



DEPARTMENT OF  
BUDGET & MANAGEMENT

MARTIN O'MALLEY  
Governor

ANTHONY BROWN  
Lieutenant Governor

T. ELOISE FOSTER  
Secretary

DAVID C. ROMANS  
Deputy Secretary

Amendment #10  
to  
REQUEST FOR PROPOSALS (RFP)  
DPSCS INMATE MEDICAL HEALTH CARE AND UTILIZATION SERVICES  
SOLICITATION NUMBER DPSCS Q0012013  
FEBRUARY 17, 2012

Ladies and Gentlemen:

This Addendum is being issued to amend and clarify certain information contained in the above named RFP. All information contained herein is binding on all Offerors who respond to this RFP. Specific parts of the RFP have been amended. The following changes/additions are listed below; new language has been double underlined and marked in red bold (ex. **new language**) and language deleted has been marked with a strikethrough (ex. ~~language deleted~~).

1. Revise Section 1.2.44 (**Abbreviations and Definitions**), as follows:

1.2.44 “**Fill Rate**” means the monthly percentage of hours filled per ~~job category~~ **clinical position per SDA Statewide** compared to the number of hours that would be provided each month if all positions in the Contractor’s staffing plan were filled and all staff worked the number of hours indicated in the plan.

2. Revise Section 1.33 (**Liquidated Damages**) to **add** Section **1.33.4** and all subsections, as follows:

**1.33.4 The maximum period of time for which Liquidated Damages may be invoked shall be as follows:**

**1.33.4.1 One (1) month when the circumstances/information upon which the damages will be based are either continuously available for review by, or are reported monthly to, the DPSCS Manager/Director. (See 3.7.1)**

**1.33.4.1.1 This one month period will apply for each new monthly report or newly available monthly information. i.e., based upon information provided or available for the month of February of a given Contract year liquidated damages, if warranted, may only be assessed for the**

~Effective Resource Management~

45 Calvert Street • Annapolis, MD 21401-1907

Tel: (410) 260-7374 • Fax: (410) 974-3274 • Toll Free: 1 (800) 705-3493 • TTY Users: call via Maryland Relay

<http://www.dbm.maryland.gov> • [alockett@dbm.state.md.us](mailto:alockett@dbm.state.md.us)

month of January of that same Contract year. However, liquidated damages, if warranted, may again be assessed for the month of February of that same Contract year if information provided or available for the month of March of that same Contract year again evidences that the circumstance which triggered the assessment of liquidated damages in February still exists in March.

1.33.4.2 Three (3) months when the circumstance/information upon which the damages will be based is only provided or available on a quarterly or semi annual (6 months) basis.

1.33.4.3 Six (6) months when the circumstance/information upon which the damages will be based is only discovered via investigation of an ARP or other type of complaint, including a whistleblower type of complaint from current or former Staff of the Contractor.

1.33.4.4 Unlimited for any situation when it is determined that required, applicable information has been intentionally falsified or omitted to conceal the failure of the Contractor to comply with Contract requirements.

3. Revise Section 3.3.1.1.2 (**Billing**), as follows:

3.3.1.1.2 By the 10<sup>th</sup> of the each month, the Contractor shall ensure its web-based staff scheduling software is updated to reflect all current required clinical position vacancies (i.e., vacancies existing as of the first day of that month) for the Department's Medical Director to review.

4. Revise Section 3.3.5 (**Billing / Post Contract Invoicing and Final Contract Invoice**), as follows:

3.3.5 Post Contract Invoicing and Final Contract Invoice

As per § 3.77.3 the Department shall retain the last two semi-monthly payments due the Contractor to establish an escrow account to assure the payment of residual claims for the delivery of secondary care medical services for Inmates from any entity other than the Contractor that provided secondary care medical services for Inmates during the Contract term for which the entity is entitled to payment by the Contractor.

