



*Delaware Health
And Social Services*

DIVISION OF MANAGEMENT SERVICES

PROCUREMENT

DATE: MARCH 26, 2008

PSC #811

PERSONAL ATTENDANT SERVICES

FOR

DIVISION OF SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES

Date Due: APRIL 23, 2008
11:00 AM

ADDENDUM # 1

Please Note:

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

SANDRA S. SKELLEY, CPPO
PROCUREMENT ADMINISTRATOR
(302) 255-9291

MARY ELLEN SAUNDERS
(302) 255-9360

Request for Proposal No. PSC- 811

Personal Attendant Services

Additional Instructions and Information:

1. In addition to submitting a hard copy of your budget in the proposal, a disk with the Excel version of the budget must also be submitted. A copy of the excel version was sent to bidders via email on 3/20/08.
2. Attached also is the revised Standard Department Contract which was approved 3/20/08. It will be used in all contracts beginning July 1, 2008.

Questions / Answers

| Questions | Answers |
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| <p>1. Please define the scope of work. How many clients are to be served...25, 50...500? The RFP sites an example of a recently funded agency. Who determines the number of clients? The entire budget is based on client hours and units served, so it is important to define how many clients prior to budget development. Does DHSS refer the clients to the agency?</p> | <p>There was approximately \$1.2 million available to provide this service statewide for approximately 81 consumers in the current contract year. However, based on current financial projections, we anticipate a reduction in available funds in '09.</p> <p>Bidders must decide if they want to propose service to one county or several counties and prepare a budget to determine the cost per hour of service. The number of consumers served depends on the number of hours of service available and the number of hours each consumer receives.</p> <p>A final contract(s) will be negotiated and will depend on funds available at that time.</p> <p>Yes, DSAAPD refers all consumers to the program.</p> |
| <p>2. On page 2, "Bowel or urinary evacuation" is listed as "assistance with routine bodily functions. Does this include colostomy bags and catheters? Impactions? Please clearly define.</p> | <p>"Bowel or urinary evacuation" is assisting someone, which can include colostomy bags and catheters. The attendant provides the kind of assistance the consumer would have self provided, if able. Not every attendant would need to know these skills, but it would be up to the consumer and attendant to determine what skills are needed and the means for acquiring these skills.</p> |
| <p>3. On page 2, 3rd paragraph, should "consumers" be contracted provider agency? The question is, who pays the aid? Does the contracted provider pay the aid, or the consumer? Is the aid an employee of the client, or the service provider agency?</p> | <p>No, it should not be "contracted provider agency". The attendant is the employee of the consumer. The consumer sets up a bank account with the help of the contracted agency. The contracted agency deposits funds into the account. The consumer writes the check and pays the attendant out of the bank account.</p> |
| <p>4. On page 6, please clarify; a current Delaware Business license, or a current Delaware Home Healthcare provider license?</p> | <p>A copy of your Delaware Business License must be submitted with the proposal unless you are a non-profit agency. Non-profit agencies must submit a copy of 501 C.</p> |
| <p>5. How many consumers are currently served in each county?</p> | <p>Currently there are 35 consumers in New Castle County, 21 in Kent County and 25 in Sussex County.</p> |

| Questions | Answers |
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| 6. With the new regulations with Home Health Agencies for Personal Assistance Services Agencies, are we required to get a license or 501-C? | We are requesting a Delaware Business license or a 501-C |
| 7. Who applies for the EIN# for the consumer? Does the provider need EIN# as a provider agency/fiscal agent? | The consumer applies for the EIN# with support and technical assistance from the provider agency. The provider agency does not need and EIN#. |
| 8. What is the model and how does it work? | The consumer is the employer and the provider agency gives technical support/guidance/training, but is not the fiscal agent. |
| 9. What are the responsibilities of the provider agency? | Provider responsibilities are stated in the Service Specifications located in "Attachment A", page 31 of the RFP. |
| 10. What is the average number of hours per client and is there a cap? | The average is twenty (20) hours per client. The cap is thirty (30) hours per client. If the client is receiving other support services they receive fewer hours. The DSAAPD Case Manager determines the hours in conjunction with the consumer. |
| 11. Is there a way to determine the workers' comp experience? Ex. Part-time worker, Full-time workers, high risk consumers who have had claims. | Please reference the following website: http://www.delawareworks.com/industrialaffairs/services/WorkersComp.shtml |
| 12. Can you tell us cost per hour so we can determine the # of units? | All costs go into the budget and that will determine the number of units you can provide. This will determine the unit rate. |
| 13. Who sets the rates for salary/fringe benefits for provider staff? | These are determined by the provider agency. |
| 14. Do you want to see the "nut & bolts" of how we determine our individual cost? | Yes, use the "Budget Supplement Worksheet" to justify your cost. |
| 15. Are the aides certified? | There is no requirement for certified aides. |
| 16. Can your rates be different in different counties? | This will have to be determined when you prepare your budget? Currently, all attendants receive \$9.75 per hour. |
| 17. Is the Workers Compensation Insurance based on Hours? Salary? | See answer to #11 |

