COMMONWEALTH OF VIRGINIA

###### COUNTY OF HENRICO



**RFP #15-9718-1CS**

DEPARTMENT OF FINANCE

CECELIA H. STOWE, CPPO, C.P.M.

PURCHASING DIRECTOR

January 28, 2015

**REQUEST FOR PROPOSAL**

**AUDIT SERVICES**

**COUNTY OF HENRICO, VIRGINIA**

Your firm is invited to submit a proposal to provide audit services in accordance with the enclosed specifications. The submittal, consisting of the original proposal and **seven (7)** additional copies marked, “**A Proposal for Audit Services"**, will be received no later than **3:00 p.m., February 20, 2015, by:**

IN PERSON OR SPECIAL COURIER U.S. POSTAL SERVICE

County of Henrico County of Henrico

Department of Finance Department of Finance

Purchasing Division OR Purchasing Division

1590 E. Parham Road P O Box 90775

Henrico, Virginia 23228 Henrico, Virginia 23273-0775

**This RFP and any addenda are available on the County of Henrico Purchasing website at** [**http://www.henrico.us/purchasing/**](http://www.co.henrico.va.us/purchasing/)To download the (IFB or RFP), click the link and save the

document to your hard drive. To receive an email copy of this document, please send a request to: [**bar10@henrico.us**](mailto:bar10@henrico.us)

Time is of the essence and any proposal received after **3:00** **p.m., February 20, 2015**, whether by mail or otherwise, will be returned unopened. The time of receipt shall be determined by the time clock stamp in the Purchasing Division, Department of Finance. Proposals shall be placed in a sealed, opaque envelope, marked in the lower left-hand corner with the RFP number, title, and date and hour proposals are scheduled to be received. Offerors are responsible for insuring that their proposal is stamped by Purchasing Division personnel by the deadline indicated.

Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals. The County of Henrico reserves the right to accept or reject any or all proposals submitted.

The awarding authority for this contract is the Henrico County Board of Supervisors.

Technical questions concerning this Request for Proposal should be submitted to Cecelia H. Stowe at [sto05@henrico.us](mailto:sto05@henrico.us) **no later than February 6, 2015.**

Very truly yours,

Cecelia H. Stowe, CPPO, C.P.M.

Purchasing Director

[Sto05@henrico.us](mailto:Sto05@henrico.us)

804-501-5685

1590 E. PARHAM ROAD/P O BOX 90775/HENRICO VA 23273-0775

(804) 501-5660 FAX (804) 501-5693

REQUEST FOR PROPOSAL

**AUDIT SERVICES**

**COUNTY OF HENRICO**

**I. INTRODUCTION:**

The intent and purpose of this Request for Proposal (RFP), and the resulting contract, is to obtain the services of a qualified firm to provide audit services for the County of Henrico in accordance with the Scope of Services section of the solicitation.

**II. BACKGROUND:**

Henrico County, Virginia is the third largest county in the Commonwealth of Virginia and is located in the Metropolitan Richmond area. It features a land area of 244 square miles, and consists of both highly developed urban and suburban areas, and undeveloped agricultural and forest land. Henrico’s population stands at 318,158.

Henrico County operates under the County Manager form of government, in which the County Manager functions like a corporate CEO. The County has a five member Board of Supervisors, elected by magisterial district, which acts like a board of directors and has responsibility for appointing the County Manager. The County maintains an AAA bond rating from Moody’s, Standard and Poor’s, and Fitch IBCA, and has maintained AAA ratings continuously since 1977.

In Virginia, cities and counties are distinct units of government; therefore, Henrico is responsible for providing all services normally provided by a local government. These services include fire and police protection, social services and mental health, planning and building inspections, public works (roads, drainage and traffic), public utilities (water and wastewater, solid waste and street lights), libraries and recreation, schools and general government administration.

For financial accounting purposes, transactions are recorded in fund and account groups. The operations of each fund are accounted for with a set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues and expenditures/expenses.

For financial reporting purposes and in accordance with the Governmental Accounting Standards Board (GASB) Statement 14, “The Financial Reporting Entity”, the County has identified two discrete component units. The elected School Board and the James River Juvenile Detention Commission are reported in discrete presentations.

Based on GASB Statement 14 criteria, the School Board is a legally separate organization providing educational services to the public. The School Board is elected but is fiscally dependent on the County. The James River Juvenile Detention Commission is a legally separate organization established to provide juvenile detention facilities for the Counties of Goochland, Henrico and Powhatan.

The County’s fiscal year is from July 1 to June 30. The Code of Virginia requires that the County Manager submit a balanced budget to the County of Henrico Board of Supervisors.

The fiscal year 2015 Operating Budget totals $1,097,668,501 and the Capital Budget totals $114,532,192. There are 3,927 general government employees and 6,643 education employees. **(See the Henrico County website for the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2014** <http://www.co.henrico.va.us/>**.)**

Audit fees for FY2014 were $259,912 and approximately 2400 hours. The audit recommendation did not contain any prior year journal entries or adjustment recommendations.

Audits are typically scheduled for the Spring and Fall. Spring audit period last approximately 4 weeks and the Fall audit period is around 12 weeks. During these periods there are 5 auditors on site which include the Manager and Partner.

In FY 2015 the County will implement GASB No. 68 Accounting and Financial Reporting for Pensions – Amendment of GASB NO. 27.

The general government internal audit function consists of a staff of 4, who all hold professional certifications such as CPA, CIA, and/or CISA.  The school system has a separate audit staff of 2.  The function is to perform tests of internal controls related to financial, operational, information technology, and compliance processes during the year based on an annual audit plan which is reviewed with the County’s Audit Committee.  All reports are made available to the external auditors.  However, the primary focus of all work has not been to support the external financial audit.  Historically, the general government function has allocated approximately 200 hours of time in the annual audit plan to provide direct assistance to the external auditors.  In previous years, the direct assistance has included areas such as accounts payable (subsequent disbursements), fixed assets, and single audit compliance testing.  The school’s audit function has historically provided another 100 hours of time and has generally been focused on single audit compliance testing.

**III. SCOPE OF SERVICES:**

The Successful Auditor shall furnish all labor, materials, equipment and supervision necessary to provide the following services:

A. Financial Statements

The Auditor shall audit the financial statements of the governmental activities, the business-type activities and each major fund of the County in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; the provisions of the OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*; and the *Specifications for Audits of Counties, Cities and Towns* issued by the Virginia Auditor of Public Accounts. The audit will result in the rendering of the Auditor’s opinion on the financial statements prepared by the County. The Auditor's opinion shall be unqualified unless the Auditor furnished the County, on a timely basis, the reasons for qualifying the opinion, disclaiming an opinion, or rendering an adverse opinion.