For one year following the expiration of the Contract ~~period for the delivery of secondary care medical services for Inmates~~, the Contractor may submit monthly ~~bills~~ invoices to the Department seeking reimbursement of residual claims for the delivery of secondary care medical services for Inmates from the Department equal to the total value of residual claims it has paid after Contract

expiration to other entities that provided secondary care medical services for Inmates, up to the amount of funds placed into the escrow account. If and when the Contractor submits invoices with a total value equal to the funds held in the escrow account, the Department will make no further payments to the Contractor. The Contractor shall remain liable for the payment of any additional residual claims submitted to it by other entities that provided secondary care medical services for Inmates during the period when the Contract was in effect, notwithstanding the fact that funds in the escrow account have been depleted.

One year after Contract expiration if any funds remain in the escrow account described in § 3.77.3 the Contractor may submit a final invoice to the Department for the amount of any funds that remain in the escrow account.

At his/her option, the Department Contract Manager may withhold from the payment due for any invoice submitted after Contract expiration, including the final invoice payment, an amount equal to the expected reimbursement from third parties as contained in the Contract third party reimbursement report described in § 3.77.2.1.1.

Any invoice submitted after Contract expiration, including the final invoice payment may include the allowable 10% retention incentive amount for all Medical ~~(Medicaid)~~ Assistance **(Medicaid)** eligibility, **private insurance and other third party** reimbursements pursued and achieved under this Contract after Contract expiration as described in § 3.69.1.2.3.

5. Revise the first paragraph of Section 3.6.1.2 (**Contractor Staffing and Management**), as follows:

3.6.1.2 Except as described in § 3.6.1.3 for nursing positions for infirmaries and sick call and § 3.6.1.4 for certain telemedicine implementation, ~~the~~ the Contractor shall maintain a minimum 96% Fill Rate for each of the Physician, PA, CRNP, RN, LPN and Phlebotomist clinical positions listed in Attachment R in accordance with its current DPSCS approved staffing plan. The 96% Fill Rate will be calculated by SDA **Statewide** and ~~the~~ clinical position (e.g. Physician, PA, CRNP, RN, LPN and Phlebotomist ~~etc.~~) based on the total number of hours provided per month versus the aggregate number of hours contained in the current staffing plan. As described in §1.33 and Attachment V, Liquidated Damages will be assessed for the failure to maintain a 96% staffing level for any or all clinical positions (Physician, PA, CRNP, RN, LPN and Phlebotomist) listed in the DPSCS approved staffing plan ~~Attachment R~~, both Department-wide and, if applicable, by SDA **Statewide**. i.e., even if the Contractor achieves a 96% staffing level Department-wide for a given month for a given position, if less than a 96% staffing level is obtained in that same month in any SDA **Statewide** Liquidated Damages will be assessed.

NOTE: The remaining paragraphs are unchanged.

6. Revise Section 3.69.1.2.3 (**Utilization Review/Utilization Management [UM]**), as follows:

3.69.1.2.3 Hire a ~~Medical Assistance~~ **Third Party Reimbursements** Coordinator who, as part of the Pre-Certification Process, shall review all Inmates for possible eligibility for Medical ~~(Medicaid)~~ Assistance (**Medicaid**) Reimbursement eligibility **prior to release and coordinate their applications with the Department’s Social Work regional directors. This Third Party Reimbursements Coordinator shall also verify if Inmates are covered by any type of private medical insurance.** As an incentive for the Contractor to aggressively pursue Medical Assistance (Medicaid) eligibility and reimbursement in all potentially eligible circumstances, or other types of third party reimbursements the Department will permit the Contractor to retain 10% of all such reimbursements **and/or direct payments:**

- Some cases will be determined to be eligible for Medicaid at the time of admission to the outside hospital;
- Such cases will result in the outside hospital receiving payment for services directly from Medicaid, which is an example of a direct payment.

In order to receive the 10% incentive, the Contractor shall track all Medicaid payments, both reimbursement and direct payments, in excess of \$100.00 for the full duration of the contract and submit a monthly Reimbursement / Direct Payments Summary Report (See Attachment AA) of all such payments to the DPSCS Contract Manager (See also § 3.77.2.1 and Contract § 5.4 4-8).