| Questions | Answers |
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| 18. How do you address fuel cost? | Please reference the "Description of Allowable Cost" sheet, page 39 of the RFP. |
| 19. Are there waiting lists for this service? | Yes |
| 20. Would the employer/consumer be the policy holder of the workers compensation policy? Pg. 33 section 3 | Yes |
| 21. Does provider apply to Delaware unemployment on behalf of the employer/consumer or does the provider obtain a single unemployment account to cover PAS employees? Pg. 33 section 3 | The employer/consumer applies for Delaware unemployment with the technical support/training/guidance from the provider agency. |
| 22. What are seasonal chores in homemaker type services? I.e. Like shoveling snow & mowing grass and working in the garden. Pg. 33 section 3.5.1 | The services in your example are outside the scope of services that attendants usually provide. A typical seasonal chore could include decorating for a holiday, wrapping presents and Christmas shopping. Some chores are negotiated on a case by case basis. |
| 23. Who carries liability on the automobile used for transportation? Pg. 33 section 3.5.2 | If the attendant is using the consumer/employer vehicle (for example to run errands such as shopping), it is the responsibility of the consumer/employer to obtain the appropriate insurance to cover the employee. |
| 24. Must the Personal Attendant be bonded in order to provide assistance with bill payment and money management? Pg. 33 section 3.5.3 | No |
| 25. Is travel time included in a service unit from the PAS home? Pg. 34 section 5.0 | On page 34, section 5.3 – it states "Travel to and from the client's home (or initial service site) shall not be included." |
| 26. Is the consumer considered the full common law employer? Pg. 34 section 6.0 | The consumer is the employer and assumes all employer responsibilities. |

| Questions | Answers |
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| 27. Is the provider considered a state sub-agent, fiscal employer agent or a vendor fiscal employer agent? (according to internal revenue service notice 2003-70)Pg. 34 section 6.0 | The provider agency is considered a contractor. |
| 28. Is the consumer/employer required to have an FEIN? Pg. 37 section 7.9.8 | Yes |
| 29. Is the provider required to have a separate FEIN? Pg. 37 section 7.9.8 | No |
| 30. What are the payroll related items that the provider's checking account is used for and how are funds transferred to the consumers account? Pg 34 section 6.1.2.2 | There are no payroll related items that come from the provider's checking account. All payroll related items are paid from the consumer/employer account. Consumers are paid with reimbursements that are directly deposited into their checking account or the provider agency prepares a check. |
| 31. Is the consumer/employer responsible for depositing and filing all payroll taxes and reports such as federal unemployment tax, state unemployment tax, state income tax, schedule H, IRS form 91 etc. Pg. 34 Section 6.2 | Yes, the consumer/employer is responsible with the training and technical assistance from the provider agency. |
| 32. Whose funds are used to pay the personal attendant, the consumers or the provider? Pg. 34& 35 Section 6.2 | The provider agency uses funds from the contract to reimburse the consumer by direct deposit or by check which the consumer then deposits into their account. The consumer will then pay the attendant. |
| 33. Who determines the wage rate to be paid to the personal attendant? Pg.35 Section 6.2 | The wage rate must be determined by the provider agency and built into the budget. Currently attendants get \$9.75 per hour. |
| 34. Is the provider operating the pool of personal attendant employees as a registry of independent contractors or are they considered employees? Pg.35 Section 6.2 | The provider maintains a list of potential attendants. They are not employees or independent contractors. |

