building, 13th Floor
   101 North 14th Street
   Richmond, Virginia 23219

   The original proposal should be provided in a three ring binder. All documentation submitted with the proposal should be contained in that single volume. The electronic copies on disk shall contain all the information submitted in the original version.

2. Ownership of all data, materials and documentation originated and prepared for the Department pursuant to the RFP shall belong exclusively to the Department and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of Section 2.2-4342 of the Code of Virginia, in writing, at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The electronic redacted version of the submission shall exclude all items listed by the offeror as protected from Virginia Freedom of Information Act requests. The proprietary or trade secret material submitted must be identified as required and must indicate only the specific words, figures, or paragraphs which constitute trade secrets or proprietary information. The Department, in its sole discretion, may not consider proposals with unduly broad requests for protection against disclosure.

3.3 Modification of Proposals

Any changes, amendments or modifications of an offeror's proposal prior to the deadline for receipt of proposals must be in writing and submitted in the same manner as the original proposals. All modifications must be labeled conspicuously as a change, amendment, or modification of the previously submitted proposal. Changes,

amendments, or modifications of proposals will not be considered after the deadline for receipt of proposals, except when the Department requests modifications.

3.4 Inquiries Concerning the RFP

Any communication concerning this RFP or any resulting contracts must be addressed in writing to:

Mr. Dan Hinderliter
Department of Human Resource Management
James Monroe Building, 13th Floor
101 North 14th Street
Richmond, Virginia 23219
Fax Number: (804) 225-2790
E-mail Address: dan.hinderliter@dhrm.virginia.gov

3.5 Public Inspection of Procurement Records

Proposals will be subject to public inspection only in accordance with Section 2.2-4342 of the Code of Virginia.

3.6 Clarification of Proposal Information

The Department reserves the right to request verification, validation or clarification of any information contained in any of the proposals. This clarification may include checking references and securing other data from outside sources, as well as from the offeror.

3.7 Reference To Other Materials

The offeror cannot compel the Department to consider any information except that which is contained in its proposal, or which is offered in response to a request from the Department. The offeror should rely solely on its proposal. The Department, however, reserves the right, in its sole discretion, to take into consideration its prior experience with offerors and information gained from other sources.

3.8 Optional Pre-Proposal Conference

An optional pre-proposal conference will be held at 10:00 a.m. on November 2, 2015, in the James Monroe Building, Main Level Conference Room C, 101 North 14th Street, Richmond, Virginia. The purpose of this conference is to allow potential offerors an opportunity to present questions and to obtain clarification relative to any facet of this procurement.

Attendance at this conference is not a prerequisite to submitting a proposal. Offerors who intend to submit a proposal are invited to attend. Attendance at the conference will be documented by the representative's signature on the attendance roster.

It is requested that any known questions regarding the RFP be forwarded to Mr. Dan Hinderliter prior to date of conference to facilitate the conference. His email address is dan.hinderliter@dhrm.virginia.gov

Offerors should bring a copy of this RFP to the conference. Any changes, which result from this conference, will be issued in a written addendum to the RFP.

3.9 Timetable

RFP Published	October 19, 2015
Optional Pre-Proposal Conference	November 2, 2015
Proposals Due 2:00 P.M.	December 10, 2015
Notice of Intent to Award	January 14, 2016

4.0 FORM OF RESPONSE AND CRITERIA

4.1 General

The original proposal shall be in the form of a loose-leaf binder, tabbed to point to each section below. Before the first tab, place the executed RFP Cover Sheet followed by a statement defining those sections of your proposal which may not be released because they are proprietary. Each page so designated shall also be marked "Confidential: Proprietary Information," and, if not so marked, shall not be protected. A copy of the full proposal with the confidential and proprietary information excluded shall be submitted on a CD Rom disk, labeled "*Company Name*, OHB16-01 Redacted Version". One original proposal, one redacted version on disk, and five electronic copies on five separate disks are required. The original shall contain a Cover Sheet bearing an original signature signed in BLUE ink and be labeled on the cover as "Original".

4.2 Participation of Small, Women, and Minority Owned Businesses

Complete the information required on Exhibit TWO.

4.3 Criteria for Evaluation

Proposals will be evaluated on seven criteria: Credentialing Process (10); Credentials of Reviewers (20); Extent and Documentation of Care Guidelines (10); Experience in Utilization/Peer Review (10); Financial Stability (10); Cost (20); and Small, Women and Minority Owned Business (20).

4.4 Compensation

The Department will consider a flat rate for each appeal, as well as for consulting or research services, or other compensation proposals. The proposed rate structure must be fully documented in the response to the RFP.

4.5 Redline RFP noting demurrals (Tab 1)

Include a copy of the RFP. Using the *Track Changes* and *Highlight Changes* MS Word tools, annotate in redline **any and all** demurrals or deviations to the requirements of the RFP. You may also enter any substantive comments on the RFP provisions, but please restrict such to issues that are necessary to clearly understand your proposal. Affirmations or confirmations of compliance to RFP requirements are unnecessary in this tab and are **NOT** to be included. A copy of the RFP may be downloaded from the DHRM
website: http://www.dhrm.virginia.gov/rfps/rfpmain.html

4.6 References

Include at least three references of similar size and scope of services.

4.7 Business Associate Agreement

The Business Associate Agreement found in Exhibit 4 shall be signed by the offeror and included in the submission.

5.0 REQUIRED GENERAL TERMS AND CONDITIONS

These General Terms and Conditions are required for use in written solicitations issued by state agencies for procurements that are subject to this manual unless changed, deleted or revised by the legal advisor to your agency. You should edit the wording to fit the type of solicitation (IFB or RFP) by either deleting or lining out the inappropriate words in all parentheses. For service contracts clauses, Q, R, and S are normally not applicable and may be omitted. For goods contracts, omit clause T.