B. Supplemental Schedules and Statistical Schedules

The Auditor shall apply procedures and report on the Required and Other Supplemental Information included in the Comprehensive Annual Financial Report (CAFR), including the Schedule of Expenditures of Federal Awards. The Auditor is not required to apply procedures and report on statistical tables included in the Statistical Section of the CAFR.

C. Internal Controls

In connection with the audit of the financial statements, the Auditor shall consider, test, and report on internal controls in accordance with *Generally Accepted Auditing* *Standards (GAAS),* *Government Auditing Standards*, *OMB Circular A-133*, *Audits of States, Local Governments and Non-Profit Organizations*, and the *Specifications for Audits of Counties, Cities and Towns*.

D. Compliance Auditing

In connection with the audit of the financial statements, the Auditor shall perform tests and report on compliance in accordance with *Government Auditing Standards*, *OMB Circular A-133*, *Audits of States, Local Governments and Non-Profit Organizations*, and the *Specifications for Audits of Counties, Cities and Towns*.

E. Comparative Report Transmittal Forms

The Auditor of Public Accounts (APA) requires all local governments to complete the Comparative Report Transmittal Forms in accordance with the requirements of the *Uniform Financial Reporting Manual*. The County shall prepare the required forms for submission to the APA. The Auditor shall perform the agreed-upon procedures required in the *Uniform Financial Reporting Manual* and prepare their letter on those procedures by November 30 following the end of the fiscal year.

F. Component Units

The County has identified the following as component units requiring inclusion in the County’s financial statements. The County School Board, a discretely presented governmental component unit for which there are not separately presented financial reports. Separate external auditors under a separate contract will audit the School Activity Funds. The James River Juvenile Detention Commission (JRJDC) is a discretely presented enterprise activity. Separate financial statements are prepared by the County for this entity. The JRJDC financial statements must be completed and audited no later than September 30, following each fiscal year-end. The County is currently the fiscal agent for the JRJDC and is responsible for preparing the separate financial statements. In addition, the Auditor shall audit any component units identified during the audit as part of the audit of the County’s financial statements, unless the audit contract indicates that other auditors will audit a component unit.

G. The examinations noted above shall be sufficient to render opinions:

1. On the financial statements (including the government-wide, governmental funds, proprietary funds, fiduciary funds and component unit statements) of the County, as required for the County's Comprehensive Annual Financial Report;

2. On the financial statements of the Water and Sewer Revenue Fund;

3. On any and all reports required by State law and Federal Audit Standards applicable to Virginia local governments;

4. On all reports required by the Auditor of Public Accounts of the Commonwealth of Virginia, including all VRS attestation reports required under section 3-7 of the Auditor of Public Account’s *Specifications for Audits of Counties, Cities, and Towns*;

1. On audit work and opinions on the Sheriff's Office Canteen Fund and Inmate

Fund;

1. On certain Agreed Upon Procedures for the Sheriff’s system of internal controls and records. The 2014 APA audit specifications require that auditors apply the Statements on Auditing Standard No. 109 *Understanding the Entity and Its Environment and Assessing the Risks of material Misstatement* and Auditing Standard No. 110 *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained* to the Sheriff’s Office.
2. On the financial statements of the James River Juvenile Detention Commission;
3. On certain Agreed Upon Procedures for the Solid Waste Landfill, which were agreed to by the Environmental Protection Agency, Department of Environmental Quality, Commonwealth of Virginia and the County, solely to assist the specific parties in evaluating management’s assertion about the County’s compliance with the financial test per the Code of Federal Regulations (CFR) Title 40, Part 264, Section 143 (40 CFR 264.143).

H. The reports of the Auditor will be published in and with the County's Comprehensive Annual Financial Report; the Department of Public Utilities' published Water and Sewer Revenue Fund Annual Report; the County’s website; and, any official statements published for bond issuance purposes. The Auditor will be provided the opportunity (without additional cost to the County) to review all documents that include an audit opinion prior to publication.

I. The Auditor will develop management letter comments and recommendations during the course of their examination, and the reports shall be made to the Audit Committee and The Honorable Members of the Board of Supervisors of the County of Henrico, Virginia. The Auditor shall submit draft copies of the reports and management letter comments to the Director of Finance for review and comment.

J. The Auditor shall provide 30 copies of all reports, which shall be bound. One additional copy shall be unbound and will be used by the County as a "camera ready" copy for the published report and four additional copies shall be unbound for the Audit Committee. The reports shall be made to the Honorable Members of the Henrico County Board of Supervisors.

K. The Auditor should indicate what additional services the firm would be willing to provide to the County, outside of the normal scope of the audit engagement, without any additional fees being incurred.

1. The selected Auditor shall schedule conferences between the Auditor and the County's Audit Committee before the preliminary work and at the end of the audit. The purpose of these meetings is to keep the County fully informed on the scope and progress of the audit. In addition, the Auditor shall make an immediate, written report to the County's Audit Committee of all changes in key Auditor personnel assigned to the County's audit and any irregularities and illegal acts, or indications of illegal acts, of which they become aware. All of these activities will be coordinated with the County's Director of Internal Audit.
2. The Auditor shall sign the Business Associate Agreement related to the Federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”). This agreement is attached as **ATTACHMENT E**.
3. Submission of Reports and Transmittal Forms

The County will send its CAFR to the Government Finance Officers Association of the United States for review in its certificate of achievement program and to appropriate State and Federal agencies. The Auditor shall be responsible for submitting copies of the CAFR and the Comparative Report Transmittal Forms to the Auditor of Public Accounts on or before November 30. The County shall be responsible for submitting copies of the CAFR to the appropriate State and Federal agencies.

1. The Auditor shall present a detailed report no later than December 31 at a public meeting to the County Board of Supervisors as required by Section 15.2-2511 of the Code of Virginia.

**IV. COUNTY RESPONSIBILITIES:**

The County will designate an individual to act as the County’s representative with respect to the work to be performed under this contract. Such individual shall have the authority to transmit instructions, receive information, and interpret and define the County’s policies and decisions with respect to the contract.

The County will consider providing the Auditor with internal audit assistance. The areas in which the internal auditors will assist will be agreed upon by the Auditor, the County's Director of Internal Audit, and the Director of School Internal Audit.

