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QUESTIONS AND RESPONSES # 1
PROJECT NO. F10B0400010
Audit Services for State Employee and Retiree Benefits Program
June 3, 2010

Ladies/Gentlemen:

This List of Questions and Responses #1 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.

Please note that many vendors submitted questions that were significantly similar or requested the same information. Duplicate questions of this type are not repeated in this Q&A. Therefore, a vendor may not see its question reproduced here exactly. Please read through all the Q&As carefully before re-submitting a question. Thank you.

1. **QUESTION:** A review of previous audit reports would be necessary for verification of correct reimbursement back to the State. Would this information be available prior to the engagement period?

RESPONSE:

Access to such reports is not available prior to contract award. Contingent upon a firm being awarded one or more of the contracts being proposed, prior audit reports, applicable to the category awarded, will be available for the Contractor's review along with the applicable contract documents (including proposals and other confidential data).

2. **QUESTION:** The State is requesting the vendor to audit the administrative fees. Please define administrative fees, i.e., vendor recovery fees, vendor discount fees etc.

RESPONSE:

Please refer to Section 3.3.6 – Audit of Contract Terms and RFP Attachment K. The Contractor shall review the TPA Contract terms and conditions to ensure that TPA Contractors comply with all terms of the contract with the State. Each plan has a contract with applicable pricing terms

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that may vary between categories or vendor. The Contractor(s) will be able to review contracts to obtain payment definitions and methodologies.

The RFPs and copies of the current contracts (excluding proposal documents) for the Service Categories are available on-line at:

<http://dbm.maryland.gov/contractors/contractlibrary/Pages/EmployeeBenefitsContracts.aspx>.

Please also review RFP Attachments I and J for identification of the contracts to be audited. The RFPs and related solicitation materials for current open procurements (i.e. the BH/EAP and PBM procurements) are also available on-line, at:

<http://dbm.maryland.gov/agencies/procurement/Pages/ProcurementsInProgress.aspx>

Offerors are reminded that their proposals must include a certification (RFP Attachment K) that they were provided access to and reviewed to their satisfaction these on-line materials.

3. **QUESTION:** Section 3.3.8 Audits of Clinical Processes. How many claims are allowed to be selected by the TPA for each Plan? Will additional selections be allowed for focused audits of the Clinical Processes and review of Internal Audits?

RESPONSE:

Section 3.3.8 – Audits of Clinical Processes is an independent review from any other review conducted during the audit process. The Offeror should submit to the State as part of its Technical response, the work plan and methods by which the Offeror will accomplish the requirements identified by the State in RFP §3.3.8. In addition, the proposal should identify the methodology the Offeror intends to use in completing each of the audits required for the proposed Service Category. As such, if an Offeror believes that the appropriate methodology to accomplish the Clinical Processes Audits (RFP 3.3.8) requires the identification and selection of different claims to audit in addition to the TPA contractor's processes, that should be described in the proposal.

4. **QUESTION:** Regarding the Department of Budget and Management's Report: Retiree Employee Enrollment Data by Plan and Coverage for Enrollment year of 2010 – The number of ESRD patients is listed as 26,656 out of 37,927. Please confirm these numbers, they seem high for ESRD.

RESPONSE:

The charts provided as Attachment G reflects the number of "Primary" enrollees in the State plans. It does not include spouses or dependents. The ESRD numbers as identified on Attachment G are accurate. The ESRD heading applies more to the Active group. However, the "ESRD" heading for the Retiree, Satellite and Direct Pay groups reflect the numbers of primary contracts that have some level of Medicare coverage. There are 11 tiers of Medicare coverage of coverage that would fall within these numbers.

5. **QUESTION:** The State of Maryland is requesting a variety and large amount of information from the TPA. Should we anticipate "push-back" from the TPAs or has there been an issue in the past with provider contracts, internal audit information and results, refund and recovery documentation, etc.?

RESPONSE:

Each plan has a contract with the State that allows for an annual audit of the TPA Contractors. Most of the TPA Contractors are familiar with the process required by the State and have been cooperative in the past. In addition, the year-long audit cycle (beginning upon completion of the plan year with an audit report due before the following June) has been in place some time so the TPA Contractors are familiar with the necessary timing. Confidentiality agreements may need to be signed between the Contract Auditor and TPAs.