A.	VENDORS MANUAL	B-2
B.	APPLICABLE LAWS AND COURTS	B-2
C.	ANTI-DISCRIMINATION	B-2
D.	ETHICS IN PUBLIC CONTRACTING	B-3
E.	IMMIGRATION REFORM AND CONTROL ACT OF 1986	B-3
F.	DEBARMENT STATUS	B-3
G.	ANTITRUST	B-3
H.	MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS	B-3
I.	CLARIFICATION OF TERMS	B-4
J.	PAYMENT	B-4
K.	PRECEDENCE OF TERMS	B-5
L.	QUALIFICATIONS OF BIDDERS OR OFFERORS	B-5
M.	TESTING AND INSPECTION	B-5
N.	ASSIGNMENT OF CONTRACT	B-5
O.	CHANGES TO THE CONTRACT	B-5
P.	DEFAULT	B-6
Q.	TAXES	B-6
R.	USE OF BRAND NAMES	B-6
S.	TRANSPORTATION AND PACKAGING	B-6

T. INSURANCE B-6
U. ANNOUNCEMENT OF AWARD B-7
V. DRUG-FREE WORKPLACE B-7
W. NONDISCRIMINATION OF CONTRACTORS B-8
X. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION B-8
Y. AVAILABILITY OF FUNDS B-8
Z. SET-ASIDES IN ACCORANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY B-8
AA. BID PRICE CURRENCY B-9
BB. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH B-9

A. VENDORS MANUAL: This solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "Vendors Manual" on the vendors tab.

B. APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (Code of Virginia, § 2.2-4366). ADR procedures are described in Chapter 9 of the Vendors Manual. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every contract over $10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:

   a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age,

disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. ETHICS IN PUBLIC CONTRACTING: By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. DEBARMENT STATUS: By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation,. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virignia.

G. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS: Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT:

1. To Prime Contractor:

a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the
payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.

d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

e. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a

settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).

2. To Subcontractors:

   a. A contractor awarded a contract under this solicitation is hereby obligated:

      (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

      (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

   b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. PRECEDENCE OF TERMS: The following General Terms and Conditions VENDORS MANUAL, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any

Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. QUALIFICATIONS OF OFFERORS: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. Deleted

N. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

    a. By mutual agreement between the parties in writing; or

b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or

c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Vendors Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Q. Deleted

R. Deleted

S. Deleted

T. INSURANCE: By signing and submitting a bid or proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - $100,000.

3. Commercial General Liability - $1,000,000 per occurrence and $2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.

4. Automobile Liability - $1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

Profession/Service	Limits
Accounting	$1,000,000 per occurrence, $3,000,000 aggregate
Architecture	$2,000,000 per occurrence, $6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	$1,000,000 per occurrence, $3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	$2,150,000 per occurrence, $4,250,000 aggregate
(Limits increase each July 1 through fiscal year 2031per Code of Virginia § 8.01-581.15.)	
Insurance/Risk Management	$1,000,000 per occurrence, $3,000,000 aggregate
Landscape/Architecture	$1,000,000 per occurrence, $1,000,000 aggregate
Legal	$1,000,000 per occurrence, $5,000,000 aggregate

Professional Engineer	$2,000,000 per occurrence, $6,000,000 aggregate
Surveying	$1,000,000 per occurrence, $1,000,000 aggregate

U. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

V. DRUG-FREE WORKPLACE: During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

W. NONDISCRIMINATION OF CONTRACTORS: An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

X. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS: The eVA Internet electronic procurement solution, web site portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All bidders or

offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

1. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:

    a. DSBSD-certified Small Businesses: 1%, capped at $500 per order.
    b. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at $1,500 per order.

2. Refer to Special Term and Condition "eVA Orders and Contracts" to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

Y. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

Z. Deleted

AA. BID PRICE CURRENCY: Unless stated otherwise in the solicitation, offerors shall state offer prices in US dollars.

BB. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

6.0 SPECIAL TERMS AND CONDITIONS

6.1 Audits

The contractor shall assist the Department and the Department's auditors, who may be employees of the Department, employees of other contractors, or agents of the Department, in the conduct of audits. This assistance shall include the provision of secure, quiet office space, including furnishings and telephones needed by the auditors.

The contractor agrees to retain all books, records, and other documents relative to the contract which results from this RFP for five (5) years after final payment, or until the conclusion of any audit by the Commonwealth, whichever is sooner. The Department, its authorized agents, and state auditors, shall have full access to, and the right to examine, any of the contractor's materials relevant to the contract which results from this RFP.

6.2 Certified Corporate Annual Reports

Within 120 days of the close of its fiscal year, the contractor shall furnish to the Department an annual report of its consolidated operations. An independent auditor shall certify this report.

6.3 Confidentiality of Information

The contractor shall treat all information utilized in its performance of the contract as confidential, personal information. The contractor shall handle all confidential information in accordance with the Virginia Privacy Protection Act, Virginia Code Section 2.1-377 et seq. All files, computer databases and other records developed or maintained pursuant to the execution of the contract are the property of the Department, and shall be delivered to the Department upon demand.

6.4 Contract Representatives

Both the Department and the Contractor shall appoint a contract representative who shall ensure that the provisions of this contract are adhered to. The Department hereby appoints Sharon Finn, Associate Director.

The contractor shall provide the full name and address of their contract representative including telephone and fax number. In the event of a change in contract representatives, an official written notice shall be provided within 15 days of the change.

6.5 Contractor Affiliation

If an affiliate (as defined below in this paragraph) of the contractor takes any action which, if taken by the contractor, would constitute a breach of the contract, the action taken by the affiliate shall be deemed a breach by the contractor. "Affiliate" shall mean a "parent," subsidiary or other company controlling, controlled by, or in common control with the contractor, subcontractor or agents of the contractor.

