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QUESTIONS AND RESPONSES # 4
PROJECT NO. F10B6400005R
Department of Budget & Management
Pharmacy Benefit Management Services and Pharmacy Benefits
Purchasing Pool Management
May 24, 2016

Ladies/Gentlemen:

This List of Questions and Responses #4, questions #69 through #72, is being issued to clarify certain information contained in the above named RFP.

In most instances the Department's response to the submitted questions merely serves to clarify the existing requirements of the RFP. Sometimes, however, in submitting questions potential Offerors may make statements or express interpretations of contract requirements that may be inconsistent with the Department's intent. To the extent that the Department recognizes such an incorrect interpretation, the provided answer will note that the interpretation is erroneous and either state that the question is moot once the correct interpretation is explained or provide the answer based upon the correct interpretation.

No provided answer to a question may in and of itself change any requirement of the RFP. If it is determined that any portion of the RFP should be changed based upon a submitted question, the actual change may only be implemented via a formal amendment to the RFP. In this situation the answer provided will reference the amendment containing the RFP change.

Questions and Answers

69. In reference to ATTACHMENT A – CONTRACT, would the State consider changing the following language?

Section 2.1 Contract Language: The Contractor shall provide deliverables, programs, goods, and services specific to the Contract for pharmacy benefits management services and purchasing pool management awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Proposal (Technical and Financial)

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to:

Proposed Language: The Contractor shall provide deliverables, programs, goods, and services specific to the Contract for pharmacy benefits management services and purchasing pool management awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP (including the deviations submitted by Contractor in the Proposal)

Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Proposal (Technical and Financial)”

RESPONSE: The Department will not amend this language as requested. Offeror deviations to the RFP requirements deemed acceptable to the Department would be incorporated in the RFP via an amendment that formally changes the RFP for all Offerors. The RFP referenced in Exhibit A includes all of its associated amendments.

70. *In reference to ATTACHMENT A – CONTRACT, would the State consider changing the following language?*

Section 28 Contract Language: The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor’s obligations to its subcontractors.

to:

Proposed Language: The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor’s obligations to its subcontractors. In accordance with this Section 28, the State hereby provides written approval that Contractor uses the subcontractors set forth in Exhibit ___ for the provision of services.

RESPONSE: The requested change is unnecessary because the Contractor’s Proposal, which is to list in Tab L all the subcontractors the Contractor proposes to use in performance of the Contract, is incorporated into the Contract as stated in provision 2.1 of the State Contract, Attachment A. Subcontractors incorporated into the Contract via a Contractor’s Proposal are deemed accepted by the State. Before that point, any deficient or unacceptable aspects of an Offeror’s proposal, including proposed use of subcontractors, would be resolved during the evaluation process.

71. *In reference to ATTACHMENT A – CONTRACT, would the State consider changing the following language?*

Section 29 Contract Language: For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows...

to:

Proposed Language: For Contractor's breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows...

RESPONSE: The Department will not amend the language as requested.

72. *In order to ensure that all items are reviewed and incorporated effectively and efficiently, would the Department consider extending the proposal due date for an additional 10 days or, if this amount of time exceeds your planned timeline, any amount of additional time that you are able to provide?*

RESPONSE: The Department has extended the Proposal Due Date. Please see Amendment 5, Item 1.