| Questions | Answers |
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| 35. Does the state require certification other than background checks of sub-contractors for emergency care? Pg.36 section 7.5 | No. |
| 36. Who pays the sub-contractors and where does provider obtain funds from? Pg. 36 section 7.5 | The use of a subcontractor is rare. The consumer should have a back up attendant. If the use of a subcontractor is necessary, it is the consumer's responsibility to pay for the attendant. |
| 37. Does section 7.6 include all federal state and local rules, regulations and standards for fiscal employer agents as established by the state department of revenue, and all Delaware regulation included under title 19 for provider financial management services? Pg. 36 Section 7.6 | The provider agency is not a fiscal agent. They will provide technical assistance, training and guidance to the consumer. |
| 38. What time management method is used to document services rendered? Pg. 37 section 7.9.6 | Time Sheets |
| 39. Is consumer required to file all tax form, including IRS SS4 to obtain FEIN #? Pg. 37 Section 7.9.8 | Yes |
| 40. Are hours utilized considered the service unit worked for the consumer employer? Pg. 38 Section 9.2.3. | Yes |
| 41. Who bills for and pays for State Unemployment Taxes? Pg. 38 Section 9.0 | The consumer. |
| 42. Who bills for and pays for Federal Unemployment Taxes? Pg. 38 Section 9.0 | The consumer. |
| 43. Who bills for and pays for employer FICA and Medicare Taxes? Pg. 38 Section 9.0 | The consumer. |

| Questions | Answers |
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| 44. Where can detail information be obtained for the definition of “each service” Pg. 44 first bullet | The instructions are general guidelines for RFPs. This RFP is only for one (1) service, Personal Attendant Services. |
| 45. How do the consumer and their employee sign off on services delivered? Pg. 37 | Time Sheets are signed by the consumer and the attendant. |
| 46. In compliance with the IRS, the Delaware Department of Labor and related state and local authorities, who will perform the following financial management services: Pg. 34 Section 6.2 | |
| a. On behalf of the participant employer, enrollment of the participant into all applicable taxing authorities. | Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency. |
| b. On behalf of the participant employer, processing employment application package and documentation for prospective individual to be employed (including verifying their workers’ qualifications, and clearances.) | The consumer is the employer. They assume all employer responsibilities. * the provider agency is responsible for acquiring and paying for the background checks of potential attendants. |
| c. On behalf of the participant employer, establishing and maintaining a record for each individual employed and process all employment records. | The consumer is responsible for all employment records. The provider agency will comply with the “Administrative Requirements of the Provider Agency” Section 7.0 in the Service Specifications (Attachment A in the RFP) |
| d. On behalf of the participant employer, preparing and disbursing payroll. | Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency. |

| Questions | Answers |
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| <p>e. On behalf of the participant employer, securing workers' compensation or other forms of insurance and managing the claims.</p> | <p>Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency.</p> |
| <p>f. On behalf of the participant employer, withholding, filing, reporting, and depositing federal, and state and local income taxes in accordance with the federal IRS, state Department of Revenue Services, and local tax bureaus rules and regulations.</p> | <p>Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency.</p> |
| <p>g. On behalf of the participant employer, withholding, filing, reporting, depositing and maintaining compliance with the claims and appeals with the Delaware and federal Unemployment Compensation Bureaus' rules and regulations.</p> | <p>Consumer/Employer responsibility with the technical assistance/training/guidance of the provider agency.</p> |
| <p>h. On behalf of the participant employer, generating and distributing IRS W-2's, wage and tax statements and related documentation annually to all member-employed caregivers who meet the statutory threshold earnings amounts during the tax year by January 31st.</p> | <p>Consumer/Employer responsibility with the technical assistance/training/guidance of the provider agency.</p> |
| <p>i. Acting on behalf of the participant receiving supports and services for the purpose of payroll reporting.</p> | <p>Consumer/Employer responsibility with the technical assistance/training/guidance of the provider agency.</p> |