In the event of “push-back” or difficulty in obtaining the necessary data or access, the audit contractor should notify the Contract Manager if assistance from EBD is requested in securing the necessary information.

6. **QUESTION:** Eligibility: There appears to be an eligibility feed provided to each one of the TPAs. How often is this is provided, and are all the provided files available to us for our review?

RESPONSE:

Eligibility files are fed to the TPA Contractors at different intervals. These files will be available to the firm or firms that are awarded the audit contract at the frequency needed to complete the audits.

7. **QUESTION:** Has the State ever had a dependent eligibility audit performed and when was the last audit conducted?

RESPONSE:

Since FY 2009 the State has established a 100% annual review of paid claims by way of an automated and desk audit review. Often dependent eligibility issues or discrepancies are discovered during this process. This is an internal review conducted by the State.

In addition, the State of Maryland performs annual Dependent Verification Audits after each Open Enrollment period. These Dependent Verification Audits only review those dependents that are added to an employee/retiree’s coverage during the Open Enrollment Period.

8. **QUESTION:** Section 4.4.2.4 Corporate Experience and Capability – C. References – Our company’s primary clients have been the Fortune 500 and Taft Hartley Plans. We do not have a governmental client, but our Principals have worked on Maryland County governments. Does this fact disqualify us from being considered for this RFP?

RESPONSE:

Section 4.4.2.4 – C requests three references including at least one from governmental accounts/clients. Your experience with Maryland County governments will satisfy this request and such governmental client references would be responsive to §4.4.2.4.C. Failure to have governmental clients in the past would not disqualify an Offeror from being considered for this RFP.

9. **QUESTION:** Living Wage Requirements: Since our company is a [out-of-state] S-Corporation that does not employ any individuals (including contractors) and does not have a facility in the State of Maryland, is this still a requirement? If so, would the State of Maryland accept a posting of the applicable [out-of-state] Living Wage Law on our website to satisfy this particular specification?

RESPONSE:

Living Wage Requirements are described in section 1.30 of the RFP and Attachment L. S-Corporations are not precluded from complying with the Living Wage Requirements which are defined in the Living Wage Requirements for Service Contracts. Further information is available on the website <http://www.dllr.state.md.us>. In addition, please refer to Title 18 of the State Finance and Procurement Article, Maryland Annotated Code and COMAR Title 21, Subtitle 11, Chapter 10 for the statutes and regulations that govern the Maryland Living Wage Program. On-line legal resources (e.g. <http://www.michie.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=mdcode> and http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=21.11.10.*) may be helpful in reviewing this information.

10. **QUESTION:** Will the State of Maryland provide our company with the aggregated enrollment/eligibility data for the associated audit periods?

RESPONSE:

See response to question #6.

11. **QUESTION:** Will the PBM (Catalyst Rx) allow [the audit contractor] to have access to remittance advices for the purposes of the rebates administration portion of the audit?

RESPONSE:

Please see the response to question #5. In addition, you may review the publicly available contract documents for the current contract online at <http://dbm.maryland.gov/contractors/contractlibrary/Pages/PharmacyBenefits.aspx> and the recently issued RFP for PBM services (for the contract period beginning July 1, 2011) online at: <http://dbm.maryland.gov/agencies/procurement/Pages/PharmacyBenefits.aspx>.

A review of those RFPs will permit Offerors to become familiar with the specific audit and access requirements for the PBM contract.

12. **QUESTION:** Audit of Administrative Procedures/Operational Audit: Does the current PBM contract with Catalyst Rx designate specific personnel who are responsible for particular tasks related to the performance of the contract requirements? Also, with respect to third party recoveries, is Catalyst Rx responsible for subrogation? Will a copy of the current contract between the State of Maryland and Catalyst Rx be available to validate the specific performance requirements regarding administrative and operational procedures? With respect to automated and manual claims processing functions, is it the desire of (the awardee) to monitor those processes during an on-site visit to Catalyst Rx?

RESPONSE:

Access to the TPA contract documents, including confidential proposal information, will be provided to the Audit Contractor upon contract award. See RFP §3.3.1.B.

