



**DEPARTMENT OF HEALTH
AND SOCIAL SERVICES**

Division of Management Services

July 14, 2017

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: Terrell Copeland
PURCHASING SERVICE COORDINATOR, DHSS
302-255-9294

SUBJECT: **AWARD NOTICE – Addendum # 4, effective July 14, 2017**
CONTRACT NO. MMCAP
MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR PHARMACY

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OF
KEY CONTRACT INFORMATION**

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KEY CONTRACT INFORMATION

1. CONTRACT USE:

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The Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP), created in 1985, is a free, voluntary group purchasing organization operated and managed by the State of Minnesota's Department of Administration for government healthcare facilities.

MMCAP's primary function is to provide a full range of pharmaceuticals to its participating facilities. However it also has contracts, for vials and containers, medical supplies, drug testing, returned goods processing, influenza vaccine, and dental supplies.

If you have any questions regarding becoming a MMCAP member, completing and executing the MMCAP Membership and Agreement Forms provided by Terrell Copeland or any additional questions regarding MMCAP, contact Terrell Copeland, Delaware Department of Health & Social Services, (302) 255-9294, terrell.copeland@state.de.us.

2. MEMBER FACILITY:

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Eligible Facilities within Delaware may participate in MMCAP.

To become a member, a facility must:

- Complete and execute the MMCAP Membership and Agreement forms and submit it to the state's MMCAP Purchasing Contact, Terrell Copeland, DE Health & Social Services, (302) 255-9294, terrell.copeland@state.de.us
- Comply with all laws, rules and regulations governing government purchasing of pharmaceuticals and related products, including operating within the boundaries established by Robinson-Patman (15 U.S.C. 13(a)), Abbott Labs v Portland Retail Druggists (425 U.S. 1(1976)) and Jefferson County Pharmaceutical Association, Inc. v. Abbott Labs (460 U.S. 150 (1983)); and
- Use the MMCAP-contracted distributor selected by Delaware.

3. ELECTONIC CATALOG

Member Facilities using the MMCAP Pharmaceutical Program have free access to an Internet-based Catalog, which provides an up-to-date listing of every pharmaceutical product on contract. Included in the product listing are the generic and trade name, source, price AHFS classification, as well as other useful information.

4. CONTRACT PERIOD:

MMCAP has contracts available for the following services:

Containers and Vials

Drug Testing

Influenza Vaccine

Distributors

Medical Supplies

Dental Supplies

**Pharmaceuticals/Repackaging
Invoice Auditing Services
Emergency Preparedness Program**

**Returned Goods Processing
Vaccines
Laboratory Supplies,
Equipment and Chemicals**

Contracts have various expiration dates. Contact Terrell Copeland for details.

5. VENDORS:

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Current Vendors by Goods or Services provided:

<p>Condoms</p> <p>ANSELL HEALTHCARE PRODUCTS LLC.</p> <p>Global Protection Corp</p>
<p>Containers and Vials</p> <p>BERRY PLASTICS CORPORATION</p> <p>Centor Inc.</p>
<p>Dental</p> <p>Darby Dental Supply, LLC</p> <p>Dental Health Products, Inc.</p> <p>Henry Schein Dental, a division of Henry Schein, Inc.</p>
<p>Diabetes Equipment</p> <p>ABBOTT DIABETES CARE SALES CORPORATION</p> <p>AGAMATRIX, INC.</p> <p>ARKRAY USA. (U.S. Corporate)</p> <p>Ascensia Diabetes Care U.S. Inc.</p> <p>JOHNSON & JOHNSON HCS</p> <p>RETRACTABLE TECHNOLOGIES, INC</p> <p>ROCHE DIAGNOSTICS CORPORATION</p>

TRIVIDA HEALTH INC.

ULTI-MED

Drug Testing

American Bio Medica Corp.

Medtox Diagnostics, Inc.

PHAMATECH

Premier Biotech, Inc.

Redwood Toxicology Laboratory,
Inc.

Influenza Distribution

FFF ENTERPRISES

Henry Schein

Influenza Vaccines

FFF ENTERPRISES

GSK (GLAXOSMITHKLINE)

McKESSON MEDICAL-SURGICAL
INC.

SANOFI PASTEUR INC.

Seqirus USA Inc.

Invoice Auditing

eAudit Solutions, Inc.

Laboratory Supplies

Fisher Scientific

VWR International, Inc.

Medical Supply Distribution

Henry Schein

McKesson Medical-Surgical
Minnesota Supply Inc

Medline Industries, Inc

Nutritionals

ABBOTT NUTRITION, A DIVISION
OF ABBOTT LABORATORIES INC.

KENT PRECISION FOODS
GROUP, INC

MEAD JOHNSON NUTRITIONAL
GP

NESTLE INFANT NUTRITION

NESTLE NUTRITION

NUTRICIA NORTH AMERICA

Pharmaceutical Distribution

AmerisourceBergen

CARDINAL HEALTH

Morris & Dickson

Pharmaceutical Waste Disposal

CLEAN HARBORS
ENVIRONMENTAL SERVICES,
INC.