| Questions | Answers |
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| <p>j. On behalf of the participant employer, distributing, collecting and processing provider time sheets and attendance data as summarized on payroll summary sheets completed by the participant.</p> | <p>Consumer/Employer responsibility with the technical assistance/training/guidance of the provider agency.</p> |
| <p>k. On behalf of the participant employer, securing HIPAA business agreements with any individual or entity that will be reimbursed with waiver funding.</p> | <p>Does not apply. This is not a Waiver service.</p> |
| <p>l. On behalf of the participant employer, establishing and maintaining all FMS related participant records with confidentiality, accuracy, and appropriate safeguards.</p> | <p>Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency.</p> |
| <p>m. On behalf of the participant employer, purchasing other forms of insurance, including healthcare, as appropriate.</p> | <p>Does not apply. Consumer/Employer does not provide healthcare insurance.</p> |
| <p>n. On behalf of the participant employer, verifying weekly service hours in relationship to payroll in order to ensure correct billing, problem resolution, and alternative billing procedures.</p> | <p>Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency.</p> |
| <p>o. On behalf of the participant employer, processing judgments and wage garnishments and requests for employee wage information.</p> | <p>Consumer/Employer is responsible with the technical assistance/training/guidance of the provider agency.</p> |

| Questions | Answers |
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| <p>p. Rescinding or revoking all authorizations when a participant leaves the program.</p> | <p>The DSAAPD is responsible for rescinding or revoking service authorization and notifies both the consumer and the provider.</p> |
| <p>q. Maintaining compliance with all applicable regulations and statutes, such as fraud and abuse policies.</p> | <p>The consumer is responsible for maintaining accurate records. The provider monitors and reports irregularities to the DSAAPD Case Manager.</p> |
| <p>r. Collecting co-pays from applicable participant employers; and providing reports and documentation to the Department as requested.</p> | <p>DSAAPD determines the co-pay. The provider ensures that the consumer receives the difference between the co-pay and the cost of the service. The consumer is responsible for making the co-pay.</p> |

1 Standard Department Contract Approved 3/20/08

CONTRACT

A) Introduction

1. This contract is entered into between the Delaware Department of Health and Social Services (the Department), Division of _____ (Division) and _____ (the Contractor).
2. The Contract shall commence on _____ and terminate on _____ unless specifically extended by an amendment, signed by all parties to the Contract. Time is of the essence. (Effective contract start date is subject to the provisions of Paragraph C 1 of this Agreement.)

B) Administrative Requirements

1. Contractor recognizes that it is operating as an independent Contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Contractor's negligent performance under this Contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Contractor in their negligent performance under this Contract.
2. The Contractor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The Contractor is an independent contractor and is not an employee of the State.
3. During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:

| | |
|------------------------------------|--------------------------|
| a) Comprehensive General Liability | \$1,000,000 |
| and | |
| b) Medical/Professional Liability | \$1,000,000/ \$3,000,000 |
| or | |
| c) Misc. Errors and Omissions | \$1,000,000/\$3,000,000 |
| or | |
| d) Product Liability | \$1,000,000/\$3,000,000 |

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

| | |
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| e) Automotive Liability (Bodily Injury) | \$100,000/\$300,000 |
| f) Automotive Property Damage (to others) | \$ 25,000 |

4. Notwithstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the Contractor's negligent performance under this Contract, and any other liability for damages for which the Contractor is required to indemnify the State, the Department and the Division under any provision of this Contract.
5. The policies required under Paragraph B3 must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.
6. The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in Paragraph A 2.
7. The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.
8. The Contractor agrees to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Contract, to assure the quality of services provided under this Contract. The Contractor shall immediately notify the Department in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, the Contractor understands that such action may be grounds for termination of the Contract.

a) If a contractor is under the regulation of any Department entity and has been assessed Civil Money Penalties (CMPs), or a court has entered a civil judgment against a Contractor or vendor in a case in which DHSS or its agencies was a party, the Contractor or vendor is excluded from other DHSS contractual opportunities or is at risk of contract termination in whole, or in part, until penalties are paid in full or the entity is participating in a corrective action plan approved by the Department.

A corrective action plan must be submitted in writing and must respond to findings of non-compliance with Federal, State, and Department requirements. Corrective action plans must include timeframes for correcting deficiencies and must be approved, in writing, by the Department.

The Contractor will be afforded a thirty (30) day period to cure non-compliance with Section 8(a). If, in the sole judgment of the Department, the Contractor has not made satisfactory progress in curing the infraction(s) within the aforementioned thirty (30) days, then the Department may immediately terminate any and/or all active contracts.