7. Revise Section 3.73 (**Data and Reports**) to **add** Section **3.73.2** and all subsections, as follows:

**3.73.2 Data Security and Audit Requirements**

**3.73.2.1 The Contractor shall obtain an annual audit of the Medical Records System that hosts DPSCS data performed in accordance with audit guidance: Reporting on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly recognized professional organization to assess the security of client data in an outsourced or cloud computing arrangement (referred to as the “SOC 2 Audit”). The SOC 2 Audit shall be performed at the Contractor’s expense.**

**If the Contractor currently has an annual data security audit performed that includes the operations, systems, and repositories of the services being provided to DPSCS, and if that audit conforms to the standards of the SOC 2 Audit, DPSCS**

will determine whether the Contractor’s current audits may be acceptable in lieu of a separate SOC 2 Audit.

As used in this Section 3.73.2, “days” means calendar days.

3.73.2.1.1 Within 40 days of Contract Commencement, the Contractor shall submit a plan to the DPSCS Contract Manager for the performance of the SOC 2 Audit pertaining to the operation of the Contractor under the Contract (the “SOC 2 Audit Plan”), as well as the additional requirements contained in § 3.73.2.2. The Contractor’s SOC 2 Audit Plan shall identify the independent entity that will perform the Contractor’s SOC 2 Audit, or a description of the means by which the Contractor will select its SOC 2 independent auditor. The DPSCS Contract Manager will have 10 days to review and comment on the SOC 2 Audit Plan, and shall identify any concerns with the scope of the audit, the independence or capability of the SOC 2 auditor, or the described plan to obtain an independent SOC 2 auditor. The Contractor shall have 5 days from receipt of the comments of the DPSCS Contract Manager to revise its SOC 2 Audit Plan to comply with the concerns of the DPSCS Contract Manager.

3.73.2.1.2 The SOC 2 independent auditor hired by the Contractor shall obtain DPSCS’s prior written approval of a Non-Disclosure Agreement between DPSCS and the SOC 2 independent auditor that conforms with DPSCS’ requirements. The Non-Disclosure Agreement shall, at a minimum, identify the confidential material contained in the DPSCS data being processed and provide that:

- the data shall be kept confidential by the SOC 2 independent auditor;
- the data is the property of the State of Maryland;
- the data shall only be disclosed to appropriate persons with a need to know;
- inappropriate disclosure of the data will result in harm to the State of Maryland and will result in legal action; and
- such other provisions as are required by DPSCS.

3.73.2.1.3 The Contractor shall submit the SOC 2 Audit Report to the DPSCS Contract Manager for each 12 month period of the Contract; i.e. for each year of the Contract there shall be a SOC 2 Report that covers the period of July 1 through June 30. These SOC 2 Reports shall be submitted to the DPSCS Contract Manager within 30 days of the June 30 end date of the preceding Contract year.

3.73.2.1.4 If the Contractor fails to have an annual SOC 2 Audit performed for a given 12 month period, DPSCS will have the right to arrange for a SOC 2 Audit to be performed at the Contractor's facility, the cost of which will be billed to and paid by the Contractor. The Contractor shall fully cooperate with any entity obtained by the DPSCS to perform a SOC 2 Audit. The Contractor shall pay the fully loaded cost of the labor time for DPSCS personnel to procure, or otherwise obtain an entity to perform a SOC 2 Audit.

3.73.2.1.5 Except for the final SOC 2 Report of the Contract (for the period July 1, 2016 through June 30, 2017), in the event any SOC 2 Audit Report reveals significant deficiencies in the subject of the Report, the Contractor shall submit a corrective action plan to eliminate the deficiency (ies), including the timeframe to do so, to the DPSCS Contract Manager within 10 days of the SOC 2 Audit Report submission date. The DPSCS Contract Manager will accept or provide comments for needed revision to the corrective action plan within 10 days of receiving the corrective action plan. The Contractor shall incorporate any required changes in its corrective action plan and resubmit the corrective action plan for the approval of the DPSCS Contract Manager within 5 days of receipt of the DPSCS Contract Manager's comments. The Contractor shall implement the corrective action plan within the timeframe included in the final approved plan.