6.6 Award To Multiple Offerors:

Selection shall be made of three or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (Code of Virginia, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

6.7 Disputes

In accordance with section 2.2-4363 of the Code of Virginia, disputes arising out of the contract, whether for money or other relief, may be submitted by the contractor for consideration by the Department. Disputes must be submitted in writing, with all necessary data and information, to the Director of the Department of Human Resource Management at the James Monroe Building, 12th Floor, 101 North 14th Street, Richmond, Virginia 23219. Disputes will not be considered if submitted later than sixty (60) days after the final payment is made by the Department under the contract. Further, no claim may be submitted unless written notice of the contractor's intention to file the dispute has been submitted at the time of the occurrence or at the beginning of the work upon which the dispute is based. The Department shall render a final written decision regarding the dispute not more than ninety (90) days after the dispute is submitted, unless the parties agree to an extension of time. If the Department does not render its decision within 90 days, the contractor's sole remedy will be to institute legal action, pursuant to section 2.2-4364 of the Code of Virginia. The Contractor shall not be granted relief as a result of any delay in the Department's decision.

During the time that the parties are attempting to resolve any dispute, each party shall proceed diligently to perform its duties.

6.8 Drug Free Work Place

The contractor acknowledges and certifies that it understands that the following acts by the contractor, its employees, and/or agents performing services on state property are prohibited:

1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or drugs; and

2. Any impairment or incapacitation from the use of alcohol or drugs (except the use of legal drugs for legitimate medical purposes).

The contractor further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of contract any may result in default action being taken by the Commonwealth in addition to any criminal penalties that may result from such conduct (Paragraph 5.16).

6.9 Liability

There shall be no liability on the part of and no cause of action shall arise against any officer or employee of the contractor for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

6.10 Force Majeure

Neither party shall be deemed to be in default of any of its obligations hereunder, if, and so long as, it is prevented from performing such obligations by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

6.11 Indemnification

The contractor agrees to indemnify, defend, and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages, and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the Department.

6.12 Subcontracts:

No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

6.13 Term and Renewal of Contract

The term of this contract is three years with three one-year renewal options. For the one-year renewal options, the contract may renew annually subject to the following. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.

1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the medical services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

2. If during any subsequent renewal periods, the Commonwealth elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the medical services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

6.14 Cancellation Of Contract:

The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

6.15 Transfer of Files

If for any reason the Department decides to no longer contract with the contractor, the contractor agrees to transfer to the party designated by the Department, at no cost, all data, records, computer files, other files, and materials of any sort that were maintained for the Commonwealth. The contractor agrees to assist the Department in understanding, using, and transferring all files and records, including those maintained in computer language.

6.16 HIPAA Privacy Business Associates Agreement

The Contractor agrees to be bound by the HIPAA Privacy Business Associates Agreement. This agreement must be executed prior to any contract award. See Exhibit 4

6.17 Small Business Subcontracting And Evidence Of Compliance:

1. A. It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. Unless the bidder/offeror is registered as a DSBSD-certified small business and where it is not practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses

when they have received DSBSD small business certification. No bidder/offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

2. Each prime contractor who wins an award in which a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution on September 15th of each year evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. Upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.

3. Each prime contractor who wins an award valued over $200,000 shall deliver to the contracting agency or institution on an annual basis, information on use of subcontractors that are not DSBSD-certified small businesses. Upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, and type of product or service provided.

6.18 Continuity Of Services:

1. The Contractor recognizes that the services under this contract are vital to the Agency and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another contractor, may continue them. The Contractor agrees:

   a. To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
   b. To make all Agency owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
   c. That the Agency Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.

2. The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and

shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.

3. The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

6.19 HIPAA Privacy Business Associates Agreement

The Contractor agrees to be bound by the HIPAA Privacy Business Associates Agreement. This agreement must be executed prior to any contract award. See Exhibit 4

EXHIBIT 1

NUMBER OF APPEALS PROCESSED:

FY	# Medical Appeals
7/1/10 - 6/30/11	25
7/1/11 - 6/30/12	35
7/1/12 – 6/30/13	22
7/1/13 – 6/30/14	17
7/1/14 - 6/30/15	44

EXHIBIT 2

Annex 6-I

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to submit a Small Business Subcontracting Plan.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for bids. This shall also include DSBSD-certified women- and minority-owned businesses when they also hold a DSBSD certification as a small business on the bid due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify.

Certification applications are available through DSBSD online at www.DSBSD.virginia.gov (Customer Service).

Bidder Name: _____

Preparer Name: _____ Date: _____

Instructions

A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form. This includes DSBSD-certified women-owned and minority-owned businesses when they have also received DSBSD small business certification.

B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder's total price for the initial contract period. in Section B.

Section A

If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number:_____ Certification Date:_____

Section B

Populate the table below to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation percentages may result in breach of the contract.

B. Plans for Utilization of DSBSD-Certified Small Businesses for this Procurement

Micro/Small Business Name & Address **DSBSD Certificate #**	**Status if Micro/Small Business is also: Women (W), Minority (M)**	**Contact Person, Telephone & Email**	**Type of Goods and/or Services**	**Planned Involvement During Initial Period of the Contract**	**Planned Contract Dollars During Initial Period of the Contract ($ or %)**
Totals $					

EXHIBIT 3

Current Appeal Process Overview:

1. The appellant must have exhausted all appeals at the vendor,

2. The appeal must be in writing,

3. An appeal notice is generated, and, if desired, an Informal Fact Finding Consultation (IFFC) is scheduled.

4. The appeals calendar is established,

5. Related information is requested from the Plan,

6. Additional information is gathered from the appellant and/or his provider.

7. Medical Appeals:
   - If an IFFC is scheduled, relevant documents are furnished to the appellant prior to the IFFC.
   - Following the IFFC, the appeal file and any additional information submitted by the member are sent to the external impartial health entity for review, whose determination is final and binding if consistent with law and policy.
   - If an IFFC is **not** requested, the appeal file is immediately forwarded to the external impartial health entity for review, whose determination is final and binding if consistent with law and policy.

8. The external impartial health entity will provide clinical and legal expertise to review medical, legal, and contractual issues relevant to a medical appeal.

9. Based on the external impartial health entity's recommendation, the Department Director's final case determination is communicated to the member via certified letter.

10. If the final determination is a denial, the determination letter includes language about further appeals under the Administrative Process Act (APA) and encloses the relevant section of the Code.