The County, through the Accounting Division of the Department of Finance, will provide various bank reconciliations, confirmation, and lead schedules of accounting data needed by the Auditor, provided sufficient advance notice and preparation time are given.

**V. ANTICIPATED SCHEDULE:**

The following represents a tentative outline of the process currently anticipated by the County:

* Request for Proposals distributed January 28, 2015
* Advertised in newspaper February 1, 2015
* Receive written proposals 3:00, p.m., February 20, 2015
* Conduct oral interviews with Offerors March 3, 2015 (1:00 – 4:30)
* Negotiations completed March 2015
* Award by Board of Supervisors March 24, 2015

**VI. GENERAL CONTRACT TERMS AND CONDITIONS:**

1. **Annual Appropriations**

It is understood and agreed that the contract resulting from this procurement (“Contract”) shall be subject to annual appropriations by the County of Henrico, Board of Supervisors. Should the Board fail to appropriate funds for this Contract, the Contract shall be terminated when existing funds are exhausted. The successful offeror (“Successful Offeror” or “contractor”) shall not be entitled to seek redress from the County or its elected officials, officers, agents, employees, or volunteers should the Board of Supervisors fail to make annual appropriations for the Contract.

**B. Award of the Contract**

1. The County reserves the right to reject any or all proposals and to waive any informalities.

2. The Successful Offeror shall, within fifteen (15) calendar days after Contract documents are presented for signature, execute and deliver to the Purchasing office the Contract documents and any other forms or bonds required by the RFP.

1. The Contract resulting from this RFP is not assignable.
2. Notice of award or intent to award may also appear on the Purchasing Office website: [http://www.henrico.us/purchasing/](http://www.co.henrico.va.us/purchasing/)

**C. Collusion**

By submitting a proposal in response to this Request for Proposal, the Offeror represents that in the preparation and submission of this proposal, said Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, Offeror or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. § 1 et seq.) or Section 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

**D. Compensation**

The Successful Offeror shall submit a complete itemized invoice on each delivery or service that is performed under the Contract. Payment shall be rendered to the Successful Offeror for satisfactory compliance with the Contract within forty-five (45) days after receipt of a proper invoice.

**E. Controlling Law and Venue**

The Contract will be made, entered into, and shall be performed in the County of Henrico, Virginia, and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to its conflicts of law principles. Any dispute arising out of the Contract, its interpretations, or its performance shall be litigated only in the Henrico County General District Court or the Circuit Court of the County of Henrico, Virginia.

**F. Default**

1. If the Successful Offeror is wholly responsible for a failure to perform the Contract (including, but not limited to, failure to make delivery of goods, failure to complete implementation and installation, and/or if the goods and/or services fail in any way to perform as specified herein), the County may consider the Successful Offeror to be in default. In the event of default, the County will provide the Successful Offeror with written notice of default, and the Successful Offeror shall provide a plan to correct said default within 20 calendar days of the County’s notice of default.

2. If the Successful Offeror fails to cure said default within 20 days, the County, among other actions, may complete the Contract work through a third party, and the Successful Offeror shall be responsible for any amount in excess of the Contract price incurred by the County in completing the work to a capability equal to that specified in the Contract.

**G. Discussion of Exceptions to the RFP**

This RFP, including but not limited to its venue, termination, and payment schedule provisions, shall be incorporated by reference into the Contract documents as if its provisions were stated verbatim therein. **Therefore, Offerors shall explicitly identify any exception to any provisions of the RFP in a separate “Exceptions to RFP” section of the proposal so that such exceptions may be resolved before execution of the Contract.** In case of any conflict between the RFP and any other Contract documents, the RFP shall control unless the Contract documents explicitly provide otherwise.

**H. Drug-Free Workplace to be Maintained by the Contractor** (Va. Code § 2.2-4312)

1. 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.

2. 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 in accordance with the Virginia Public Procurement Act, 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.

**I. Employment Discrimination by Contractor Prohibited**

1. During the performance of this Contract, the contractor agrees as follows (Va. Code § 2.2-4311):

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

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

2. The contractor will include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

**J. Employment of Unauthorized Aliens Prohibited**

Any contract that results from this Request for Proposal shall include the following language: "As required by Virginia Code §2.2-4311.1, the contactor does not, and shall not during the performance of this agreement, in the Commonwealth of Virginia knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986."

**K. Indemnification**

The Successful Offeror agrees to indemnify, defend and hold harmless the County of Henrico (including Henrico Public County Schools), the County’s officers, agents and employees, from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys’ fees, arising from or caused by the provision of any services, the failure to provide any services or the use of any services or materials furnished (or made available) by the Successful Offeror, provided that such liability is not attributable to the County’s sole negligence.

**L. Insurance Requirements**

The Successful Offeror shall maintain insurance to protect itself and Henrico and Henrico’s elected officials, officers, agents, volunteers and employees from claims under the Workers' Compensation Act, and from any other claim for damages for personal injury, including death, and for damages to property which may arise from the provision of goods and/or services under the Contract, whether such goods and/or services are provided by the Successful Offeror or by any subcontractor or anyone directly employed by either of them. Such insurance shall conform to the Insurance Specifications. **(Attachment A)**

**M.** **No Discrimination against Faith-Based Organizations**

The County does not discriminate against faith-based organizations as that term is defined in Va. Code § 2.2-4343.1.

**N. Offeror's Performance**

1. The Successful Offeror agrees and covenants that its agents and employees shall comply with all County, State and Federal laws, rules and regulations applicable to the business to be conducted under the Contract.

2. The Successful Offeror shall ensure that its employees shall observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.

3. The Successful Offeror shall cooperate with Henrico officials in performing the Contract work so that interference with normal operations will be held to a minimum.

4. The Successful Offeror shall be an independent contractor and shall not be an employee of the County.

**O. Ownership of Deliverable and Related Products**

1. The County shall have all rights, title, and interest in or to all specified or unspecified interim and final products, work plans, project reports and/or presentations, data, documentation, computer programs and/or applications, and documentation developed or generated during the completion of this project, including, without limitation, unlimited rights to use, duplicate, modify, or disclose any part thereof, in any manner and for any purpose, and the right to permit or prohibit any other person, including the Successful Offeror, from doing so. To the extent that the Successful Offeror may be deemed at any time to have any of the foregoing rights, the Successful Offeror agrees to irrevocably assign and does hereby irrevocably assign such rights to the County.