9. Contractor agrees to comply with all the terms, requirements and provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and any other federal, state, local or any other anti discriminatory act, law, statute, regulation or policy along with all amendments and revision of these laws, in the performance of this Contract and will not discriminate against any applicant or employee or service recipient because of race, creed, religion, age, sex, color, national or ethnic origin, disability or any other unlawful discriminatory basis or criteria.
10. The Contractor agrees to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population served under this Contract by race, color, national origin or disability.
11. This Contract may be terminated in whole or part:
 - a) by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance,
 - b) by the Department upon fifteen (15) calendar days written notice of the loss of funding or reduction of funding for the stated Contractor services as described in Appendix B,
 - c) by either party without cause upon thirty (30) calendar days written notice to the other Party, unless a longer period is specified in Appendix A.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, models, maps, photographs, and reports or other material prepared by Contractor under this contract shall, at the option of the Department, become the property of the Department.

In the event of termination, the Contractor, upon receiving the termination notice, shall immediately cease work and refrain from purchasing contract related items unless otherwise instructed by the Department.

The Contractor shall be entitled to receive reasonable compensation as determined by the Department in its sole discretion for any satisfactory work completed on such documents and other materials that are usable to the Department. Whether such work is satisfactory and usable is determined by the Department in its sole discretion.

Should the Contractor cease conducting business, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets, or shall avail itself of, or become subject to any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors, then at the option of the Department, this Contract shall terminate and be of no further force and effect. Contractor shall notify the Department immediately of such events.

12. Any notice required or permitted under this Contract shall be effective upon receipt and may be hand delivered with receipt requested or by registered or certified mail with return receipt requested to the addresses listed below. Either Party may change its address for notices and official formal correspondence upon five (5) days written notice to the other.

To the Division at:

To the Contractor at:

13. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Contract, the remainder of the Contract will remain unaffected.

14. This Contract shall not be altered, changed, modified or amended except by written consent of all Parties to the Contract.

15. The Contractor shall not enter into any subcontract for any portion of the services covered by this Contract without obtaining prior written approval of the Department. Any such subcontract shall be subject to all the conditions and provisions of this Contract. The approval requirements of this paragraph do not extend to the purchase of articles, supplies, equipment, rentals, leases and other day-to-day operational expenses in support of staff or facilities providing the services covered by this Contract.

16. This entire Contract between the Contractor and the Department is composed of these several pages and the attached:

Appendix A - Divisional Requirements

Appendix B - Services Description

Appendix C - Contract Budget

Appendix

17. This Contract shall be interpreted and any disputes resolved according to the Laws of the State of Delaware. Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters

in question between the Department and Contractor arising out of or relating to this Contract or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State of Delaware.

18. In the event Contractor is successful in an action under the antitrust laws of the United States and/or the State of Delaware against a vendor, supplier, subcontractor, or other party who provides particular goods or services to the Contractor that impact the budget for this Contract, Contractor agrees to reimburse the State of Delaware, Department of Health and Social Services for the pro-rata portion of the damages awarded that are attributable to the goods or services used by the Contractor to fulfill the requirements of this Contract. In the event Contractor refuses or neglects after reasonable written notice by the Department to bring such antitrust action, Contractor shall be deemed to have assigned such action to the Department.
19. Contractor covenants that it presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the performance of this Contract. Contractor further covenants that in the performance of this contract, it shall not employ any person having such interest.
20. Contractor covenants that it has not employed or retained any company or person who is working primarily for the Contractor, to solicit or secure this agreement, by improperly influencing the Department or any of its employees in any professional procurement process; and, the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the violation of this provision, the Department shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
21. The Department shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract. Contractor shall have no right to copyright any material produced in whole or in part under this Contract. Upon the request of the Department, the Contractor shall execute additional documents as are required to assure the transfer of such copyrights to the Department.

If the use of any services or deliverables is prohibited by court action based on a U.S. patent or copyright infringement claim, Contractor shall, at its own expense, buy for the Department the right to continue using the services or deliverables or modify or replace the product with no material loss in use, at the option of the Department.

22. Contractor agrees that no information obtained pursuant to this Contract may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the Contractor's obligations under this Contract.
23. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by authorized representatives of all parties and attached to the original Contract.