Exhibit 4

Group Health Plan Business Associate Agreement

This agreement ("Agreement") is effective as of (insert date) and is made among (insert vendor name) ("Claims Administrator"), and the Commonwealth of Virginia Group Health Plan, administered by the Office of Health Benefits Programs ("Plan") for the Department of Human Resource Management.

WITNESSETH AS FOLLOWS:

WHEREAS, the Commonwealth of Virginia has established and maintains the Plan as a program that provides health care coverage for employees pursuant to § 2.2-2818 of the Code of Virginia. The Plan meets the definition of a "health plan" under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64);

WHEREAS, the Plan has retained Claims Administrator to provide certain administrative services with respect to the Plan which are described and set forth in a separate Administrative Services Agreement among those parties procured under RFP numbered OHB06-1 ("ASO Agreement") which is in effect on the effective date of this Agreement, as amended or replaced from time to time;

WHEREAS, the parties to this Agreement desire to establish the terms under which Claims Administrator may use or disclose Protected Health Information (as defined herein) such that the Plan may comply with applicable requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64) ("HIPAA Privacy Regulations");

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the Plan, and Claims Administrator hereby agree as follows:

PART 1—CLAIMS ADMINISTRATOR'S RESPONSIBILITIES

I. PRIVACY OF PROTECTED HEALTH INFORMATION

A. Confidentiality of Protected Health Information

Except as permitted or required by this Agreement, Claims Administrator will not use or disclose Protected Health Information without the authorization of the Covered Person who is the subject of such information or as required by law.

B. Prohibition on Non-Permitted Use or Disclosure

Claims Administrator will neither use nor disclose Covered Persons' Protected Health Information except (1) as permitted or required by this Agreement, or any other agreement between the parties, (2) as permitted in writing by the Plan, (3) as authorized by Covered Persons, or (4) as required by law.

C. Permitted Uses and Disclosures

Claims Administrator is permitted to use or disclose Covered Persons' Protected Health Information as follows:

1. Functions and Activities on Health Plan's Behalf

Claims Administrator will be permitted to use and disclose Covered Persons' Protected Health Information (a) for the management, operation and administration of the Plan, (b) for the services set forth in the ASO Agreement, which include (but are not limited to) Treatment, Payment activities, and/or Health Care Operations as these terms are defined in this Agreement and 45 Code of Federal Regulations § 164.501, and (c) as otherwise required to perform its obligations under this Agreement and the ASO Agreement, or any other agreement between the parties provided such use or disclosure would not violate the HIPAA Privacy Regulations if done by the Plan.

2. **Claims Administrator's Own Management and Administration**

a. **Protected Health Information Use**

Claims Administrator may use Covered Persons' Protected Health Information as necessary for Claims Administrator's proper management and administration or to carry out Claims Administrator's legal responsibilities.

b. **Protected Health Information Disclosure**

Claims Administrator may disclose Covered Persons' Protected Health Information as necessary for Claims Administrator's proper management and administration or to carry out Claims Administrator's legal responsibilities only (i) if the disclosure is required by law, or (ii) if before the disclosure, Claims Administrator obtains from the entity to which the disclosure is to be made reasonable assurance, evidenced by written contract, that the entity will (x) hold Covered Persons' Protected Health Information in confidence, (y) use or further disclose Covered Persons' Protected Health Information only for the purposes for which Claims Administrator disclosed it to the entity or as required by law; and (z) notify Claims Administrator of any instance of which the entity becomes aware in which the confidentiality of any Covered Persons' Protected Health Information was breached.

3. **Miscellaneous Functions and Activities**

a. **Protected Health Information Use**

Claims Administrator may use Covered Persons' Protected Health Information as necessary for Claims Administrator to perform Data Aggregation services, and to create Deidentified Information, Summary Health Information and/or Limited Data Sets.

b. **Protected Health Information Disclosure**

Claims Administrator may disclose, in conformance with the HIPAA Privacy Regulations, Covered Persons' Protected Health Information to make disclosures of Deidentified Information, Limited Data Set Information, and Summary Health Information, and to make Incidental Disclosures.

4. **Minimum Necessary**

Claims Administrator will make reasonable efforts to use, disclose, or request only the minimum necessary amount of Covered Persons' Protected Health Information to accomplish the intended purpose.

D. **Disclosure to Plan and the Commonwealth (and their Subcontractors)**

Other than disclosures permitted by Section I.C above, Claims Administrator will not disclose Covered Persons' Protected Health Information to the Plan, the Commonwealth, or any business associate or subcontractor of such parties except as set forth in Section VIII.

E. **Disclosure to Claims Administrator's Subcontractors and Agents**

Claims Administrator will require each subcontractor and agent to provide reasonable assurance, evidenced by written contract, that such other entity will comply with the same privacy and security obligations with respect to Covered Persons' Protected Health Information as this Agreement applies to Claims Administrator.

F. **Reporting Non-Permitted Use or Disclosure**

Claims Administrator will report to the Plan within 5 business days any use or disclosure of Covered Persons' Protected Health Information (whether by itself or by its subcontractors) not permitted by this Agreement or in writing by the Plan of which Claims Administrator becomes aware.

G. Termination for Breach of Privacy Obligations

Without limiting the rights of the parties set forth in the ASO Agreement, the Plan will have the right to terminate the ASO Agreement if Claims Administrator has engaged in a pattern of activity or practice that constitutes a material breach or violation of Claims Administrator's obligations regarding Protected Health Information under this Agreement and, on notice of such material breach or violation from the Plan, fails to take reasonable steps to cure the breach or end the violation. The Plan will follow the notice of termination procedures as set forth in the ASO Agreement.

H. Disposition of Protected Health Information

1. Return or Destruction Upon ASO Agreement End

The parties agree that upon cancellation, termination, expiration or other conclusion of the ASO Agreement, destruction or return of all Protected Health Information, in whatever form or medium (including in any electronic medium under Claims Administrator's custody or control) is not feasible given the regulatory requirements to maintain and produce such information for extended periods of time after such termination. In addition, Claims Administrator is required to maintain such records to support its contractual obligations with its vendors and network providers. Claims Administrator shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those consistent with applicable law for so long as Claims Administrator, or its subcontractors, maintains such Protected Health Information. Claims Administrator may destroy such records in accordance with its record retention policy that it applies to similar records, except to the extent a longer period of time is specified by the ASO Agreement or the law.