A copy of the current PBM contract with Catalyst RX is available on-line at http://dbm.maryland.gov/contractors/contractlibrary/Documents/EmpBenPharmacy/pharmacy_catalyst_rx_contract.pdf. A PBM RFP is currently in process and may be reviewed on-line at <http://dbm.maryland.gov/agencies/procurement/Pages/PharmacyBenefits.aspx>. Attachment J-12 of the open PBM RFP includes specific performance guarantees requested for the contract period beginning 7/1/2011.

13. **QUESTION:** Will the State be able to provide [our company] with a copy of the results for the previous audit of the prescription drug program?

RESPONSE:

See response to question #1; only after award(s) have been made.

14. **QUESTION:** Audit of Performance Guarantees: As requested in Question 4a, could [our company] receive a copy of the contract with the associated performance guarantees?

RESPONSE:

See responses to questions 1, 2, and 12.

15. **QUESTION:** Audit of Clinical Processes:

How many UM/DUR programs are in place? Are any of these programs offered through the PBM or are they sources from another vendor? Will Catalyst Rx make the associated policies and procedures available electronically or will they need to be reviewed during an on-site component of the audit?

RESPONSE:

The State currently has (but may not be limited in the future to) Quantity Limit, Prior Authorization and Step Therapy programs as part of the prescription benefits option plan design. However, the State is in the process of procuring PBM services to be effective 7/1/2011.

As noted in Attachment I of the RFP, the current Catalyst contract will only be audited during the first audit cycle of the Contract Auditor RFP. Effective 7/1/2011, a new PBM contract will be in place. Offerors for the Audit Services RFP need to propose as part of its technical proposal, a work plan with the Offeror's methodologies based on industry knowledge, experience and expertise, by which the Offeror will accomplish the requirements requested by the State under 3.3.8 – Audit of Clinical Processes.

16. **QUESTION:** Retainage: Given that 10% of the invoiced amount due to [the audit contractor] will be retained until completion of specific deliverables, what obligations have the

State of Maryland negotiated with Catalyst Rx with respect to turnaround time for data that will be required by [the audit contractor] in order to comply with this timeline, particularly with regard to supplying data in response to a finding?

RESPONSE:

Please see response to question 5.

Cooperation among the Contract Auditor, the PBM and the Department are expected during the course of an audit. There is no specific language in the current PBM contract that addresses turnaround time for data submission related to the audit findings.

In addition, as previously noted and as noted in Attachment I of the RFP, the current Catalyst contract will only be audited during the first audit cycle of the Contract Auditor RFP. Effective 7/1/2011, a new PBM contract will be in place. The open PBM RFP made be reviewed on-line at <http://dbm.maryland.gov/agencies/procurement/Pages/PharmacyBenefits.aspx>

17. **QUESTION:** Availability of Key Personnel: There are typically periods of time during the audit project cycle that are less involved than others, including the delays associated with receiving data from a PBM. During this down time, [our company] would like to be able to use the individuals who are assigned to this audit project as resources for other projects that would not interfere with the State of Maryland audit project. This will enable [our company] to optimize resources and ultimately control the cost of the project for the State of Maryland. Please clarify that this utilization of resources is acceptable.

RESPONSE:

Please see RFP §3.8. The Department has outlined its expectations and requirements regarding staffing of audits. In addition, please see RFP §4.4.2.5 for instructions on the staffing plan contents of the technical proposal. To the extent that the Audit Contract (which will include the RFP) staffing requirements are met, the Audit Contractor may distribute its staff and internal resources as it sees fit to successfully manage its operations.

18. **QUESTION:** Attachment A - Contract: The Contract provides:

27. Indemnification

27.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

There is always a possibility that [our company] could find and report a severe discrepancy with the PBM that, once disclosed, could result in a legal action between the State of Maryland and the PBM. In this case, [our company] has performed its duties appropriately, and in doing so, has prompted activity for which it would be liable, given the current language in section 27.1. Would the State of Maryland be willing to indemnify and hold [our company] harmless for any

legal actions and associated costs arising from the accurate and appropriate performance of our duties as an auditor?