MED-TURN, INC.

Pharmaceuticals

ABBOTT NUTRITION, A DIVISION
OF ABBOTT LABORATORIES INC.

AbbVie US LLC

ACCORD HEALTHCARE INC

ADAPT PHARMA INC.

AFAXYS INC

AKORN, INC.

ALKERMES, INC.

Allergan USA, Inc.

ALLIANCE LABS, LLC

ALMATICA PHARMA, INC.

ALVOGEN

AMERICAN HEALTH PACKAGING

AMERICAN REGENT, INC

AMNEAL BIOSCIENCES

AMNEAL PHARMACEUTICALS,
LLC

AMPHASTAR
PHARMACEUTICALS, INC.

ANIP ACQUISITION COMPANY
d/b/a ANI PHARMACEUTICALS,
INC.

APOTEX CORP.

APOTHECUS PHARMACEUTICAL

AREVA PHARMACEUTICALS

ASCEND LABORATORIES, LLC

ASTRAZENECA
PHARMACEUTICALS LP

AUROBINDO PHARMA U.S.A.,
INC.

AUROMEDICS PHARMA LLC

Avadel Legacy Pharmaceuticals,
Inc.

AvKARE, Inc.

B. BRAUN MEDICAL INC.

BAYER HEALTHCARE
PHARMACEUTICALS

BEUTLICH PHARMACEUTICALS,
LLC

BIRCHWOOD LABORATORIES,
INC.

BOEHRINGER INGELHEIM

BRAINTREE LABORATORIES

BRECKENRIDGE

PHARMACEUTICAL, INC.

BRISTOL-MYERS SQUIBB

CAMBER PHARMACEUTICALS,
INC.

Cardinal Health 110, LLC and
Cardinal Health 112, LLC

CARLSBAD TECHNOLOGY, INC.

CIPLA USA, INC.

CITRON PHARMA LLC

CMP PHARMA

DAIICHI SANKYO, INC.

DERMARITE INDUSTRIES LLC

DR REDDY'S LABORATORIES

ECI PHARMACEUTICALS LLC

EISAI INC.

ELI LILLY & CO

ENTERA HEALTH, INC.

FERNDALE LABS

FERRING PHARMACEUTICALS,
INC.

FRESENIUS KABI USA, LLC

G & W LABS

GERI-CARE

GERITREX CORP

GILEAD SCIENCES

GLENMARK PHARMACEUTICALS
INC., USA

GOLDEN STATE MEDICAL
SUPPLY, INC

GREENSTONE LLC

GRIFOLS USA, LLC.
GSK (GLAXOSMITHKLINE)
GSK CONSUMER HEALTHCARE
HARRIS PHARMACEUTICAL INC
HERITAGE PHARMACEUTICALS
INC.
HR PHARMACEUTICALS, INC
I-Health, Inc
IMPAX LABORATORIES, INC.
Indivior Inc.
JAZZ PHARMACEUTICALS, INC.
JOHNSON & JOHNSON HCS
JUBILANT CADISTA
PHARMACEUTICALS INC.
KADMON PHARMACEUTICALS,
LLC
KENT PRECISION FOODS
GROUP, INC
KIRKMAN LABORATORIES, INC
KONSYL PHARMACEUTICALS
KVK-TECH, INC.
LANNETT COMPANY
Laser Pharmaceuticals
LEADING PHARMA, LLC
LUPIN PHARMACEUTICALS, INC.
MACLEODS PHARMA USA, INC.
MAGNO-HUMPHRIES LABS, INC.
MAJOR PHARMACEUTICALS
MALLINCKRODT LLC, a Covidien
company

MARLEX PHARMACEUTICALS

MAYNE PHARMA INC.

MCKESSON PACKAGING
SERVICES (SKY)

MEAD JOHNSON NUTRITIONAL
GP

Medac Pharma Inc.

MEDIQUE PRODUCTS

MERCK SHARP & DOHME CORP.
(MERCK & CO)

METHOD PHARMACEUTICALS,
LLC

MISSION PHARMACAL COMPANY

MYLAN INSTITUTIONAL INC.

MYLAN PHARMACEUTICALS

MYLAN SPECIALTY L.P.

NEPHRON PHARMACEUTICALS

NESTLE INFANT NUTRITION

NESTLE NUTRITION

NIVAGEN PHARMACEUTICALS

NOVARTIS PHARMACEUTICALS

NOVO NORDISK

ONY, INC.

PAR PHARMACEUTICALS

PAR STERILE PRODUCTS, LLC.

PARAPRO, LLC

PATRIN PHARMA, INC.

Patriot Pharmaceuticals

PERRIGO PHARMACEUTICALS

PFIZER INC.