The Contractor shall be responsible for all costs to perform each required SOC 2 Audit Report and to implement any and all indicated corrective actions to eliminate deficiencies in its operations.

3.73.2.2 In addition to the SOC 2 Audit requirements described in § 3.73.2.1, the Contractor shall also comply with, and bear the full cost of, the following requirements and include details of how it will comply in the Plan described in § 3.73.2.1.1:

- a. The Contractor shall notify the DPSCS Contract Manager within 24 hours of any event when the Contractor's system hosting DPSCS data may have been compromised, and provide regular updates on the investigation and remedial action it has taken.
- b. At the end of the Contract if the Contractor is not selected as the successor contractor, or if DPSCS terminates the Contract for any reason, the Contractor shall support the de-conversion of DPSCS data from its system and provide the DPSCS data in a universal, electronic file-format compatible for

transfer to the system approved by DPSCS, including the system of a successor contractor.

c. The Contractor shall maintain an effective disaster recovery plan that will restore services to DPSCS within an agreed amount of time.

3.73.2.3 Personally Identifiable Information. The Contractor acknowledges that, in the course of performance hereunder, the Contractor may receive personally identifiable information that may be restricted from disclosure under the Health Insurance Portability Act and Accountability Act (HIPAA) and/or the Family Educational Rights and Privacy Act (FERPA). Notwithstanding any other provision of this § 3.73.2, the Contractor will be responsible for all damages, fines and corrective action arising from disclosure of such information caused by such breach of its data security or confidentiality provisions hereunder.

8. Revise Section 3.77.2.1 (**Contract Close-out and Transition**), as follows:

3.77.2.1 All invoices from off-site specialists, hospitals, etc. are paid, ~~that the that post contract~~ invoices, including any final invoice, is submitted to the Department ~~is submitted~~ within 31 days of the end of the Contract, as described in § 3.77.3, below, and that any outstanding third party reimbursements (e.g., Medicaid **or private medical insurance**) are remitted to the Department whenever they are received. (See § 3.3.5 & § 3.69.1.2.3.1)

9. Revise Section 5.4 (**Third Party Payments**) of the Contract (Attachment A), as follows:

5.4 Third Party Payments

- (A) The Contractor shall obtain reimbursements, credits, reductions, refunds, rebates and gifts, including insurance and government payments (“third party payments”), for services rendered to Inmates, when such are available.
- (B) When the Contractor can receive, will receive, or has received third party payments in relation to the Contract, the Contractor shall Immediately notify the Department of the source, nature and amount of the third party payments.
- (C) Except for ~~Medical (Medicaid) Assistance~~ **Third Party Reimbursement** incentive payments as described in RFP § 3.69.1.2.3, all third party payments are the property of the Department and the Contractor shall follow the Department’s instructions in each instance concerning the disposition of such payments. Such instructions may include, within the sole discretion of the Department, the remission to the Department of the third party payment in its entirety, **with the 10% incentive payment to be made separately.**

- (D) Because third party payments are the property of the Department, the Contractor's obligations **and right to receive incentive payments** under this Section 5 shall survive the expiration of the Contract.
- (E) At the end of each Contract Period, the Contractor shall submit a report to the Department's Contract Manager in the form and format as required detailing all funds received from third party payments.

**10.** Replace **Attachment V Liquidated Damages** (to revise the 96% minimum fill rate per position from "*per SDA*" to "**Statewide**") with the attached version.

Date Issued: **February 17, 2012**

By: <signed>  
Andrea R. Lockett  
Procurement Officer

Enclosures:

Attachment V Liquidated Damages