2. Exception When Claims Administrator Becomes Plan's Health Insurance Issuer

If upon cancellation, termination, expiration or other conclusion of the ASO Agreement, Claims Administrator (or an affiliate of Claim Administrator) becomes the Plan's health insurance underwriter, then Claims Administrator shall transfer any Protected Health Information that Claims Administrator created or received for or from the Plan to that part of Claims Administrator (or affiliate of Claims Administrator) responsible for health insurance functions.

3. Survival of Termination

The provisions of this Section I.H. shall survive cancellation, termination, expiration, or other conclusion of the ASO Agreement.

II. ACCESS, AMENDMENT AND DISCLOSURE ACCOUNTING FOR PROTECTED HEALTH INFORMATION

A. Access

1. Non-HIPAA requests

Claims Administrator will continue to respond to Covered Persons' routine requests for access to their Protected Health Information as part of Claims Administrator's normal customer service functions, if those requests do not qualify as a formal HIPAA request. In order to be deemed a "formal HIPAA request" the Covered Person must submit the request directly to the Plan, and follow all of the procedural requirements set forth in the Plan's Privacy Notice. All requests submitted directly to the Claims Administrator will be handled as a non-HIPAA request.

2. HIPAA requests

Claims Administrator will assist the Plan in responding to Covered Persons' formal HIPAA requests by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Claims Administrator will make available for inspection and obtaining copies by the Plan, or at the Plan's direction by the Covered Person (or the Covered Person's personal representative), any Protected Health Information about the Covered Person created or received for or from the Plan in Claims Administrator's custody or control, so that the Plan may meet its access obligations under 45 Code of Federal Regulations § 164.524.

Claims Administrator will not respond directly to Covered Persons' formal HIPAA requests. Claims Administrator will refer the Covered Person to the Plan so that the Plan can coordinate and prepare a timely response to the Covered Person.

B. Amendment

1. Non-HIPAA requests

Claims Administrator will continue to respond to Covered Persons' routine requests to amend their Protected Health Information as part of Claims Administrator's normal customer service functions, if those requests do not qualify as a formal HIPAA request. In order to be deemed a "formal HIPAA request" the Covered Person must submit the request directly to the Plan, and follow all of the procedural requirements set forth in the Plan's Privacy Notice. All requests submitted directly to the Claims Administrator will be handled as a non-HIPAA request.

2. HIPAA requests

Claims Administrator will assist the Plan in responding to Covered Persons' formal HIPAA requests by performing the following functions:

Upon receipt of written notice (includes faxed and e-mailed notice) from the Plan, Claims Administrator will amend any portion of the Protected Health Information created or received for or from the Plan in Claims Administrator's custody or control, so that the Plan may meet its amendment obligations under 45 Code of Federal Regulations § 164.526.

Claims Administrator will not respond directly to Covered Persons' formal HIPAA requests. Claims Administrator will refer the Covered Person to the Plan so that the Plan can coordinate and prepare a timely response to the Covered Person.

C. Disclosure Accounting

1. Non-HIPAA requests

Claims Administrator will continue to respond to Covered Persons' routine requests for an accounting of disclosures of their Protected Health Information as part of Claims Administrator's normal customer service functions, if those requests do not qualify as a formal HIPAA request. In order to be deemed a "formal HIPAA request" the Covered Person must submit the request directly to the Plan, and follow all of the procedural requirements set forth in the Plan's Privacy Notice. All requests submitted directly to the Claims Administrator will be handled as a non-HIPAA request.

2. HIPAA requests

Claims Administrator will assist the Plan in responding to Covered Persons' formal HIPAA requests by performing the following functions:

So the Plan may meet its disclosure accounting obligations under 45 Code of Federal Regulations § 164.528, Claims Administrator will do the following:

a. Disclosure Tracking

Claims Administrator will record each disclosure that Claims Administrator makes of Covered Persons' Protected Health Information, which is not excepted from disclosure accounting under Section II.C.2.b.

The information about each disclosure that Claims Administrator must record ("Disclosure Information") is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Claims Administrator made the disclosure, (c) a brief description of the Protected Health Information disclosed, and (d) a brief statement of the purpose of the disclosure or a copy of any written request for disclosure under 45 Code of Federal Regulations §164.502(a)(2)(ii) or §164.512.

For repetitive disclosures of Covered Persons' Protected Health Information that Claims Administrator makes for a single purpose to the same person or entity, Claims Administrator may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.

b. <u>Exceptions from Disclosure Tracking</u>

Claims Administrator will not be required to record Disclosure Information or otherwise account for disclosures of Covered Persons' Protected Health Information (a) for Treatment, Payment or Health Care Operations, (b) to the Covered Person who is the subject of the Protected Health Information, to that Covered Person's personal representative, or to another person or entity authorized by the Covered Person (c) to persons involved in that Covered Person's health care or payment for health care as provided by 45 Code of Federal Regulations § 164.510, (d) for notification for disaster relief purposes as provided by 45 Code of Federal Regulations § 164.510, (e) for national security or intelligence purposes, (f) to law enforcement officials or correctional institutions regarding inmates, (g) that are incidental to a use or disclosure that is permitted by this Agreement or the ASO Agreement, (h) as part of a limited data set in accordance with 45 Code of Federal Regulations § 164.514(e), or (i) that occurred prior to the Plan's compliance date.

c. <u>Disclosure Tracking Time Periods</u>

Claims Administrator will have available for the Plan the Disclosure Information required by Section II.C.2.a above for the six (6) years immediately preceding the date of the Plan's request for the Disclosure Information (except Claims Administrator will not be required to have Disclosure Information for disclosures occurring before April 14, 3003.

d. <u>Provision of Disclosure Accounting</u>

Upon receipt of written notice (includes faxed and e-mailed notice) from the Plan, Claims Administrator will make available to the Plan, or at the Plan's direction to the Covered Person (or the Covered Person's personal representative), the Disclosure Information regarding the Covered Person, so the Plan may meet its disclosure accounting obligations under 45 Code of Federal Regulations § 164.528.

