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QUESTIONS AND RESPONSES # 2
PROJECT NO. F10B9200027

**Third Party Administrative (TPA) Services for Flexible Spending Accounts (FSAs)-
Healthcare and Dependent Care**
August 3, 2009

Ladies/Gentlemen:

This List of Questions and Responses #2 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.

49. **QUESTION:** Regarding Page 12, item 3.1.2, number of participating employees and page 20, item 3.2.10 cafeteria plan non-discrimination testing:

In addition to Flexible Spending Account administration services, the State is also seeking the performance of discrimination testing for all of the State's eligible benefit programs. What is an estimate of the total number of employees working for the State? How many of these employees would be eligible for benefits through the State?

In relation to discrimination testing services, would discrimination testing services also need to be performed for satellite agencies? If so, would demographic information required in association with the performance of discrimination testing services like number of employees, number of benefit eligible employees, and identification of key employees or highly compensated employees as well as dependent information and salary/compensation information be available from the State and participating satellite agencies?

RESPONSE:

Please refer to RFP Attachment G-6, questions 37-38. The estimate for the total population of employees working for the State is 132,924. The number of benefit eligible employees is 94,296. Demographic information such as number of employees, number of benefit eligible employees, enrollment data, and salary/compensation information as well as dependent enrollment information will be provided by the State during the non-discrimination testing process. It appears that the State, as a governmental employer, does not have "key employees" based on the definition of 26 USC §416(i)(1). *See also* Prop. Treasury Regulation §1.125-

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7(a)(10) [72 Fed. Reg. 43938, 43968 (8/2/2007)]. This contract does not require the separate provision of services to satellite organizations that also maintain cafeteria plans and FSA plans.

In addition, please see the response to question #50 below.

50. **QUESTION:** The RFP requests services surrounding non-discrimination testing of Health & Welfare plans. Can you elaborate on 1) what is required beyond Section 125 testing, 2) who, if anyone, is performing testing today and what are the results of testing, 3) Can you provide more detail on the expected scope (specific to testing of plans beyond the DCFSA and HCFSA), e.g. how will data be provided, what's expected in terms of final report structure, etc.?

RESPONSE:

Please refer to RFP §3.2.1, §3.2.10 and §3.3.3 for the requirements for testing and associated reports. *See also* 26 USC §105 and 26 CFR §1.105-11 for non-discrimination requirements for self-funded group health plans. The RFP requires the contractor to perform the non-discrimination testing required by federal tax law for the Section 125 plan and the component self-funded group health plan(s)/benefits options (in addition to the non-discrimination testing required for HCFSA's by §§105 and 125 and non-discrimination testing for DCFSA's by §§125 and 129). In addition, please see the response to question #49 above.

The State's cafeteria plan (and the FSAs as a component of the cafeteria plan) includes as eligible participants only individuals who are permitted cafeteria plan participants under applicable federal law. The State's self-funded group health plan(s) – including PPO, POS, and EPO benefits options and a prescription benefits option – have broader eligibility requirements. There is a stand-alone mental health plan for which enrollment is automatic for PPO and POS members; the EPO provides integrated coverage of medical and mental health benefits. Prescription coverage is elected independently of other medical coverage. The stand-alone dental plans are fully-insured.

Continued maintenance of the State Employee and Retiree Health and Welfare Benefits Program, through which the cafeteria and self-funded plans are made available, is the subject of collective bargaining in connection with some State employees. Whether the various health benefits plan options can or should be aggregated or disaggregated for testing purposes is an issue to be discussed with the contractor during the implementation period and may be required in connection with testing. The incumbent contractor does not perform non-discrimination testing for our program. No testing results are available.

