



*Delaware Health
And Social Services*

DIVISION OF MANAGEMENT SERVICES

PROCUREMENT

DATE: May 28th 2013

HSS 13 023

Administrative Fair Hearing Officer Services

FOR

Department of Health and Social Services

Date Due: July 12th , 2013
11:00AM

ADDENDUM # 1

Please Note:

THE ATTACHED SHEETS HEREBY BECOME A PART
OF THE ABOVE MENTIONED BID. Questions and
Answers

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In the RFP, under section " III Scope Of Services", "Description of Services" found on page 9- The bullets provide a descriptive outline of the many types of hearings to preside over .

Q:Can you please clarify if any of the types of hearings listed require that "only" a practicing licensed attorney preside over them?

Ans:The RFP says this:

The selected vendor must be a licensed attorney OR have a minimum of 5 years of demonstrated experience in Administrative Fair Hearings, Mediation Hearings and or Provider Hearings to be considered for an award.

So, the answer is NO, with the caveat that DSCYF, and perhaps DCSE, may want only licensed attorneys to preside over their hearings. Please confirm with those agencies that they permit non-attorneys to act as Hearing Officers.

Q:Can you provide an estimate on the yearly volume of work related to each of the types of hearings outlined in this section?

Ans: This information cannot be pre-determined due to the nature of this service provision.

Q:Can you provide an overall dollar amount for the contracts to be awarded for each of the different types of hearings outlined?

Ans: This information cannot be pre-determined due to the nature of this service provision.

According to the RFP, Section II , Eligibility Requirements found on page 8. “The selected vendor needs to be a licensed attorney or have a minimum of 5 years of demonstrated experience...”

Q:Can you clarify if the individual needs to be specifically licensed as an Attorney in the State of Delaware or if it is acceptable to be licensed in another State and still be eligible?

Ans:The RFP does not require that the attorney be licensed in DE .

Q:Does it matter how long the individual has been licensed as my concern is that a newly appointed attorney may not have the experience needed ?

Ans:The RFP does not make the experience of a licensed attorney a qualification to submit a proposal. The experience of a licensed attorney would figure into the individual ratings under Section 6981 and 6982.

Q:Even if a corporation has a history of providing fair hearing services, can you clarify that “the individual chosen” to represent the company will need to be the party to meet the guidelines set forth in this section to be eligible ?

Ans: The answer to the question is “yes”. The selected vendor must be a person, not a corporation. I think that DHSS is not looking for a bid by a law practice – it wants names, not whoever the law firm wants to send. If a firm wants to bid, it needs to have each of its members bid individually.

According to the RFP, in the section referred to as Scope of Services, Description of Services,

Page 10, the 8th bullet down from the top. Must issue a decision that complies with the agency requirements to the Division within 10 business days of the hearing date.....

Q:Has the Agency changed their requirements in this area and why has it changed? Can you provide documentation that refers to the change that now makes it 10 days for the Hearing Officer to render a decision?

According to the rules laid out on the Delaware.gov site listed under the Fair Hearing Decision section and outlined in the DMMA/DSS Policy Manual (page 26, listed under section 5500, Issuing Fair Hearing Decisions, Number 1 : Hearing Decisions Are Made Promptly) it is still outlined that “The decision of the Hearing Officer is issued within 30 days from the date of the hearing.”

Ans:The entity is correct that under the Medicaid fair hearing rules, the Hearing Officer has 30 days to issue a decision. If DHSS is satisfied with that (and I have never been told that it is not), why not clarify that the 10-day rule is applicable unless there is controlling law that sets a different deadline?

Page 10, the 11th bullet down from the top,. “The contractor must allow both parties to offer evidence into record. If documentation, which is necessary to reach a decision, is missing from the record and not offered by a party during the hearing, then the contractor will request the documentation to complete the record.

Q:Can you please clarify on this? If you refer to the RFP, page 7, under section A. Background- Background Information, found in paragraph 3. It states “The Hearing Officer presides at the hearing, He/she makes decisions about the admissibility of evidence and how the proceedings are conducted.” and further in that same paragraph

it also states that “The Hearing Officer can question witnesses or direct the parties to produce evidence which he/she determines is necessary. However, other than ensuring that the hearing is conducted administratively, the Hearing Officer is not permitted to assist either party in the presentation of his/her/its case.”

The parties are provided with ample notification of the scheduled hearing and are instructed in the body of the “scheduling letter” that they “may offer evidence or testimony at the hearing”. The scheduling letter further states that “An explanation of the hearing process and copies of the documents offered by the State as evidence in this matter are enclosed” along with the notification. Any evidence requested should be done only when both parties are present, and the hearing is in progress, to allow the opposing party the opportunity to question the new evidence. To allow a party to supply missing documentation after the hearing has closed (ex: evidence not asked for or discussed at the time of the hearing) places the other party in an unfair position.

Ans:Why not clarify to allow the admission of evidence after the hearing within the discretion of the Hearing Officer? Despite what is stated, it does happen and there are often good reasons for it. DHSS could simply replace the word “will” in the language below with the word “may.”

then the contractor **will** request the documentation to complete the record.

Q :I have a question regarding one of the requirements of this RFP. On page 11 of the RFP document, there is the following language:

"The awarded vendor(s) must (in bold) utilize Iron Port (as the State standard for e-mail encryption) to encrypt all e-mails between State staff and the vendor."

I am a sole proprietor. I have no employees and, therefore, I would be the only person receiving and reading any applicable email

communication. I have inquired into obtaining Iron Port email encryption and have learned that the security system that would cover the least number of users would be 100 users and would cost at a minimum \$2000. I currently use gmail and I am in the process of trying to learn whether it is incompatible with Iron Port.

I understand the necessity for security, yet in light of the fact that I, alone, am the business and I am wondering if there still exists the necessity for obtaining and using Iron Port.

Ans: The answer is Yes, you still need to use Iron Port. Whether one or more recipients if the email is not encrypted it can be read in transit.

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Q:In the event that work undertaken exceeds a vendor's capacity (volume) , how should that be addressed?

Ans: The RFP allows for sub-contractors to address this type of issue.

Q:Is Lexis Nexis a requirement or preferred library for this RFP?

Ans: No, Lexis Nexis was simply used as an example. You may use any Law Library , there is no preference.

Q: As a lawyer I am required to adhere to the law over organization policy. This seems to present a conflict with some of the requirements in the RFP and State/ Federal regulations.

Ans: When there are conflicting requirements between Law and Policy, the Law presides.

Q: There is a requirement for a toll free number (pg. 10) , will the acceptance of collect calls be fulfillment of this requirement.

Ans: The requirement as stated in the RFP is for a toll free number. The acceptance of collect calls is not outlined as a requirement.