Claims Administrator will not respond directly to Covered Persons' formal HIPAA requests for an accounting of disclosures. Claims Administrator will refer the Covered Person to the Plan so that the Plan can coordinate and prepare a timely accounting to the Covered Person.

D. <u>Confidential Communications</u>

Claims Administrator will promptly, upon receipt of notice from the Plan, begin to send all communications of Protected Health Information directed to the Covered Person to the identified alternate address.

Claims Administrator will respond directly to Covered Persons' requests for a confidential communication. If a Covered Person's request, made to Claims Administrator, extends beyond information held by Claims Administrator or Claims Administrator's affiliates or agents, Claims Administrator will inform the Covered Person to direct the request to the Plan, so that the Plan may coordinate the request. Claims Administrator

assumes no obligation to coordinate any request for a confidential communication of Protected Health Information maintained by other business associates of Plan.

E. Restrictions

The Plan understands that Claims Administrator administers a variety of different complex health benefit arrangements, both insured and self-insured, and that Claims Administrator has limited capacity to agree to special privacy restrictions requested by Covered Persons. Accordingly, the Plan and the agrees that it will not commit Claims Administrator to any restriction on the use or disclosure of Covered Persons' Protected Health Information for Treatment, Payment or Health Care Operations without Claims Administrator's prior written approval.

Claims Administrator will promptly, upon receipt of notice from the Plan, restrict the use or disclosure of Covered Persons' Protected Health Information, provided the Claims Administrator has agreed to such a restriction.

Claims Administrator will not respond directly to Covered Persons' requests to restrict the use or disclosure of Protected Health Information for Treatment, Payment or Health Care Operations. Claims Administrator will refer the Covered Person to the Plan so that the Plan can coordinate and prepare a timely response to the Covered Person.

III. PLAN'S NOTICE OF PRIVACY PRACTICES

The Plan will be solely responsible for the content of any Notice of Privacy Practices that is created, including that its content accurately reflects the Plan's privacy policies, procedures and practices and complies with all the requirements of 45 Code of Federal Regulations § 164.520. The Plan shall not create any Notice of Privacy Practices that imposes privacy obligations on the Claims Administrator that have not been accepted in writing in advance by the Claims Administrator.

IV. SAFEGUARD OF PROTECTED HEALTH INFORMATION

Claims Administrator will develop and maintain reasonable and appropriate administrative, technical and physical safeguards, as required by Social Security Act § 1173(d) and 45 Code of Federal Regulation § 164.530(c), to ensure and to protect against reasonably anticipated threats or hazards to the security or integrity of health information, to protect against reasonably anticipated unauthorized use or disclosure of health information, and to reasonably safeguard Protected Health Information from any intentional or unintentional use or disclosure in violation of this Agreement.

Claims Administrator will also develop and use appropriate administrative, physical and technical safeguards to preserve the availability of electronic Protected Health Information, in addition to preserving the integrity and confidentiality of such Protected Health Information. "Availability" means the electronic protected health information is accessible and useable upon demand by an authorized person. The "appropriate safeguards" Claims Administrator uses in furtherance of 45 Code of Federal Regulation § 164.530(c), will also meet the requirements contemplated by 45 Code of Federal Regulation Parts 160, 162 and 164, as amended from time to time.

In addition to reporting to the Plan any use or disclosure of Protected Health Information not permitted by the Agreement, Claims Administrator will also report any security incidents of which Claims Administrator becomes aware. A security incident is an attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, and involves only electronic Protected Health Information that is created, received maintained or transmitted by or on behalf of Claims Administrator, that is in electronic form

V. NOTICE OF BREACH - OBLIGATIONS AND ACTIVITIES OF CLAIMS ADMINISTRATOR

In the event of any "breach" of "unsecured PHI" in Claims Administrator's control, as both terms are defined in Sec. 13402 of the American Reinvestment and Recovery Act of 2009 ("ARRA") and as clarified pursuant to any regulations adopted pursuant thereto, Claims Administrator shall, in accordance with such section and any applicable regulations thereunder: (a) notify the Plan of such breach; (b) notify each affected individual of such breach; and (c)

provide any other notice, on behalf of the Plan, that is required under ARRA Sec.13402. This notice obligation shall take effect as of the effective date of the notice provisions of ARRA Sec. 13402.

VI. COMPLIANCE WITH STANDARD TRANSACTIONS

On and after October 16, 2003, Claims Administrator will comply with each applicable requirement for Standard Transactions established in 45 Code of Federal Regulations Part 162 when conducting all or any part of a Standard Transaction electronically for, on behalf of, or with the Plan.

VII. INSPECTION OF BOOKS AND RECORDS

Claims Administrator will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information created or received for or from the Plan available to the U.S. Department of Health and Human Services to determine Plan's compliance with 45 Code of Federal Regulations Parts 160-64 or this Agreement.

VIII. MITIGATION FOR NON-PERMITTED USE OR DISCLOSURE

Claims Administrator agrees to mitigate, to the extent practicable, any harmful effect that is known to Claims Administrator of a use or disclosure of Protected Health Information by Claims Administrator or its subcontractors in violation of the requirements of the Agreement.

PART 2—DISCLOSURE OF PROTECTED HEALTH INFORMATION TO THE PLAN, AND OTHER BUSINESS ASSOCIATES

IX. DISCLOSURE OF PROTECTED HEALTH INFORMATION

The following provisions apply to disclosures of Protected Health Information to the Plan, the Office of Health Benefits Programs for the Department of Human Resource Management in its role as plan sponsor and plan administrator, and other business associates of the Plan on behalf of the Plan. Ownership of Protected Health Information is governed by the ASO Agreement and applicable law.

A. Disclosure to Health Plan

Unless otherwise provided by this Section VII, all communications of Protected Health Information by the Claims Administrator shall be directed to the Office of Health Benefits Programs in its role as plan administrator.