The self-funded group health plans are also available to retirees, satellite organization employees, and State employees who are not eligible for cafeteria plan participation. In addition, the group health plan(s) comply with COBRA continuation requirements. The State bears the risk of administration and claims payments in the self-funded group health plans (but not in any FSA plan, which are fully employee-funded through salary reduction). Eligible enrollees (whether participating through the State's cafeteria plan or otherwise) pay only the assessed contribution, which varies depending on whether the individual is eligible for a State subsidy; only State cafeteria plan members and State retirees are eligible for any subsidy amounts from the State. Satellite organizations also pay an administrative fee for the enrollment of their employees; satellite organizations may elect to subsidize the payment of the contribution for

their employees but satellite organizations remit only the applicable “premium” plus the administrative fee to the State.

State employee demographic and enrollment information will be made available to the contractor. To the extent possible, such data will be provided electronically. During the implementation phase of this contract, such administrative details will be addressed.

51. **QUESTION:** Regarding Page 31, 4.5.3.1 FSA Administrative Fees and 4.5.3.3 Non-Discrimination Testing Fees: What are the current monthly FSA administration fees paid by the State and what is the current annual fee for non-discrimination testing services?

RESPONSE:

The requested information is considered confidential commercial information pursuant to Maryland Annotated Code, State Government Art. §10-617(d). Therefore, the requested information will not be made available. Please note, the incumbent does not currently provide non-discrimination testing.

52. **QUESTION:** Reference Attachment G-3 [sic], #3. “Percentage of claims processed within the last 12 months.” Please clarify what the State is seeking. Do you want a percentage of the total number of claims submitted that were processed without requiring further documentation? Are you assuming anything less than 100% are claims that were rejected pending receipt of complete substantiation? Or might you have intended to ask for the *number* of claims processed rather than the percentage of claims?

RESPONSE:

Regarding the correct Reference Attachment G-2, III, item 3, third column, the table heading should read “Percentage of claims processed within the Expected Turnaround Time within last 12 months.” An Amendment #3 will be issued to correct this table.

53. **QUESTION:** Reference Q & A, Pages 7-8, Question #25. In trying to assess our costs for preparing and distributing materials other than the open enrollment guide and enrollment forms, it would be helpful to know the State’s expectations in terms of types of materials, quantities and shipping destinations. Might you be able to amend the list below according to your expectations?

- General FSA promotional fliers (for email campaigns &/or hard copies) - Print for all eligibles; provide for work locations or send to home addresses? Provide supplies to Benefit Coordinators?
- FSA promotional brochures to encourage participation. Print for all eligibles; provide for work locations or send to home addresses? Provide supplies to Benefit Coordinators?
- Announcement letters. Print for all eligibles or for approximately 10,000 FSA participants? Provide for work locations or send to home addresses? Provide supplies to Benefit Coordinators?
- Enrollment meeting posters. Provide supplies to Benefit Coordinators at approximately 150 locations?
- Debit card materials for approximately 8,000 MFSA participants. Send to home addresses?

- FSA instructional brochures for approximately 10,000 FSA participants. In COB packet. Send to home addresses?
- HIPAA privacy brochure for all eligibles or to approximately 10,000 FSA participants. In COB packet? Send to home addresses?
- Direct deposit authorization forms for approximately 10,000 FSA participants? In COB packet? Send to home addresses?
- Benefits confirmations to approximately 10,000 FSA participants. In COB packet? Send to home addresses?

Anything else?

RESPONSE:

Please refer to the RFP for the required communications and materials for participations. As addressed in Attachment G-5, number CC-2, four reminder notices are also expected to be mailed to participants during the last six months of the plan year.

As for distribution of materials listed in question 25, the State's expectation is that the contractor will provide excellent member/customer service so that participants may be aware of the FSA options and the benefits of FSA participation when making election and enrollment decisions. For all specific individual participant communications identified in the RFP (e.g. RFP Att. G-5, cc-2), such communications should be mailed to the participant's home address unless the participant approves electronic receipt. In addition, all reimbursement request instructions (including direct deposit information as applicable) and HIPAA privacy notices must be provided to all enrolled participants. For the various marketing materials, each offeror should describe - in its proposal - its marketing plan and whether such efforts will involve providing materials to all eligible employees and/or all agency benefit coordinators in addition to the mandatory minimum requirement that open enrollment benefit fairs be adequately staffed and prepared to distribute some materials. (See RFP §3.2.6; §3.2.7; §3.2.8; Attachment G-2, section III, items 9-18.) The plan for marketing and participant communications will be evaluated as provided in the RFP §5.2. To the extent that an offeror has gained expertise in its experience administering FSA plans with marketing and communication materials and efforts that provide the best results for the effort and expense, the Offeror should describe that in its proposal to explain its proposal in this area.