2. The Successful Offeror is expressly prohibited from receiving additional payments or profit from the items referred to in this paragraph, other than that which is provided for in the general terms and conditions of the Contract.

3. This shall not preclude Offerors from submitting proposals, which may include innovative ownership approaches, in the best interest of the County.

**P. Record Retention and Audits**

1. The Successful Offeror shall retain, during the performance of the Contract and for a period of five years from the completion of the Contract, all records pertaining to the Successful Offeror’s proposal and any Contract awarded pursuant to this Request for Proposal. Such records shall include but not be limited to all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices, including the Successful Offeror’s copies of periodic estimates for partial payment; ledgers, cancelled checks; deposit slips; bank statements; journals; Contract amendments and change orders; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Such records shall be available to the County on demand and without advance notice during the Successful Offeror’s normal working hours.

2. County personnel may perform in-progress and post-audits of the Successful Offeror’s records as a result of a Contract awarded pursuant to this Request for Proposals. Files would be available on demand and without notice during normal working hours.

**Q. Severability**

Each paragraph and provision of the Contract is severable from the entire agreement and if any provision is declared invalid the remaining provisions shall nevertheless remain in effect.

**R. Small, Women-Owned and Minority-Owned (SWAM) Businesses**

The County welcomes and encourages the participation of small businesses and businesses owned by women and minorities in procurement transactions made by the County. The County actively solicits both small business, women-owned and minority (SWAM) businesses to respond to all Invitations for Bids and Requests for Proposals.

All solicitations are posted on the County’s Internet site

[http://www.henrico.us/purchasing/](http://www.co.henrico.va.us/purchasing/)

**S. Subcontracts**

1. No portion of the work shall be subcontracted without prior written consent of the County.  In the event that the Successful Offeror desires to subcontract some part of the work specified in the Contract, the Successful Offeror shall furnish the County the names, qualifications, and experience of the proposed subcontractors.  The Successful Offeror shall, however, remain fully liable and responsible for the work to be done by his/her subcontractor(s) and shall assure compliance with all the requirements of the Contract.

2.   The County encourages the contractor to utilize small, women-owned, and minority-owned business enterprises.  For assistance in finding subcontractors, contact the Supplier Relations Manager (804-501-5689) or the Virginia Department of Small Business & Supplier Diversity (SBSD)  [www.sbsd.virginia.gov](http://www.sbsd.virginia.gov).

**T. Taxes**

1. The Successful Offeror shall pay all county, city, state and federal taxes required by law and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the Contract price between Henrico and the Successful Offeror, as the taxes shall be solely an obligation of the Successful Offeror and not of Henrico, and Henrico shall be held harmless for same by the Successful Offeror.

2. Henrico is exempt from the payment of federal excise taxes and the payment of State Sales and Use Tax on all tangible, personal property for its use or consumption. Tax exemption certificates will be furnished upon request.

**U. Termination of Contract**

1. The County reserves the right to terminate the Contract immediately in the event that the Successful Offeror discontinues or abandons operations; is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

2. Failure of the Successful Offeror to comply with any section or part of the Contract will be considered grounds for immediate termination of the Contract by the County.

3. Notwithstanding anything to the contrary contained in the Contract between the County and the Successful Offeror, the County may, without prejudice to any other rights it may have, terminate the Contract for convenience and without cause, by giving 30 days’ written notice to the Successful Offeror.

1. If the County terminates the Contract, the Successful Offeror will be paid by the County for all scheduled work completed satisfactorily by the Successful Offeror up to the termination date.

**V.** **County License Requirement**

If a business is located in Henrico County, it is unlawful to conduct or engage in that business without obtaining a business license. If your business is located in the County, include a copy of your current business license with your proposal submission. If your business is not located in the County, include a copy of your current business license with your proposal submission. If you have any questions, contact the Business Section, Department of Finance, County of Henrico, telephone (804) 501-4310.

1. **Environmental Management**

The Successful Offeror shall comply with all applicable federal, state, and local environmental regulations.  The Successful Offeror is required to abide by the County’s Environmental Policy Statement:

[http://www.henrico.us/pdfs/hr/risk/env\_policy.pdf](http://www.co.henrico.va.us/pdfs/hr/risk/env_policy.pdf) which emphasizes environmental compliance, pollution prevention, continual improvement, and conservation.  The Successful Offeror shall be properly trained and have any necessary certifications to carry out environmental responsibilities. The Successful Offeror shall immediately communicate any environmental concerns or incidents to the appropriate County staff.

**X. Safety**

1. The Successful Offeror shall comply with and ensure that the Successful Offeror’s personnel comply with all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health Administration for the industry. The provisions of all rules and regulations governing safety as adopted by the Safety and Health Codes Board of the Commonwealth of Virginia and issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia shall apply to all work under the Contract. The Successful Offeror shall provide or cause to be provided all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the work specified and performed by the Successful Offeror.

2. Each job site shall have a supervisor who is competent, qualified, or authorized on the worksite, who is familiar with policies, regulations and standards applicable to the work being performed. The supervisor must be capable of identifying existing and predictable hazards in the surroundings or working conditions which are hazardous or dangerous to employees or the public, and is capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Successful Offeror’s personnel from the work site.

3. In the event the County determines any operations of the Successful Offeror to be hazardous, the Successful Offeror shall immediately discontinue such operations upon receipt of either written or oral notice by the County to discontinue such practice.

**Y. Authorization to Transact Business in the Commonwealth**

1. 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 or other business form 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.

2. An Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia must include in its proposal the identification number issued to it by the State Corporation Commission. (Attachment D) Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its proposal a statement describing why the Offeror is not required to be so authorized.

3. An Offeror described in subsection 2 that fails to provide the required information shall not receive an award unless a waiver is granted by the Purchasing Director, his designee, or the County Manager.

4. Any falsification or misrepresentation contained in the statement submitted by the Offeror pursuant to Title 13.1 or Title 50 of the Code of Virginia may be cause for debarment.

5. Any business entity described in subsection 1 that enters into a contract with a public body shall not allow its existence to lapse or allow its certificate of authority or registration to transact business in the Commonwealth if so required by Title 13.1 or Title 50 of the Code of Virginia to be revoked or cancelled at any time during the term of the contract.