B. Disclosure to the Commonwealth in its Role of Plan Sponsor

Claims Administrator may provide Protected Health Information regarding the Covered Persons in the Plan to the Commonwealth upon the Commonwealth's written request for the purpose either (a) to obtain premium bids for providing health insurance coverage for the Plan, or (b) to modify, amend or terminate the Plan. Claims Administrator may provide information to the Commonwealth in its role of plan sponsor on whether an individual is participating in the Plan or is enrolled in or has disenrolled from any insurance coverage offered by the Plan

C. Disclosure to Other Business Associates and Subcontractors

Claims Administrator may disclose Covered Persons' Protected Health Information to other entities or business associates of the Plan if the Plan authorizes Claims Administrator in writing to disclose Covered Persons' Protected Health Information to such entity or business associate. The Plan shall be solely responsible for ensuring that any contractual relationships with these entities or business associates and subcontractors comply with the requirements of 45 Code of Federal Regulations § 164.504(e) and § 164.504(f).

PART 3—MISCELLANEOUS

X. AGREEMENT TERM

This Agreement will continue in full force and effect for as long as the ASO Agreement remains in full force and effect. This Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the ASO Agreement.

XI. **AUTOMATIC AMENDMENT TO CONFORM TO APPLICABLE LAW**

Upon the effective date of any final regulation or amendment to final regulations with respect to Protected Health Information, Standard Transactions, the security of health information or other aspects of the Health Insurance Portability and Accountability Act of 1996 applicable to this Agreement or to the ASO Agreement, this Agreement will automatically amend such that the obligations imposed on the Plan, and Claims Administrator remain in compliance with such regulations, unless Claims Administrator elects to terminate the ASO Agreement by providing the Plan notice of termination in accordance with the ASO Agreement at least thirty (30) days before the effective date of such final regulation or amendment to final regulations.

XII. CONFLICTS

The provisions of this Agreement will override and control any conflicting provision of the ASO Agreement or other agreement. All other provisions of the ASO Agreement or other agreement remain unchanged by this Agreement and in full force and effect.

XIII. INTENT

The parties agree that there are no intended third party beneficiaries under this Agreement.

XIV. INTERPRETATION

Any ambiguity in this Agreement or the ASO Agreement or in operation of the Plan shall be resolved to maintain compliance with the rules enacted pursuant to HIPAA Administrative Simplification.

XV. DEFINITIONS

The following terms when used in this Agreement have the following meanings:

A. "Covered Employee" **means the person to whom coverage under the Plan has been extended by the Health Plan and to whom Claims Administrator has directly or indirectly issued an identification card bearing the Plan group number.**

B. "Covered Person" **means the Covered Employee and the Covered Employee's legal spouse and/or unmarried dependent children as specified in the plan document.**

C. "Data Aggregation" **means the combining of Protected Health Information that Claims Administrator creates or receives for or from the Plan and for or from other health plans or health care providers for which Claims Administrator is acting as a business associate or a covered entity to permit data analyses that relate to the Health Care Operations of the Plan and those other health plans or providers. (*See* 45 Code of Federal Regulations § 164.501.)**

D. "De-Identified Information" **has the same meaning as that term is defined in the HIPAA Privacy Regulations (*See* 45 Code of Federal Regulations § 164.514(b).)**

E. "Health Care Operations" **mean any of the following activities of a health plan, such as the Plan, as relate to the functions that make it a health plan (*see* 45 Code of Federal Regulations § 164.501):**

1. Quality Improvement and Control
   a. **Conducting quality assessment and improvement activities, including outcome evaluation and development of clinical guidelines (except research or other studies or activities that have as their primary purpose obtaining generalized knowledge);**
   b. **Conducting population-based activities relating to improving health or reducing health care costs;**
   c. **Conducting protocol development, case management or care coordination;**
   d. **Contacting health care providers and enrollees (such as Covered Persons) with information about treatment alternatives; and**
   e. **Conducting other related functions that do not include treatment.**

2. Credentialing and Training
   a. **Reviewing the competence or qualifications of health care professionals;**
   b. **Evaluating health care provider performance;**
   c. **Evaluating health plan performance;**
   d. **Conducting training programs in which students, trainees or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers;**
   e. **Conducting training of non-health care professionals; and**
   f. **Conducting accreditation, certification, licensing or credentialing activities.**

3. Insuring Functions
   a. **Engaging in underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits; and**
   b. **Ceding, securing, or placing a contract of reinsurance of risk relating to claims for health care (including stop-loss insurance), subject to any applicable limitations of 45 Code of Federal Regulations § 164.514(g).**

4. Audit and Legal Activities
   a. **Conducting or arranging for medical review;**
   b. **Conducting or arranging for legal services;**
   c. **Conducting or arranging for audit functions; and**
   d. **Conducting activities involving fraud and abuse detection or compliance programs.**

5. Business Strategy
   a. **Engaging in business planning and development;**
   b. **Conducting cost-management and planning-related analyses related to managing and operating the health plan;**
   c. **Developing and administering a formulary; and**
   d. **Developing or improving methods of payment or policies of coverage.**

6. Business Management and Administration
   a. **Engaging in business management and general administrative activities of the health plan;**
   b. **Managing activities relating to implementation of and compliance with the requirements for the information privacy, security, transaction standards and other provisions of 45 Code of Federal Regulation Subtitle A, Subchapter C;**
   c. **Managing customer service, including provision of data analyses for policy holders, plan sponsors, or other customers (provided that no Protected Health Information is disclosed to the policy holders, plan sponsors, or other customers, except as otherwise provided for herein);**
   d. **Resolving internal grievances;**
   e. **Creating de-identified health information (consistent with the requirements of 45 Code of Federal Regulations §§ 164.514(a)-(c));**
   f. **Creating limited data set health information (consistent with the requirements of 45 Code of Federal Regulations § 164.514(e); and**
   g. **Conducting activities in connection with the sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity.**

7. Wellness and Other Health-Related Communication

Provided that these activities are not performed under conditions that would cause the activity to constitute "marketing" as defined in 45 Code of Federal Regulations § 164.501:

a. Communicating with health plan enrollees about health-related products or services (or payment for such products or services) that are provided by or included in the health plan or that are available only to a health plan enrollee that add value to, but are not part of, a health plan;

b. Communicating with health plan enrollees about health care providers in the health plan's networks;

c. Communicating with health plan enrollees about the health plan's coverage or benefits, or the replacement of, or enhancements to a health plan;
d. Communicating with health plan enrollees concerning products or services of nominal value;
e. Communicating with health plan enrollees face-to-face about any products or services;
f. Communicating with health plan enrollees by newsletter or similar type of general communication device distributed to a broad cross-section of enrollees or other broad group of individuals; and
g. Communicating with health plan enrollees for case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual.

