Department of Public Safety and Correctional Services

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QUESTIONS AND RESPONSES #5
SOLICITATION NO. Q0016025
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
PHARMACY SERVICES
DECEMBER 28, 2017

Ladies/Gentlemen:

This list of Questions and Responses #247, question #258, is being issued to clarify certain information contained in the above 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

247. Clinical PharmD & Non-Formulary Approval - In Q&A 1, the response to question 22 indicates that the DPSCS recently terminated a limited pilot program where the Clinical PharmD had final authority over the use of non-formulary pharmaceuticals.
A.) What is the exact role (please detail) of the Clinical PharmD in the sophisticated non-formulary review process (referenced in question 22) if they are not the final authority over the use of non-formulary pharmaceuticals?

The 6 PharmD clinical pharmacists required as part of the procurement will add over $1 million in cost to the contract per year. Yet, based on statistics in the RFP, overall utilization of prescriptions per inmate appears to be twice what is typically seen for a department of corrections (DOC).
B.) What numeric indicator is currently used to assess the return on this significant investment?

C.) Will that indicator be used with a change of vendors?

D.) In other words, how is this significant cost quantified, as many DOCs operate at a very high level clinically without any PharmDs, yet Maryland is requiring 6 FTEs?

RESPONSE: A.) The Clinical Pharm.D. has final authority regarding nonformulary orders unless there is an appeal to the medical contractor's statewide medical director in which case, after review, the DPSCS CMO has final authority regarding nonformulary orders. See RFP Section 3.2.18.3. B.) The Department does not currently use a single "numeric indicator" to determine the return on investment of the Pharm.D.s. C.) The Department will not use a single "indicator" under the new contract. D.) The Department has determined that it requires six FTE Pharm.D.s based on its past experience.

248. Misstatements of Fact - In Q&A 1, question 123 makes a definitive statement of fact—"Offerors who own both a pharmacy and a wholesaler/repackager **buy from themselves** and can therefore generate invoices with artificially low Actual Invoice Costs to support their prices listed on Attachment F. These invoices **would not represent** the true cost that the contractor would bill the Department if they were awarded the contract."
Your response to question 109 in Q&A 1 states that intentional misstatements of law or fact made by an Offeror may lead to that Offeror being determined by the Procurement Officer not to be responsible and thus not reasonably susceptible of being selected for award. For a potential bidder to make a statement of fact regarding the operations of another potential bidder buying from themselves without firsthand knowledge would be a misstatement of fact respective to the procurement process.

- Please confirm that as questions are part of the procurement process, misstatements of fact would deem the bidder making this statement as non-responsible and thus not reasonably susceptible of being selected for award.

RESPONSE: The Department declines to provide the requested response.

249. Current Pharmacy Rates - In Q&A 1, the response to question 136 indicates that the DPSCS will not publish the current contracted pharmacy rates despite public dollars being utilized to pay for inmate pharmacy services. As indicated in the questions submitted to date, in most if not all public procurements, cost is not considered proprietary and would be readily available.

- If pricing will not be published by DPSCS in an addendum to this RFP, could you please confirm if the pricing currently in place is in accordance with the last competitive RFP from 12 years ago so bidders can submit a Public Information Act (PIA) request to the PIA Representative to obtain copies of public records for the DPSCS last awarded contract in 2005 for inmate pharmacy services?
- If not, what is the basis for a denial of this requested information?

RESPONSE: The Department declines to provide the requested information.

250. MBE Monthly Invoice Reports - In Q&A 1, the response to question 168 indicates that in lieu of providing copies of the MBE monthly invoice reports (as requested by a potential bidder), the MBE Office developed a chart that reflects payments made by the Prime Contractor to MBE subcontractors during the months of April 2017 – June 2017. DPSCS has indicated in other parts of the RFP that continuity of care with any change in vendor is of high significance. Knowing which MBE subcontractors are in place would be important for bidders so that the services of these subcontractors can be solicited in advance of a bidder's proposal submittal. Additionally, this information should be a matter of public record.

- To avert the need to submit a PIA request and to ensure a fair and transparent procurement process, can you provide the items requested in question 168 regarding current subcontractors in an addendum to this RFP?
- If not, what is the basis for a denial of this requested information?

RESPONSE: The current MBE subcontractors are Heavenly Sweepers for cleaning and janitorial services and Breniss Transportation for delivery services. The Department declines to provide any additional information.