**Z. Payment Clauses Required by Va. Code § 2.2-4354**

Pursuant to Virginia Code § 2.2-4354:

1. The Successful Offeror shall take one of the two following actions within seven days after receipt of amounts paid to the Successful Offeror by the County for all or portions of the goods and/or services provided by a subcontractor: (a) pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under that contract; or (b) notify the County and subcontractor, in writing, of the Successful Offeror’s intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. Pursuant to Virginia Code § 2.2-4354, the Successful Offeror that is a proprietor, partnership, or corporation shall provide its federal employer identification number to the County. Pursuant to Virginia Code § 2.2-4354, the Successful Offeror who is an individual contractor shall provide his/her social security numbers to the County.
3. The Successful Offeror shall pay interest to its subcontractors on all amounts owed by the Successful Offeror that remain unpaid after seven days following receipt by the Successful Offeror of payment from the County for all or portions of goods and/or services performed by the subcontractors, except for amounts withheld as allowed in Subparagraph 1. above.
4. Pursuant to Virginia Code § 2.2-4354, unless otherwise provided under the terms of the Contract interest shall accrue at the rate of one percent per month.
5. The Successful Offeror shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
6. The Successful Offeror's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in Virginia Code § 2.2-4354 shall not be construed to be an obligation of the County. A Contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

**AA. Contract Period:**

1. The Contract period shall be from the date of award through March 31, 2018, to separately audit the three fiscal years ending June 30, 2015, 2016, and 2017. Any increase in fees for each of these years shall not exceed 3% or the Consumer Price Index for all Urban Consumers (CPI-U) average for the most recent 12 months available at the end of each fiscal year, whichever is the lesser.

2. The County, at its option, may extend the Contract for two additional one-year terms upon 30 days’ notice prior to the expiration date of the Contract. If the Contract is extended, then the fee shall be negotiated and mutually agreed upon prior to the expiration date of the Contract. Any increase in fees for the extended one-year terms shall not exceed 3% or the Consumer Price Index for all Urban Consumers (CPI-U) average for the most recent 12 months available at the time of contract extension negotiations, whichever is the lesser.

**VII. PROPOSAL SUBMISSION REQUIREMENTS**:

1. The Purchasing Division will not accept oral proposals, nor proposals received by telephone, FAX machine, or other electronic means.
2. All erasures, interpolations, and other changes in the proposal shallbe signed or initialed by the Offeror.
3. The Proposal Signature Sheet **(*Attachment B***) must accompany any proposal(s) submitted and be signed by an authorized representative of the Offeror. If the Offeror is a firm or corporation, the Offeror must print the name and title of the individual executing the proposal. All information requested should be submitted. Failure to submit all information requested may result in the Purchasing Division requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal.
4. The proposal, the proposal security, if any, and any other documents required, shall be enclosed in a sealed opaque envelope. The envelope containing the proposal shall be sealed and marked in the lower left-hand corner with the number, title, hour, and due date of the proposal.
   1. The time proposals are received shall be determined by the time clock stamp in the Purchasing Division. Offerors are responsible for insuring that their proposals are stamped by Purchasing Division personnel by the deadline indicated.
   2. By submitting a proposal in response to this Request for Proposal, the Offeror represents it has read and understand the Scope of Services and has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations that in any manner may affect the cost, progress, or performance of the Contract work.
   3. The failure or omission of any Offeror to receive or examine any form, instrument, addendum, or other documents or to acquaint itself with conditions existing at the site, shall in no way relieve any Offeror from any obligations with respect to its proposal or to the Contract.
   4. **Trade secrets or proprietary information submitted by an Offeror in response to this Request for Proposal shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary (Va. Code § 2.2-4342(F)). (Attachment C)**
   5. A proposal may be modified or withdrawn by the Offeror any time prior to the time and date set for the receipt of proposals. The Offeror shall notify the Purchasing Division in writing of its intentions.
5. If a change in the proposal is requested, the modification must be so worded by the Offeror as to not reveal the original amount of the proposal.
6. Modified and withdrawn proposals may be resubmitted to the Purchasing Division up to the time and date set for the receipt of proposals.
7. No proposal can be withdrawn after the time set for the receipt of proposals and for one-hundred twenty (120) days thereafter.
8. The County welcomes comments regarding how the proposal documents, scope of services, or drawings may be improved.  Offerors requesting clarification, interpretation of, or improvements to the proposal general terms, conditions, scope of services or drawings **shall submit technical questions concerning the Request for Proposal no later than February 6, 2015 in writing**.  Any changes to the proposal shall be in the form of a written addendum issued by the Purchasing Division and it shall be signed by the Purchasing Director or a duly authorized representative.  **Each Offeror is responsible for determining that it has received all addenda issued by the Purchasing Division before submitting a proposal.**
9. All proposals received in the Purchasing Division on time shall be accepted. All late proposals received by the Purchasing Division shall be returned to the Offeror unopened. Proposals shall be open to public inspection only after award of the Contract.

**VIII. PROPOSAL RESPONSE FORMAT**:

1. Offerors shall submit a written proposal that present the Offeror’s qualifications and understanding of the work to be performed. Offerors are asked to address each evaluation criterion and to be specific in presenting their qualifications. Your proposal should provide all the information considered pertinent to your qualifications for this project.
2. The Offeror should include in their proposal the following:

1. Table of Contents – All pages are to be numbered

2. Introduction

Cover letter - on company letterhead, signed by a person with the corporate authority to enter into contracts in the amount of the proposal

Proposal Signature Sheet – **Attachment B**

Proprietary/Confidential Information – **Attachment C**

Virginia State Corporation Commission Identification Number Requirement – **Attachment D**

Federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) **– Attachment E**

3. Executive Summary

a. The qualification and experience of the Auditor in auditing governmental entities similar in size to the County and in assisting such entities in obtaining a "Certificate of Achievement for Excellence in Financial Reporting”. The Auditor shall provide names, addresses and telephone numbers of persons who may be contacted for reference. In addition furnish a copy of the report on the firm's most recent peer review.

b. Resumes of the personnel who will be assigned to the audit. These resumes should include a description of the individuals' professional qualifications and experience in auditing local governmental entities similar in size to the County. If the individuals have no experience in auditinglocal governmental entities of similar size, the resume should clearly so state.

Include in each resume whether or not the individual is committed to participate in other local government audit engagements. If so, state the maximum hours they will be involved with each of these other engagements. In addition, please state whether or not the chief financial officer of each of these entities has been informed that these individuals might serve on the County's engagement and whether or not each of these chief financial officers believes serving on the County's audit may be a conflict of interest. The resumes should be included as an exhibit to the proposal.

c. The name, position and telephone number of the contact person or persons authorized to conduct negotiations and discuss this proposal.