PFIZER INJECTABLES
PHARMACEUTICAL ASSOCIATES,
INC
PIRAMAL CRITICAL CARE
PLUS PHARMA, INC.
PRASCO LABORATORIES
PRECISION DOSE
PROCTER & GAMBLE
PuraCap Laboratories LLC.
PURDUE PHARMA LP
RECKITT BENCKISER LLC
Renaissance Pharma Inc.
RHODES PHARMACEUTICALS
L.P.
RICHMOND PHARMACEUTICALS
INC.
RISING PHARMACEUTICALS, INC.
RITEDOSE PHARMACEUTICALS,
LLC
ROUSES POINT
PHARMACEUTICALS, LLC
ROXANE LABORATORIES, INC.
SAGENT PHARMACEUTICALS,
INC.
SANDOZ INC.
SANOFI AVENTIS U.S. LLC
SEBELA PHARMACEUTICALS
INC.
SETON PHARMACEUTICALS, LLC
SIGMAPHARM LABORATORIES
LLC
Silvergate Pharmaceuticals Inc.

SOLACE NUTRITION, LLC
SOLCO HEALTHCARE US, LLC.
STANBIO LABORATORY
STRATUS PHARMACEUTICALS
STRIDES PHARMA, INC
SUN PHARMACEUTICAL
INDUSTRIES, INC.
SUNOVION PHARMACEUTICALS,
INC.
TAGI Pharma, Inc.
TAKEDA PHARMACEUTICALS
AMERICA INC
TARO PHARMACEUTICALS
U.S.A., INC.
Teligent Inc.
TEVA PHARMACEUTICALS USA,
Inc.
TEVA SPECIALTY
TORRENT PHARMA INC.
Tris Pharma Inc
TWI PHARMACEUTICALS USA
UCB, INC.
ULMER PHARMACAL
UNICHEM PHARMACEUTICALS
(USA), INC.
UPSHER SMITH LABS
VALEANT PHARMACEUTICALS
NORTH AMERICA
VALIDUS PHARMACEUTICALS
LLC
VIRTUS PHARMACEUTICALS
VISTAPHARM, INC.

WEST-WARD PHARMACEUTICAL
CORP.

WOCKHARDT USA LLC

X-GEN PHARMACEUTICALS, INC.

ZYDUS PHARMACEUTICALS USA

Prescription Filling

Diamond Pharmacy Services

Repackager

REMEDY REPACK

Safecor Health, LLC

Returned Goods

MED-TURN, INC.

Spacers

Avadel Legacy Pharmaceuticals,
Inc.

LUPIN PHARMACEUTICALS, INC.

Vaccines

GSK (GLAXOSMITHKLINE)

MERCK VACCINE DIVISION

PAXVAX, INC

SANOFI PASTEUR INC.

6. ROBINSON-PATMAN ACT:

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The Robinson-Patman Act (15 U.S.C. 13 (a)-(f)) specifically makes it unlawful for one engaged in commerce to discriminate in price between different purchasers of like commodities where "the effect ... may be substantially to lessen competition." Over the 60 plus years since this law was originally enacted, this language has been interpreted by courts as preventing governmental entities (except the federal government) from using their "purchasing power" to lessen competition -- especially in the area of pharmaceuticals. *In the case of MMCAP contracts, the burden is on the member facility to ensure it is not in violation of Robinson-Patman.*

Any MMCAP manufacturer can refuse to provide products to any MMCAP facility in circumstances where the manufacturer believes there is a violation of Robinson-Patman, *Portland*, or *Jefferson*.

MMCAP's position is that if a manufacturer refuses to provide products to an MMCAP facility, it is the member facility and the member state that must establish that they are not in violation. Facilities are also expected to provide assurances of compliance with Robinson-Patman upon request.

7. DELIVERY AND PICKUP:

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All items acquired under MMCAP Contracts must be purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise.

8. PRICING:

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Prices will remain firm for the term of the contract year.

ADDITIONAL TERMS AND CONDITIONS

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9. BILLING:

The successful vendor is required to **"Bill as Shipped" to the respective ordering agency(s).** Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

10. PAYMENT:

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

11. ORDERING PROCEDURE:

Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

12. HOLD HARMLESS:

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

13. NON-PERFORMANCE:

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

14. FORCE MAJEURE:

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

15. AGENCY'S RESPONSIBILITIES:

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.

16. ELECTRONIC CATALOG:

Member Facilities using the MMCAP Pharmaceutical Program have free access to an Internet-based Catalog, which provides an up-to-date listing of every pharmaceutical product on contract. Included in the

product listing are the generic and trade name, source, price, AHFS classification, as well as other useful information.

MMCAP also maintains a comprehensive list of pharmaceutical products on backorder along with the status of the product (e.g., long or short term backorder, product short dating, discontinued product lists).

17. MEMBER FACILITY:

Eligible facilities within Delaware may participate in MMCAP.

To become a member, a facility must:

- Complete and execute the MMCAP Membership and Agreement forms and submit it to the state's MMCAP Purchasing Contact, Terrell Copeland, DE Health & Social Services, (302) 255-9294, terrell.copeland@state.de.us.
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