54. **QUESTION:** Reference Section 1, Page 9, 1.30 and Attachment G-5, Page 6, CC-44 in the Compliance Checklist: It appears the State of Maryland uses a point-to-point VPN connection between the Department of Budget and Management and the Contractor. Based on the highest level of technical security requirements within the healthcare and IT industry, FBMC uses a secured file transfer protocol (SFTP) for all data files sent and received. Is this a secured method the State would consider using for the transfer of data files?

RESPONSE:

The use of SFTP is accepted only if the Offeror utilizes an encryption method that meets the State's minimum standards (3DES) with the SFTP.

55. **QUESTION:** Regarding submission of the External Audit documentation for the offeror's flex plan, is it possible to provide the documentation electronically and not in hardcopy format? Would the State also accept the financial statements electronically and not in hardcopy format?

RESPONSE: Since the evaluators will need to review all documentation, please provide the required documentation in the format described in the RFP section 4.4.3.

56. **QUESTION:** To better understand the reporting requirements described in the **3.3 Reports** section of the RFP would the State be willing to provide us with sample reports currently being utilized?

RESPONSE: The reports described in Section 3.3 are standard reports utilized by the State to review plan activity and progress on performance guarantees. The State is not requesting any particular format or layout for the reports, but is requesting samples of the reports the Offeror will provide to meet the reporting requirements of the contract. The Offeror is free to provide the reports in formats it feels are most useful.

57. **QUESTION:** As described in section **3.3.3 Non-Discrimination Testing**, would the State please confirm that it is looking for the winning offeror to provide non-discrimination testing not only for the Cafeteria plan but for all the self-funded health groups as well. Is non-discrimination testing of all self-funded health groups a firm requirement for offerors?

RESPONSE: Yes, the State requires the contractor to provide non-discrimination testing for the State's cafeteria plan as a whole **and** for the Section 105 self-funded group health plans that are offered. See also Q&A 49-50 above and 58 below.

58. **QUESTION:** In the **Financial Excel Document, Tab F-4, lines 15 and 38** there is space for us to provide our non-discrimination testing fees for the Cafeteria plan but there is no place provided for the self-insured health plan non-discrimination testing fees. Where would the State like us to provide this pricing?

RESPONSE: See RFP §4.5.3 and Attachment F-1, item 3 (last paragraph: "This includes all services and reporting related to the non-discrimination testing for the State's cafeteria plan and other self-funded group health plans.") The annual fee described as "Cafeteria Plan Non-Discrimination Annual Testing Fee" on Attachment F is the fee that includes both the annual testing of the cafeteria plan as a whole and the annual testing of the State's self-funded group health plans that are subject to testing pursuant to 26 USC §105. See also Q&A 49-50 and 57 above. The testing services for both aspects of the non-FSA non-discrimination testing must be included in the fully-loaded annual fee.

59. **QUESTION:** The Benefit Fair schedule indicates the wellness fair and a yes/no next to it. Based on the "yes" answer, there would only be about 15 meetings to attend vs. the 140-160 that eth RFP indicates. I realize there will be training sessions scheduled as well too. Can you clarify?

RESPONSE: The Wellness Fair column on the spreadsheet is provided for the benefit of the health providers who provide wellness check information at certain benefit fairs and should not be interpreted as reduction of participation from the FSA providers. The training sessions are provided on a separate spreadsheet.

Remember offers are due on August 18, 2009 no later than 2:00 p.m. If there are questions concerning this solicitation, please contact me via e-mail at jepstein@dbm.state.md.us or call me at (410) 260-7570 as soon as possible.

Date Issued: August 3, 2009

By

Joy Epstein
Procurement Officer