



DEPARTMENT OF
BUDGET & MANAGEMENT

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**Q & A #4 to
Request for Proposals (RFP)
Audit Services for State Employee and Retiree Benefits Program,
050R7200018
August 21, 2006**

Ladies and Gentleman:

The numerical sequencing begins at question # 39 because questions up to #38 were answered in Q&A #1, #2, and #3. The procurement officer received the following questions by email, which are answered for all Offerors to the referenced RFP, below:

39. Question: Our understanding is that Mercer Human Resource Consulting, Inc. is the current contractor for this work. Can you provide the following information regarding their contract?

a. The total value of the contract for the period from 6/1/00 to 12/31/05?

Answer: See response to question #6.

b. The total number of hours billed by Mercer to DBM for services during the year ended 12/31/05?

Answer: While the contracts were fixed fees, the vendor noted approximately 1,500 hours not including MBE hours for the five categories.

c. The total dollars paid by DBM to Mercer for services during the year ended 12/31/05?

Answer: See response to question #6.

d. Did Mercer receive a contract extension past 12/31/05 and if so, what was the value of that extension?

Answer: Yes, there was an extension given for the State and the Audit Contractor to complete some services for the Medical category to 2/28/06, the Flexible Spending Account category and Mental Health Plan category to 1/31/06, and Prescription Plan category to 9/30/06. However, there was no additional monetary consideration as part of the contract extension.

40. Question: Regarding the submission of proposals for each category.

If, for example, a bidder feels that they have experience in more than one category and would like to bid for more than one of these categories, what is the preferred method? I understand that a separate technical and financial proposal (one original unbound and four bound copies - plus a CD-ROM for each) are required, but does one:

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a. Submit a complete proposal for each category; in other words, different and separate proposals that each cover one category.

-or-

b. One proposal that covers more than one category

Answer: The RFP, Section 4.1 requires a separate proposal for each category. In an effort to reduce the paperwork and administrative duplication, Amendment 2, issued 8/16/06 stated, "An Offeror may cross reference identical material in proposals for multiple categories as long as the location of the source material is clearly marked and not confusing. The State may determine that missing or unclear references need to be resubmitted and will notify an Offeror to do so, if required for proposal clarity." The bottom line is that separate proposals are still required for each category.

41. **Question:** Why is DBM considering changing its current auditor?

Answer: The current contract including all renewal options is reaching the end of its performance period and this RFP represents the State's need to continue performing audits.

42. **Question:** Are the previous Internal Audit reports by the TPA contractors available to bidders so that we may have a better understanding of the scope of these reports and can determine the level of effort and associated costs to review them?

Answer: The RFP describes the scope of work and the expectations of the State in connection with the audits performed by the contractor to which award is made in each category. Prior audit reports provided to the State by the current contractor auditor may be available pursuant to a written Public Information Act request. Such audit reports may contain confidential information of the TPA that has been audited, which is prohibited from disclosure pursuant to State Government Article, §10-617(d). A requestor of public documents may be required to pay for copies and the time expended by State employees in excess of 2 hours for gathering, reviewing and redacting documents. State Gov't Art. §10-621.

Reports of internal audits conducted by the TPAs of their own operations are not available unless such reports have been submitted to the State. The same PIA provisions apply to such documents to the extent that the State has them.

43. **Question:** The RFP mentions that auditors can use different methodologies to perform the audit so long as the State can have confidence in the results. Recognizing that different methodologies have varying levels of confidence factors and costs, does the State have a preferred methodology by which to audit the plans (100% electronic audit, random sample audit, focused sampling audit, a hybrid, etc.)?

Answer: The RFP, Section 3.3.4A states, "The Contractor shall audit claims processing, using a statistical sampling methodology that provides at least a confidence level of 95%, in..." the areas specified in bullet form. That means you need to apply the appropriate statistical techniques to reach a 95% confidence level and illustrate your chosen technique in

your technical proposal. The RFP, Section 3.1.6.6a requires a 100% audit of electronic pharmacy claims data.