4. A projected schedule for performing key phases of the audit, including estimated time frames. Please note that the County requires those portions of the Comprehensive Annual Financial Report that are developed by the Auditor to be delivered by October 30 of each year, and all other reports to be delivered in a manner that permits their timely submission to the Commonwealth of Virginia and the Federal Government.

5. The Auditor shall show evidence that:

a. The firm is independent of the County of Henrico as that term is defined in the Ethical Rules of the American Institute of Certified Public Accountants and the Government Auditing Standards.

b. The firm and the partner assigned to the engagement are licensed to perform the audit as provided by applicable laws of the Commonwealth of Virginia.

c. The firm has met the peer review standards of the American Institute of Certified Public Accountants and *Government Auditing Standards*.

d. The firm will provide adequate supervision on a day-to-day basis.

e. Staff assigned to the audit has met the continuing education requirements required by *Government Auditing Standards* issued by the Comptroller General of the United States.

f. The firm is not subject to any suspension or debarment from performing government audits or from other government activity or the object of any disciplinary action during the past three years.

6. Each Auditor submitting a proposal shall include a statement that they will provide all audit services necessary as outlined in this RFP.

7. The Auditor selected shall have demonstrated an ability to complete projects within specified completion dates and on budget.

8. The Auditor shall include a discussion of its current workload with particular reference to personnel and other resources being proposed along with staff continuity during the contract period.

**IX. PROPOSAL EVALUATION/SELECTION PROCESS**:

A. Offerors are to make written proposals, which present the Offeror's qualifications and understanding of the work to be performed. Offerors are asked to address each evaluation criteria and to be specific in presenting their qualifications. Proposals should be as thorough and detailed as possible so that the County may properly evaluate your capabilities to provide the required goods/services.

* 1. Selection of the Successful Offeror will be based upon submission of proposals meeting the selection criteria. The minimum selection criteria will include:

|  |
| --- |
| EVALUATION CRITERIA |
| EVALUATION CRITERIA |  |
| Functional Requirements   * Extent to which the proposed solutions satisfies the RFP functional requirements * Compliance with the RFP’s technical requirements * Reporting Capability/sample reports * Demonstrated understanding of the services to be performed | 40 |
| Implementation Services   * Project Approach * Project Plan and Schedule * Project Management * Project Team * Training/Staff Development * Current Workload and ability to complete required work within County schedule | 25 |
| Experience and Qualifications   * Relevant experience, technical capabilities, professional competence, and qualifications of the proposed personnel assigned to provide the services in accordance with the Scope of Services. * Relevant experience, technical capabilities, professional competence, and qualifications of the Successful Offeror in audit governmental units similar to the County. * Financial Stability of Firm * References * Resumes of proposed staff * Team organization and amount of experience as a team | 30 |
| Quality of proposal submission/oral presentation | 5 |
| TOTAL | 100 |

1. The County will engage in individual discussions with two or more Offerors deems fully qualified, responsible and suitable on the basis of the proposals.  At the conclusion of discussion, on the basis of evaluation factors published in this Request for Proposal and all information developed in the selection process, the County will select in the order of preference two or more Offerors whose professional qualifications and proposed services are deemed most meritorious.  Negotiations shall then be conducted, beginning with the Offeror ranked first.  If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first will be formally terminated and negotiations conducted with the Offeror ranked second, and so on until a contract can be negotiated at a fair and reasonable price.

**ATTACHMENT A**

**INSURANCE SPECIFICATIONS**

The Successful Offeror shall carry Public Liability Insurance in the amount specified below, including contractual liability assumed by the Successful Offeror, and shall deliver a Certificate of Insurance from carriers licensed to do business in the Commonwealth of Virginia. The Certificate shall show the County of Henrico and Henrico County Public Schools named as an additional insured for the Commercial General Liability coverage. The coverage shall be provided by a carrier(s) rated not less than “A-“ with a financial rating of at least VII by A.M. Bests or a rating acceptable to the County. In addition, the insurer shall agree to give the County 30 days’ notice of its decision to cancel coverage.

1. Workers’ Compensation

Statutory Virginia Limits

Employers’ Liability Insurance - $100,000 for each Accident by employee

$100,000 for each Disease by employee

$500,000 policy limit by Disease and/or Accident

1. Commercial General Liability

Combined Single Limit - $1,000,000 each occurrence including contractual liability for specified agreement

$2,000,000 General Aggregate (other than Products/Completed operations)

$2,000,000 General Liability-Products/Completed Operations

$1,000,000 Personal and Advertising Injury

$ 100,000 Fire Damage Legal Liability

1. Business Automobile Liability including owned, non-owned and hired car coverage

Combined Single Limit - $1,000,000 each accident

4. Excess/Umbrella Liability - $1,000,000 per occurrence

5. Professional Liability

$5,000,000 each occurrence/aggregate

NOTE 1: The commercial general liability insurance shall include contractual liability.  The contract documents include an indemnification provision(s).  The County makes no representation or warranty as to how the Offeror’s insurance coverage responds or does not respond.  Insurance coverages that are unresponsive to the indemnification provision(s) do not limit the Offeror’s responsibilities outlined in the contract documents.

NOTE 2: The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. The total insurance protection provided for Commercial General Liability must total $2,000,000 per occurrence. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded the County of Henrico and Henrico County Public Schools. This policy shall be endorsed to be primary with respect to the additional insured.

**Attachment B**

**SUBMIT THIS FORM WITH PROPOSAL**

**PROPOSAL SIGNATURE SHEET**

**Page 1 of 2**

My signature certifies that the proposal as submitted complies with all requirements specified in this Request for Proposal (“RFP”).