251. Unit-Dose Blister Cards - In Q&A 2, the response to question 197 states that the DPSCS requires the use of unit-dose blister packs, but does not require unit-of-use blister cards.

- Since responses to questions are not binding, yet an addendum is binding, can this response be documented in an addendum to be made part of the procurement record that the department does in fact require the use of unit-dose blister cards?

RESPONSE: The RFP states that the Department requires the use of unit dose blister packs; thus, an amendment is not necessary. See RFP Section 3.2.26.3.

252. Returns - In Q&A 2, the response to question 200 indicates that returns apply only to full blister cards. This is a very surprising response considering that almost 70% of all medication returns are typically in partial blister cards.

A.) Please confirm that you are in fact receiving credits only on full blister cards that are returned.

B.) If you do not receive credit on partial blister cards, are those being returned as well or are they disposed of at the facility since they would be considered pharmaceutical waste?

Most vendors in the correctional pharmacy industry have processes in place that allow for the safe return and reclamation of partial blister cards, which would amount over the life of the contract in millions of dollars in savings to the taxpayers of Maryland.

C.) Being that some vendors can safely accept partial blister cards for return, how will this be accounted for in the financial scoring metric for bidders with this capability?

RESPONSE: A.) Confirmed. B.) Partial blister cards are disposed of at the facility since they would be considered pharmaceutical waste. C.) See Amendment #11, Item 1.

253. Missing Information - Responses to questions 205, 206, and 208 indicate that DPSCS will not provide the requested information, which in turn will provide an advantage to the incumbent provider that has this information available when projecting proposal cost estimates.

- As a matter of record, would DPSCS please confirm through an addendum that the requested information will not be provided to potential bidders?
- If the requested information is not to be provided, what is the basis for the denial of this requested information?

RESPONSE: The Department declines to provide the requested amendment. See response to question 250. Disregard the response to question 205. The requested contract number is Q0005057D. The additional requested information will not be provided.

254. Cutoff and Delivery Times - In Amendment 5, item 23 indicates the following changes:

AMEND RFP Section 3.2.26.1 as follows:
3.2.26.1 All medications ordered from the Contractor shall be dispensed and delivered by a delivery service pre-approved by the CMO to the appropriate location within the institution as identified in Attachment R, seven (7) days a week including Holidays, with no order cut-off time.
From the time an order is received by the Contractor, the required delivery is to be made:

- *Within 4 hours, with no cut-off time, for all medications deemed Urgent by the Other Healthcare Contractors;*
- *within 12 hours medication with no cut-off time, for any prescription being requested for an inmate at any DPDS facility listed in Attachment R (no less than twice daily delivery, and in no event more than 12 hours from receipt of an order); and*
- *within 24 hours, with no cut-off time, for all other medications (not Urgent or for DPDS inmates).*

A.) Please confirm that this would mean that for any bidder to be compliant regarding urgent medications with no cutoff time, bidders would possibly need to account for a minimum of 6 deliveries per day per facility.

B.) Please confirm that, being that the DPDS facility can transmit orders 24 hours a day without adherence to a cutoff time, and that deliveries are required within 12 hours, bidders would actually need to deliver to this facility 4 times a day to account for those times a driver may be in transit and yet an order was transmitted to the pharmacy within 24 hours of the driver being in actual transit.

C.) Please confirm that the DPDS facility currently receives deliveries 4 times a day, as this is the only way to ensure compliance with the consent decree. Please confirm that, being that the DPSCS is not adhering to a fixed daily order cutoff time, which is highly atypical of the industry standard, for any vendor to comply to the letter of the regulation, they would have to commit at least 2 deliveries per day per facility to meet this requirement if facilities are transmitting even 1 order per hour around-the-clock, otherwise this requirement cannot be physically met by any vendor.

D.) Please confirm that you currently receive at least twice daily deliveries at all facilities for non-urgent medications to meet this requirement.

E.) As standard industry practice is to adhere to an established daily order cutoff time, what reservations does DPSCS have regarding the establishment of a consistent daily order cutoff time for each facility that would add a tremendous amount of operational consistency at each facility compared with the facility staff stopping and starting to accommodate orders delivered without regard to a cutoff time, as the current process seems highly inefficient operationally?