RESPONSE:

The Department will not amend the Contract to indemnify the Contractor. There are significant constitutional and statutory restrictions on any State agency's ability to indemnify a third party. Further, the questioner appears to have an overly broad reading of the contract language and whether it renders the auditor liable for the misfeasance of the audited company.

19. QUESTION: Are these services currently being provided and if so, could you provide the name of the contractor and current annual contract amount?

RESPONSE:

The current audit contractor for all five services categories is HealthCare Data Management - HDM. The overall contract value for the current contract (all service categories) is approximately \$3,400,000.

Please refer to the information regarding this contract by going to the DBM website at www.dbm.maryland.gov and following the links for contractors, contract library, services contracts, and audit services.

20. QUESTION: For the experience requirement for the Dental Benefit Plans [i.e. for submission of a proposal for Service Category #2], could you provide details or examples of what type of experience qualifies as "contractual compliance"?

RESPONSE:

Offerors must be able to provide proof to the State that the Offeror has, at a minimum, one year of experience since 2006 in auditing fully-insured dental plans/dental insurers for compliance with contractual requirements with a plan sponsor/employer; we are looking for experience that is similar to the audit specifications described in the RFP §3.3.3, §3.3.5, and §3.3.6, e.g. performing audits related to meeting performance guarantees, operational reviews, and other requirements.

21. QUESTION: Is the selection of the contractor for the Prescription Drug Benefits Plan subject to the approval of the PBM (by contract)?

RESPONSE:

No. The selection of the contract auditor is not subject to approval by the PBM contractor. However, in connection with the audit of all TPA Contractors, the audit Contractor may be required to execute binding confidentiality agreements so as to protect the confidential information for the TPA Contractors (including the PBM).

22. QUESTION: Since a portion of each audit may need to be conducted at the offices of the various TPA Contractors, can you provide the location (City and State) of the records of each current TPA Contractor since we may need to consider this in the calculation of our fixed fee

price since travel costs will be incurred in the performance of this work and will not be reimbursed separately?

RESPONSE:

A list of current contracts, with names of vendors is provided below:

UHC-	Claims are in Frederick, MD as of the FY 2009 Audit
Carefirst-	Claims were in Owings, Mills, MD as of the FY 2009 Audit
Catalyst-	Claims were examined in Rockville, MD as of the FY 2009 Audit
Aetna-	Claims were examined in Blue Bell, PA as of the FY 2009 Audit
APS-	Claims were in Bethesda, MD as of the FY 2009 Audit
SHPS-	Claims were in Louisville, KY as of the FY 2009 Audit
UCCI (Dental)	Audit was conducted in Harrisburg PA as of the FY 2009 Audit

However, as noted in RFP §3.3.1.B, due to the nature of State procurement processes, the TPA contractor(s) for any given audit cycle may change. Please refer to RFP Attachments I and J.

23. QUESTION: Are there any restrictions within the PBM agreement regarding organizations allowed to conduct a rebate audit and are there any associated requirements? If so, can you please describe.

RESPONSE:

Please see the response to question #21.

A copy of the current PBM contract with Catalyst RX is available on-line at http://dbm.maryland.gov/contractors/contractlibrary/Documents/EmpBenPharmacy/pharmacy_catalyst_rx_contract.pdf. A PBM RFP is currently in process and may be reviewed on-line at <http://dbm.maryland.gov/agencies/procurement/Pages/PharmacyBenefits.aspx>

24. QUESTION: Regarding section 3.2 of the RFP, bullet number 6, which states “Ensure that State funds in connection with the Program are used correctly”. Is this a financial audit of the State’s books or an audit to uncover fraud, waste or abuse (particularly for the Prescription Drug Benefits Plan)?

RESPONSE:

No, the State is not looking for an audit of the State’s internal records or funds. The audit is to ensure any State funds processed through or by the TPA Contractors (including the PBM) were processed accurately, timely and for eligible services and in accordance with terms of the applicable TPA contracts. In light of the self-funded nature of the majority of the group health plans and options which are administered by outside TPA contractors, the State ultimately bears the risk of any processes that result in waste, fraud, or abuse in the administration of the plans and benefits. See RFP §3.3 – General Requirements for more detailed information regarding the scope of work.

Remember offers are due on June 3, 2010 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: May 19, 2010

By

Joy Epstein
Procurement Officer