My signature also certifies that by submitting a proposal in response to this RFP, the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

|  |
| --- |
| LEGAL NAME OF OFFEROR (DO NOT USE TRADE NAME): |
|  |
| ADDRESS: |
|  |
|  |
| SIGNATURE: |
| NAME OF PERSON SIGNING (print): |
| TITLE: |
| TELEPHONE: |
| FAX: |
| E-MAIL ADDRESS: |
| DATE: |

Attachment B

Page 2 of 2

**Legal Name of Offeror: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**PLEASE SPECIFY YOUR BUSINESS CATEGORY BY CHECKING THE APPROPRIATE BOX(ES) BELOW.**

**(Check all that apply.)**

**SUPPLIER REGISTRATION** – The County of Henrico encourages all suppliers interested in doing business with the County to register with eVA, the Commonwealth of Virginia’s electronic procurement portal, <http://eva.virginia.gov>.

eVA Registered? **□ Yes □ No**

**□ SMALL BUSINESS**

**□ WOMEN-OWNED BUSINESS**

**□ MINORITY-OWNED BUSINESS**

**□ SERVICE DISABLED VETERAN**

**□ LARGE**

**□ NONPROFIT**

**□ NONE OF THE ABOVE**

**If certified by the Virginia Minority Business Enterprises (DMBE), provide DMBE certification number and expiration date. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_NUMBER \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_DATE**

**definitions**

For the purpose of determining the appropriate business category, the following definitions apply:

***"Small business"*** means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of $10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

***"Women-owned business"*** means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

***"Minority-owned business"*** means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

**"Minority individual"** means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

***"Service disabled veteran business"*** means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

**"Service disabled veteran"** means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

***“Large business”*** means any **non**-women- or minority-owned, or service-disabled business as defined above or any business having more than 250 employees or more than $10 million in gross receipts averaged over the previous three years.

***Nonprofit”***means a corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

**ATTACHMENT C**

**PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION**

NAME OF FIRM/OFFEROR: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 Va. Code § 2.2-4342.F in writing, either before or at the time the data or other material is submitted.  The written notice must specifically identify the data or materials to be protected including the section of the proposal in which it is contained and the page numbers, and state the reasons why protection is necessary.  The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.  In addition, a summary of proprietary information submitted shall be submitted on this form.  The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable.  If, after being given reasonable time, the Offeror refuses to withdraw such a classification designation, the proposal will be rejected.

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| --- | --- | --- |
| SECTION/TITLE | PAGE NUMBER(S) | REASON(S) FOR WITHHOLDING FROM DISCLOSURE |
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**ATTACHMENT D**

**VIRGINIA STATE CORPORATION COMMISSION (SCC)**

**REGISTRATION INFORMATION**

**The Bidder or Offeror:**

□ is a corporation or other business entity with the following SCC identification number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **-OR-**

□ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

□ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Bidder/Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offeror’s out-of-state location) **-OR-**

□ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder’s/Offeror’s current contacts with Virginia and describes why whose contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1‑757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids/proposals: □

# ATTACHMENT E

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

**WHEREAS**, the County of Henrico (the “County”) and \_\_\_\_\_\_\_\_\_\_\_\_\_ (“Business Associate”) entered into a contract on \_\_\_\_\_\_\_ for the performance of \_\_\_\_\_\_\_\_\_\_\_(list services) (the “Contract”); and

**WHEREAS,** the County is a hybrid entity including covered health care components and internal business associates under the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the American Recovery and Reinvestment Act of 2009 (“ARRA”), Title XIII of ARRA, the Health Information Technology for Economic and Clinical Health Act (“HITECH”) Subtitle D; and

**WHEREAS,** HIPAA, HITECH, and the implementing regulations have established Privacy and Security Standards (the Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. §§ 160 and 164); and

**WHEREAS,** Business Associate is directly subject to HIPAA, Title XIII of ARRA, and amendments thereto, and HITECH Subtitle D, and all related rules and regulations in effect and any amendments thereto; and

**WHEREAS,** Business Associate may receive from the County and use and/or disclose records that include information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of heath care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual (Protected Health Information, “PHI”); and

**WHEREAS,** the Privacy and Security Standards require a Business Associate Agreement to ensure that PHI is adequately safeguarded as part of the Contract provisions.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements contained in this Business Associate Agreement (“BAA”) and in the Contract and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the County and Business Associate agree as follows:

**I. DEFINITIONS**

The following terms used in this BAA have the same meaning as those terms in the Privacy and Security Standards: Breach, Business Associate, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Subcontractor, and Use.

**II. OBLIGATIONS OF THE BUSINESS ASSOCIATE**

1. Permitted Uses and Disclosure of PHI. Business Associate’s activities for and/or on behalf of the County may involve the use and/or disclosure of PHI. Business Associate will use and/or disclose PHI only to the extent necessary to perform its duties and obligations to the County or as otherwise required by law. Business Associate may permit the use of PHI by third parties, including its employees, contractors, agents, or other representatives, only to the extent directly related to and necessary for the performance of its duties and obligations to the County as required by the Contract or as otherwise permitted by law. Business Associate and its agents or subcontractors will only request, use and disclose the minimum PHI necessary to perform its duties and obligations in accordance with HIPAA, the HIPAA Regulations, and HITECH.

2. Safeguards Against Misuse of Information.

1. Business Associate will use appropriate and reasonable safeguards to maintain the security of and prevent the improper use or disclosure of PHI.
2. Business Associate will comply with 45 C.F.R. §§ 160.302 *et seq.* in utilizing administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI, as that term is defined in 45 C.F.R. § 160.103, that it creates, receives, maintains or transmits on behalf of the County.
3. Business Associate will train employees in information security, designating a security officer, conducting an information risk analysis, and developing a risk management remediation plan.
4. Business Associate will abide by the prohibitions under the ARRA regarding the sale and marketing of PHI.
5. Business Associate will comply with any other conditions that the Secretary of the Department Health and Human Services requires with respect to electronic PHI.

3. Reporting Breaches and Other Security Incidents and Mitigation of Effect.

1. Business Associate will promptly report to the County: (1) any use or disclosure of PHI not authorized by the Contract of which it becomes aware; and (2) any “security incident,” as defined by 45 C.F.R. § 164.304, of which it becomes aware. Business Associate will take reasonable steps to cure any such security incident and implement procedures for mitigating the harmful effects from any such security compromise. Business Associate will report the measures it took to mitigate any security compromise that may have occurred and shall report any data loss or other information system compromise as a result of the incident.
2. In the event of a breach of unsecured PHI as defined in 45 C.F.R. § 164.410, Business Associate will comply with the breach notification requirements of 45 C.F.R. § 164.410 and notify the County without reasonable delay, and no later than two (2) business days of when Business Associate becomes aware of a breach. Notification of security incidents will include the identity of each individual whose unsecured PHI has been or is reasonably believed to have been accessed, acquired, or disclosed inappropriately during such breach. Notifications will contain any other such information as Business Associate reasonably believes is required for the County to further investigate. Business Associate will also provide such assistance and further information as reasonably requested by the County in meeting its responsibility to notify all individuals affected, as detailed in 45 C.F.R. § 164.404.