RESPONSE: A.) The Department declines to confirm whether the assertion is correct; however, stock medication *may* cover 80-90 percent of Urgent Medication Deliveries. The Department makes no guarantees. B.) The Department's current contractor provides, on average, two deliveries per day at the DPDS locations. C.) See answer to B above. D.) The Department's current contractor generally delivers twice per day to DPDS Pretrial facilities, and once per day to all other locations. E.) Based on the Department's past experiences and issues with medication delivery, DPSCS declines to accept a hard cut-off time for daily orders.

255. Pricing - Numerous changes have been made to the financial components of the RFP and numerous concerns have been raised by potential bidders regarding the Excel price sheet, particularly regarding pricing that will be obsolete by the time proposals are assessed in February and March. Thus, would the DPSCS consider eliminating the need for bidders to price out nearly 2,000 line items (based on an invoice date that is now 6 months old), as actual acquisition costs on medications are relatively similar among most major pharmacies in the industry?
Instead, would you require bidders to provide pricing on a list of your Top 100 medications by utilization and a list of your Top 100 medications by price, as these prices will truly reflect the majority of medications utilized by the DPSCS? Your evaluation team could then determine which financial proposal is in the best interest of the DPSCS and Maryland taxpayers by focusing on the true basis of cost, which will be the management fee offered by bidders, and the ability of a bidder to provide credit on partial blister cards.

RESPONSE: The Department declines to use only the top 100 medications for the Financial Proposal Form.

256. Deadlines - Will the DPSCS establish deadlines for vendors to submit their final questions and for the DPSCS to release the final answers so that a definitive proposal

submittal due date can be established and the evaluation process can begin?

RESPONSE: The Department declines to set a deadline for vendors to submit questions.

257. In response to question #242 Offerors are instructed to provide $0 as the AAC per Unit of Measure in Column F of the Pharmaceuticals & Supplies Tab of Attachment F – Financial Proposal Form if an item has been discontinued as of the time of proposal submission.
To ensure all vendors are evaluated equally and providing prices for the same number of drugs, will the Department please revise Attachment F to reflect those drugs that are no longer available? See list below:

Line #	Pharmaceuticals & Supplies Name & Strength	Unit of Measure (per tab, cap, ML, inhaler, syringe, can, bottle, kit, etc.)	(B)rand or (G)eneric
260	AQUORAL ORAL 40ML SPRY	ML	B
486	BACTROBAN NASAL (10X1GM) 2% OINT	GRAM	B
552	CORTISPORIN TC OTIC 10 ML DROP	ML	B
197	ELTA TAR 114GM CREAM	GRAM	B
114	FLUVIRIN 2016-17 INJ	INJ	B
222	GRANULEX 120ML SPRY	ML	B
1443	MELOXICAM (MOBIC) 100ML 7.5MG/5ML	ML	G
640	MENOMUNE VIAL	VIAL	B
409	ORABASE PASTE MAX STR 20% 12GM	GRAM	B
247	PHISOHEX 500ML 1% SOL	ML	B
593	RHINOCORT AQUA 32MCG 120 8.6GM SPR	GRAM	B
405	ROBITUSSIN PEAK LONG-ACT CGH 15MG CAP	CAP	B
544	TETRACAINE 12X2ML 0.5% DROP	ML	B
558	VERAMYST 10GM 27.5MCG SPR	GRAM	B
250	ROBITUSSIN CHILD COUGH/COLD 7.5MG/1MG LIQ	ML	B
1846	ROBITUSSIN COUGH/COLD CF MAX 118ML LIQ	ML	G
59	CHLORPHENIRAMINE ER 12MG TAB	TAB	B
643	SCH AIR PILLO UNISEX INS	INS	B

RESPONSE: The Department declines to provide the requested amendment altering the Financial Proposal Form.

258**.** In response to Question #243 issued on December 11, 2017, the Department added new generic medications to Attachment F - Financial Proposal Form. However, the corresponding brand medications remain in Attachment F as well. The new generics are shown at 80% of the annual estimated quantity and the corresponding brand medications are shown at 20% of the annual estimated quantity as shown in Column C.
These generic medications are considerably less expensive than the corresponding brand medications. The pharmacy provider will always dispense the generic medications now that they are available instead of the brand medications.
Given the explanation above and that section 3.2.3 of the RFP states that "The Contractor shall purchase and dispense the most cost effective Pharmaceuticals and Supplies irrespective of brand and generic labeling," will the department consider amending Attachment F so that the new generic medications are shown at 100% of the Estimated Annual Quantity and the corresponding brand drugs are removed?

RESPONSE: The Department declines to provide the requested amendment.