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Governor

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QUESTIONS AND ANSWERS # 4
PROJECT NO. F10B3400001
Group Term Life and Accidental Death and Dismemberment Insurances
August 20, 2012

Ladies/Gentlemen:

This List of Questions and Answers #4, questions #72 through # 73 is being issued to clarify certain information contained in the above named RFP. The statements and interpretations of Contract requirements which are stated in the following questions of potential Offerors, are not binding on the State, unless the State expressly amends the RFP. Nothing in the State's responses to these questions is to be construed as agreement to or acceptance by the State of any statement or interpretation on the part of the vendor asking the question as to what the contract does or does not require. However, if from a particular vendor question(s) it seems as if the vendor has misinterpreted RFP wording referenced in a question, the State's response typically will point out the misinterpretation as part of the answer to the question.

72) Question: What happens if an approved MBE vendor (MBE) from your list is unable to live up to their quotation after we become the group life carrier?

Answer:

A. The Prime contractor (Prime) can decide to pay the MBE more money. But the Prime cannot change its price(s) to the State if it does pay more to the MBE.

B. If the Prime chooses not to pay the MBE more money and the MBE refuses to abide by its quotation, the Prime should inform the MBE Liaison and the Procurement Officer of these circumstances. When informing the MBE Liaison and the Procurement Officer, the Prime should provide documentation of its communications with the MBE related to this issue, including how and when it was informed by the MBE of the request for more money, and why the MBE asserts it is unable to live up to its original quotation. In the notification to the MBE Liaison and the Procurement Officer the Prime should describe all efforts it took to work with the MBE to try to retain the services of the MBE.

If the MBE Liaison and the Procurement Officer are satisfied that the MBE has conclusively stated it will not perform for the originally agreed upon pricing the Prime will be permitted to substitute another MBE for the original MBE. The

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MBE substitution will then be formalized through a contract modification provided by the Procurement Officer and signed by the Prime and the Department.

73) **Question:** What happens if an approved MBE vendor is doing less than satisfactory work during the term of the contract?

Answer: If the Prime determines that the MBE is doing less than satisfactory work during the term of the contract despite making reasonable efforts to assist the MBE to achieve a satisfactory level of performance, the Prime should inform the Procurement Officer and MBE Liaison of this situation. When informing the MBE Liaison and Procurement officer the Prime should provide documentation that it had informed the MBE of the deficiency and the steps taken to work with the MBE to improve its performance. The Prime should also include any responses from the MBE either challenging the assertion that it was underperforming or acquiescing with the Prime's conclusion.

If the MBE Liaison and the Procurement Officer are satisfied that it is not reasonable to expect the MBE to improve and perform at a satisfactory level the Prime will be permitted to substitute another MBE for the original MBE. The MBE substitution will then be formalized through a contract modification provided by the Procurement Officer and signed by the Prime and the Department.

It should be noted that the threshold for the MBE Liaison and the Procurement Officer to agree that the MBE is not performing satisfactorily and is not likely to achieve a satisfactory level of performance within a reasonable period of time will be greater if the MBE disputes its non-satisfactory designation than if it accepts this designation.

Should you require clarification of the information provided, please contact me at (410) 260-7681 as soon as possible.

Date Issued: **August 20, 2012**

By: John Saunders
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Procurement Officer