4. Use and Disclosure of PHI by Subcontractors and Agents.

1. Business Associate will require any subcontractor or agent that is authorized to review, use or disclose PHI obtained by Business Associate from the County, to agree in writing to adhere to the same restrictions, conditions, and requirements regarding the use and disclosure of PHI and safeguarding of PHI that apply to Business Associate.
2. Business Associate will ensure that any subcontractor or agent to whom it provides electronic PHI that was created, received, maintained or transmitted on behalf of the County agrees in writing to implement reasonable and appropriate safeguards to protect the confidentiality, security, and integrity of the electronic PHI.

5. Access to Information. Throughout the term of this BAA, Business Associate will make available to the County all PHI provided to Business Associate by the County for so long as such information is maintained. Upon written request from the County, Business Associate will make an individual’s PHI available to the County within fifteen (15) days of an individual’s request for such information as notified by the County. In the event that the requesting individual’s PHI is neither maintained nor accessible on site by the County or the Business Associate, the extended timeframe set forth in 45 C.F.R. § 164.504(3)(2)(iii)(C) will be available for Business Associate to respond to the County’s request. In the event any individual requests access to County-provided PHI directly from Business Associate, Business Associate shall forward such request to the County. Any denials of access to PHI requested shall be the responsibility of the County. Business Associate shall further conform with and meet all the requirements of 45 C.F.R. § 164.524.

6. Availability of PHI for Amendment. Upon receipt of a request from the County to update PHI for an individual, Business Associate will incorporate any such amendment into its records within thirty (30) days of the request or as may be required by 45 C.F.R. § 164.526. If Business Associate receives a request from an individual for an amendment to County-provided PHI, Business Associate shall forward such request directly to the County. Any review and consideration of a requested amendment shall be the responsibility of the County.

7. Accounting of Disclosures. Upon request from the County, Business Associate will make available to the County such information as is in Business Associate’s possession and is required for the County to make an accounting as required by 45 C.F.R. § 164.528. In the event the request for an accounting is delivered directly to Business Associate, Business Associate will forward such request to the County as soon as practicable. It shall be the County’s responsibility to prepare and deliver any such accounting requested. Business Associate will maintain an appropriate record keeping process to enable it to comply with the requirements of this Section.

8. Use and Disclosures for Business Associate’s Purposes.

1. Business Associate will only use or disclose PHI to the minimum necessary to carry out its duties and obligations under the Contract or as required by law. Business Associate may not use or disclose PHI in a manner that would violate 45 C.F.R. § 164.500 *et seq.*
2. Business Associate may disclosure PHI for its own proper management and administration or to carry out its legal responsibilities, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and be sued or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.
   1. Availability of Books and Records. Business Associate will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of the County available to the County and the Secretary of the Department of Health and Human Services for purposes of monitoring compliance with the Privacy and Security Standards.
   2. Indemnification. Business Associate will indemnity and defend the County, its agents, representatives, and employees from any claims, demands, losses, or liabilities including attorney’s fees arising out of or related to Business Associate’s breach or alleged breach of the terms of this BAA by Business Associate or any agent or subcontractor of Business Associate.
   3. Compliance with Requirements. To the extent the Business Associate is to carry out one or more of the obligations of the County under 45 C.F.R. § 164.500 *et seq.*, Business Associate will comply with the requirements that apply to the County in the performance of such obligations.

**III. OBLIGATIONS OF THE COUNTY**

1. Notice of Privacy Practices. The County will notify Business Associate of any limitation in its Notice of Privacy Practices, which the County, or any of its departments, provides or makes available to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.

2. Restrictions on Disclosures. If applicable to Business Associate, the County will notify Business Associate as soon as practicable of any request for restrictions by an individual of the use or disclosure of the individual’s PHI that the County has agreed to accept. The County will also notify Business Associate, if applicable, of any changes in, withdrawal, or revocation of any authorization or other permissions(s) granted the County by an individual for the use and disclosure of the individual’s PHI.

3. Impermissible Requests. The County will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Standards if done by the County. Nothing in this section shall preclude Business Associate from using or disclosing PHI for its management and administrative activities as provided in Section II.8 above.

**IV. MISCELLANEOUS**

1. Term. This BAA will remain in effect for the term of the Contract between the County and the Business Associate, including any extensions or renewals thereof.

2. Termination for Cause. Upon the County’s knowledge of a material breach by Business Associate, the County will provide Business Associate an opportunity to cure the breach or end the violation. The County may terminate the Contract: (a) immediately if Business Associate has breached a material term and cure is not possible; or (b) upon Business Associate’s failure to cure the breach or end the violation within the time specified by the County.

3. Effect of Termination.

1. Except as provided in paragraph b of this section, upon termination of this BAA for any reason, Business Associate will return or destroy all PHI received from the County, or created or received by Business Associate on behalf of the County. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate will not retain copies, including electronic copies, of the PHI.
2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate will provide the County notification of the conditions that make return or destruction infeasible and extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

4. Amendments. This BAA, and any provision thereof, may be amended, modified or deleted by written agreement of the parties. The parties may amend this BAA from time to time as necessary for the County and Business Associate to comply with the Privacy or Security Standards and all other applicable laws or regulations.

5. Survival. The respective rights and obligations of Business Associate and the County survive termination of this BAA and any underlying Contract.

1. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with the Privacy and Security Standards. Any ambiguities in this BAA will be resolved in favor of a meaning that complies with the Privacy and Security Standards.
2. Governing Law and Venue. This BAA is governed by applicable federal laws and the laws of the Commonwealth of Virginia without regard to laws relating to choice of law or conflicts of law. Exclusive venue for any dispute arising hereunder will be resolved in the Circuit Court of the County of Henrico, Virginia.
3. Coordination of Documents. In the event of a conflict between a provision of this BAA and the Contract, the provisions of this BAA will control.
4. Notices. All notices, requests, demands and other communications required or permitted to be given or made under this BAA shall be in writing, shall be effective upon receipt, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; (c) overnight delivery services with proof of delivery; or (d) facsimile with return facsimile acknowledging receipt. Notices will be sent to the address below:

To Covered Entity: Jane D. Crawley, Deputy County Manager and Privacy Officer

County of Henrico

4301 E. Parham Road

P.O. Box 90775

Henrico, Virginia 23273-0775

Facsimile: (804) 501-4162

To Business Associate: Insert info

**IN WITNESS WHEREOF**, the parties hereto have signed this Business Associate Agreement.

Name of Company County of Henrico

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_