F. "Incidental Use or Disclosure" **means a secondary use or disclosure that can not reasonably be prevented, is limited in nature, and that occurs as a by-product of an otherwise permitted use or disclosure under the HIPAA Privacy Regulations. Such a secondary use or disclosure shall only be considered an incidental use or disclosure if reasonable safeguards have been put in place to prevent such use or disclosure.**

G. "Individually Identifiable Health Information" **means information, including demographic information collected from an individual, that (1) is created or received by a health plan, health care provider, employer, or health care clearinghouse, (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 (3) either identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. (*See* 45 Code of Federal Regulations § 164.103.)**

H. "Limited Data Set" **means Protected Health Information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:**

1. Names;
2. Postal address information, other than town or city, State, and zip code;
3. Telephone numbers;
4. Fax numbers;
5. Electronic mail addresses;
6. Social security numbers;
7. Medical record numbers;
8. Health plan beneficiary numbers;
9. Account numbers;
10. Certificate/license numbers;
11. Vehicle identifiers and serial numbers, including license plate numbers;
12. Device identifiers and serial numbers;
13. Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers;
14. Biometric identifiers, including finger and voice prints; and
15. Full face photographic images and any comparable images (*See* 45 Code of Federal Regulations § 164.514(e).)

I. "Payment" **means any of the following activities of a health plan, such as the Plan (*see* 45 Code of Federal Regulations § 164.501):**

1. **Obtaining premium payments or reimbursement for the provision of health care;**
2. **Determining or fulfilling responsibility for coverage and provision of benefits under the health plan;**
3. **Determining an enrollee's eligibility or coverage;**
4. **Coordinating benefits, determining cost sharing amounts, adjudicating or subrogating health benefit claims;**
5. **Adjusting risk amounts due based on enrollee health status or demographic characteristics;**
6. **Engaging in billing, claims management, issuance of explanations of benefits, collection activities, and related health care data processing;**
7. **Obtaining payment under a contract of reinsurance (including stop-loss insurance and excess loss insurance);**
8. **Reviewing health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;**
9. **Conducting utilization review, precertification and preauthorization of services, and concurrent and retrospective review of services; and**
10. **Disclosure to consumer reporting agencies not more than the demographic data permitted by 45 Code of Federal Regulations § 164.501 ("Payment" ¶ 2(vi)).**

J. "Plan Administration Functions" **means administrative functions performed by a plan sponsor on behalf of a group health plan and excludes functions performed by the plan sponsor in connection with (1) obtaining premium bids for providing health insurance coverage for the group health plan or for modifying, amending or terminating the group health plan, or (2) functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor.**

K. "Protected Health Information" **means Individually Identifiable Health Information that is transmitted or maintained electronically, on paper, orally or in any other form or medium.**

Education records covered by the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); records described in Section 1232g(a)(4)(B)(iv) of Title 20 of the United State Code; and employment records held by a covered entity in its role as an employer are excluded from Protected Health Information. (*See* 45 Code of Federal Regulations § 164.501.)

L. "Summary Health Information" **means information, which may be Individually Identifiable Health Information, (1) that summarizes the claims history, claims expenses, or types of claims experienced by enrollees for whom a plan sponsor has provided health care benefits under a group health plan, and (2) from which the identifiers specified in 45 Code of Federal Regulations § 164.514(b)(2)(i) have been deleted (except that the zip code information described in 45 Code of Federal Regulations § 164.514(b)(2)(i)(B) need only be aggregated to the level of a five (5) digit zip code). (*See* 45 Code of Federal Regulations § 164.504(a).)**

M. "Standard Transactions" **mean health care financial or administrative transactions conducted electronically for which standard data elements, code sets and formats have been adopted in 45 Code of Federal Regulations Part 162.**

N. "Treatment" **means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another. (*see* 45 Code of Federal Regulations § 164.501)**

XVI. REFERENCES

References herein to statutes and regulations shall be deemed to be references to those statutes and regulations as amended or recodified.

SIGNATURES

PLAN: COMMONWEALTH OF VIRGINIA EMPLOYEE GROUP HEALTH PLAN

_____

By: _____

Title: _____

Date: _____

CLAIMS ADMINISTRATOR:

_____

By: _____

Title: _____

Date: _____

Appendix 1

COMMONWEALTH OF VIRGINIA
Department of Human Resource Management
STANDARD CONTRACT

Contract Number: OHB10-01

This contract entered into this ___ day of _____ 2010, by_____ hereinafter called the "Contractor" and Commonwealth of Virginia, Department of Human Resource Management, Office of Health Benefits called the "Purchasing Agency."

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the goods/services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From July 1, 2010 through June 30, 2013.

The contract documents shall consist of:

(1) This signed form;

(2) The following portions of the Request for Proposal dated _____:

(a) The Statement of Needs,
(b) The General Terms and Conditions,
(c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;

Attachment _____, Date _____
Attachment _____, Date _____

(3) The Contractor's Proposal dated _____ and the following negotiated modifications to the Proposal, all of which documents are incorporated herein.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:	PURCHASING AGENCY:
By:_____	By: _____
Title:_____	Title: _____

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia,* § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

Appendix 2

PRICING SCHEDULE

Cost to provide Independent Review Services per RFP $_____per case
Cost to provide consulting and research services $ _____per hour
If pricing varies dependent upon transmission method, please indicate the difference