24. If the amount of this contract listed in Paragraph C2 is over \$100,000, the Contractor, by their signature in Section E, is representing that the Firm and/or its Principals, along with its subcontractors and assignees under this agreement, are not currently subject to either suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

C) Financial Requirements

1. The rights and obligations of each Party to this Contract are not effective and no Party is bound by the terms of this contract unless, and until, a validly executed Purchase Order is approved by the Secretary of Finance and received by Contractor, *if required by the State of Delaware Budget and Accounting Manual*, and all policies and procedures of the Department of Finance have been met. The obligations of the Department under this Contract are expressly limited to the amount of any approved Purchase Order. The State will not be liable for expenditures made or services delivered prior to Contractor's receipt of the Purchase Order.
2. Total payments under this Contract shall not exceed \$ _____ in accordance with the budget presented in Appendix C. Payment will be made upon receipt of an itemized invoice from the Contractor in accordance with the payment schedule, if any. 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. Contractor is responsible for costs incurred in excess of the total cost of this Contract and the Department is not responsible for such costs.
3. The Contractor is solely responsible for the payment of all amounts due to all subcontractors and suppliers of goods, materials or services which may have been acquired by or provided to the Contractor in the performance of this contract. The Department is not responsible for the payment of such subcontractors or suppliers.
4. The Contractor shall not assign the Contract or any portion thereof without prior written approval of the Department and subject to such conditions and revisions as the Department may deem necessary. No such approval by the Department of any assignment shall be deemed to provide for the incurrence of any obligations of the Department in addition to the total agreed upon price of the Contract.
5. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under this Contract in accordance with generally accepted accounting principles and practices. Contractor shall also maintain the financial information and data used by Contractor in the preparation of support of its bid or proposal. Contractor shall retain this information for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Department shall have access to such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.
6. The Contractor agrees that any submission by or on behalf of the Contractor of any claim for payment by the Department shall constitute certification by the Contractor that the services or items for which payment is claimed were actually rendered by the Contractor or its agents, and that all information submitted in support of the claims is true, accurate, and complete.

7. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the Department for disallowances shall be drawn from the Contractor's own resources and not charged to Contract costs or cost pools indirectly charging Contract costs.
8. When the Department desires any addition or deletion to the deliverables or a change in the services to be provided under this Contract, it shall so notify the Contractor. The Department will develop a Contract Amendment authorizing said change. The Amendment shall state whether the change shall cause an alteration in the price or time required by the Contractor for any aspect of its performance under the Contract. Pricing of changes shall be consistent with those prices or costs established within this Contract. Such amendment shall not be effective until executed by all Parties pursuant to Paragraph B 14.

D) Miscellaneous Requirements

1. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 46, (PM # 46, effective 3/11/05), and divisional procedures regarding the reporting and investigation of suspected abuse, neglect, mistreatment, misappropriation of property and significant injury of residents/clients receiving services, including providing testimony at any administrative proceedings arising from such investigations. The policy and procedures are included as Appendix _____ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the position(s) responsible for the PM46 process in the provider agency. Documentation of staff training on PM46 must be maintained by the Contractor.
2. The Contractor, including its parent company and its subsidiaries, and any subcontractor, including its parent company and subsidiaries, agree to comply with the provisions of 29 Del. Code, Chapter 58: "Laws Regulating the Conduct of Officers and Employees of the State," and in particular with Section 5805 (d): "Post Employment Restrictions."
3. *When required by Law*, Contractor shall conduct child abuse and adult abuse registry checks and obtain service letters in accordance with 19 Del. Code Section 708; and 11 Del. Code, Sections 8563 and 8564. Contractor shall not employ individuals with adverse registry findings in the performance of this contract.
4. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 40, and divisional procedures regarding conducting criminal background checks and handling adverse findings of the criminal background checks. This policy and procedure are included as Appendix _____ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the title of the position(s) responsible for the PM40 process in the contractor's agency.
5. All Department campuses are tobacco-free. Contractors, their employees and sub-contractors are prohibited from using any tobacco products while on Department property. This prohibition extends to personal vehicles parked in Department parking lots.

E) Authorized Signatures:

For the Contractor:

Name

Title

Date

For the Department:

Vincent P. Meconi
Secretary

Date

For the Division:

Director

Date