44. **Question:** Can bidders [Offerors] present pricing options and work plans for more than one audit methodology?

Answer: No. The State wants each Offeror to submit its single best solution to the requirements as stated in the RFP. Please note the RFP, Section 1.17 does not permit multiple or alternate proposals within one category. Separate proposals for more than one category are not multiple proposals.

45. **Question:** Our firm is a wholly owned division of a publicly traded company. We are an integral part of that company and our firm audits and publishes financials at the corporate level and not the division level. We can only provide audited financials at the corporate level and we would like confirmation that this is acceptable to the State.

Answer: The RFP requires financial statements from the entity that will perform the work and that will sign the contract if selected. If the parent is willing to guarantee the performance of the wholly owned subsidiary, then financial statements from the parent corporation are acceptable. Please see the RFP, Section 1.19. In addition, Offerors should note that confidential commercial information that is submitted to the Department as a requirement of the RFP should be clearly identified in the Executive Summary and the Proposal. See RFP Section 4.4.2.1. The State is prohibited from disclosing to outside parties any confidential commercial information pursuant to State Gov't Art. §10-617(d). The proposals of an Offeror are subject to review by the procurement officer and evaluation committee during the procurement process and by Departmental personnel charged with managing the contract; any confidential commercial information protected by State Gov't Art. §10-617(d) will not be disclosed other than to those personnel.

46. **Question:** Regarding the conflict of interest affidavit, please confirm that this relates to individuals who would be performing the services under the scope of this assignment and that it does not include all relationships that may exist within our company and/or our parent.

Answer: That interpretation is incorrect. Such relationships should be disclosed. To the extent that an Offeror believes that relationships of the entire company or corporate parent are not an actual or potential conflict of interest due to internal controls regarding the flow of information, the Offeror should explain those controls and the reason that a relationship does not present an actual conflict in the affidavit. Offerors should disclose any potential or actual conflict of interest for the entity that submits a proposal so that company and corporate relationships are disclosed as well as individual relationships. The procurement officer will make a judgment, pursuant to COMAR 21.05.08.08, whether an actual or potential conflict exists and whether there are sufficient controls in place to mitigate any potential conflict.

47. **Question:** The indemnification provision does not seem suitable or equitable given the nature of the audit duties and the fact that an auditor is really akin to an investigator in this type of work. As written the auditor could find itself embroiled in any dispute between the State and an audited State Vendor with the State's position being that in such event the auditor must defend itself while simultaneously subsidizing the State by agreeing to

cooperate at auditor expense in any proceeding. Please see our suggestions on how to revise the indemnification provisions to protect the auditor from proceedings that might arise directly on account of the work undertaken for the State here.

Our Company policy is to secure a limitation of liability in all engagements. Is the State amenable to this conceptually, and willing to negotiate on the subject?

In addition, would the State be willing to allow the following provisions within the Indemnification requirements:

- Provide that there be no obligation for our company to indemnify the State other than for our company's negligence or willful misconduct.
- Provide that if our company becomes embroiled in a dispute arising from the work performed (other than due to our negligence or willful misconduct), the State should defend our company and handle payment if a judgment is obtained.
- Allow for our company to be paid for our time and expenses relating to the defense or investigation of any claim, suite or action made or filed against the State as a result of or relating to our company's performance under this contract.

Answer: Any Offeror is free to submit exceptions to terms and conditions it finds objectionable in accordance with the RFP, Sections 1.20 and 4.4.2.2. The State will consider those exceptions toward the end of the procurement process. At some point, the State will advise what it can do and what it cannot and as mentioned in the Pre-Proposal Conference, there is limited flexibility on matters of law and regulation. However, it should be noted that the Department does not have the authority to indemnify contractors in the manner requested by this questioner. See 71 Md.Op.Atty.Gen 274 (1986) and 79 Md. Op. Atty.Gen. 431 (1994).

Date Issued: August 21, 2006

By <signed> .
Michael Howard
Procurement Officer