

FINANCIAL MANAGEMENT AND COUNSELING SERVICES (FMCS)
 OPASS 21-19022
 eMMA# BPM024445

Questions	Comment/Requirement	Page(s)	Section	Response/Direction
<p>What is the timeframe for reimbursing for provider related claims including the financial management per member/per month claim and the counseling services per member/ per month claims?</p>				<p>As per the RFP, vendors are to submit claims for waiver services to the Medicaid Management Information System in accordance with the schedule provided by the Contract Monitors. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller’s Office grants Contractor an exemption. Existing providers not participating in Self-Direction are paid weekly (all services between Thursday and Wednesday of the prior week; or any prior services newly approved that occurred within the last 365 days). The expectation for this contract is to be paid in the same manner unless otherwise agreed with the State. As per the RFP, the Contractor shall submit invoices in accordance with the following schedule: A. For items of work for which there is one-time pricing (see Attachment B – Financial Proposal Form) those items shall be billed in the month following the acceptance of the work by the Department. B. For items of work for which there is annual pricing, see Attachment B– Financial Proposal Form, those items shall be billed in equal monthly installments for the applicable Contract year in the month following the performance of the services.</p>
<p>Section 4.9 of the Procurement RFP template states, “If more than one award is authorized, including multiple service categories or functional areas, contact your oversight agency and your AAG for help identifying the appropriate changes throughout the RFP.” This and other sections seem to need to be changed to reflect that.</p>			4.9	<p>The language in Section 4.9 remains unless otherwise amended by the current addendums.</p>
<p>This needs to be clarified.</p>	<p>Data System: Is amended by Addendum 2, however the Addendum (on page 7) refers to this section as “Counseling Service.”</p>	18	2.3.4	<p>Section headed corrected via Addendum 6</p>
<p>a. When can we expect to see these appropriate adjustments to the contract? b. What are the criteria for choosing to select two contractors rather than 10?</p>	<p>While the amended RFP now allows for between two and 10 contractors, it has not been otherwise revised to accommodate the change from a sole contractor to multiple</p>			<p>a. Addendums are being issued for the RFP to reflect multiple vendors. b. The contract will be awarded to the two most advantageous vendors that meet the criteria as listed in Section 6 of the RFP.</p>

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<p>c. If 10 companies submit bids and demonstrate that they can meet RFP requirements, will all 10 companies be selected? d. If not, what will the cutoff be?</p>	<p>contractors. It specifies no criteria for selection beyond the ability to meet contract requirements and submit the lowest bid. State procurement policies seem to require the RFP be substantially adjusted to accommodate this change.</p>			<p>c. & d. The Department is seeking the services of multiple (minimum of two and a maximum of 10 awards) vendors, which is the most advantageous for the State. Please see section 6 for evaluation and selection process criteria.</p>
<p>Will MDH remove the Soc-2 requirement in section 3.9 and rely only on this section of the RFP?</p>	<p>This section of the contract gives choices of “independent assessments performed of the Contractor’s security controls....Such independent assessments of Contractor’s security controls may include a SOC-1 Type-2 audit, a SOC-2 Type-2 audit, ISO27001 certification, or a HIPAA Compliance Audit.” However, 3.9 seems to require a SOC-2 Type-2 audit. After talking with multiple national FMS providers, we feel that the requirements as outlined in this section are appropriate. We do not believe that section 3.9 should apply to this contract.</p>	<p>25</p>	<p>2.3.7.g.3)</p>	<p>The SOC2 will remain a requirement for this contract.</p>
<p>Please explain why this section is in this RFP.</p>	<p>"FMS contractors do not perform work on the site of any state buildings. The only time employees of the contractors would be present in the building would be for meetings about the contract, just like any general member of the public."</p>	<p>38</p>	<p>3.7.3 On Site Security Requirements</p>	<p>No, the Contractor will not be provided a Maryland State identification. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.</p>
<p>We request that the SOC 2 requirements be removed from this contract so that more bidders will submit proposals and no otherwise qualified bidders are eliminated.</p>	<p>These sections refer to “accepted industry practices for information security” and complying “with an accepted industry standard.” This contract is not for IT services or components. Both prospective bidders and program advocates have noted that SOC2 Type 2 exceeds FMS industry standards. In fact, very few potential bidders—even large entities which are active in multiple states-- have the certification, and few, if any, other states require it. Requiring SOC2 Type 2 will</p>	<p>39</p>	<p>3.7.4(b) 1), page 39, and 3.7.5.A., page 39</p>	<p>The SOC2 will remain a requirement for this contract.</p>

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	raise the cost of bids and reduce the pool of bidders.			
The Contractor may attend meetings within a State building and applicable security requirements will apply. For example, Contractor personnel shall display their company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor personnel shall provide additional photo identification	The inclusion of this section seems to contradict section 2.3.7.g., which lists SOC 2 Type 2 as just one of many appropriate audits, and section 3.9.2.G actually seems to allow for other audits as well.			The SOC2 will remain a requirement for this contract.
Please correct/clarify this section.	Why are the words “must have” used to describe items that are described as “Offerors with this experience will be evaluated more highly than those without this experience?” These two statements seem contradictory. However, Addendum 2, removed the statement about offerors being evaluated more highly from C.	46	3.10.1.A. B.C.D	Terms like "must have" and "shall" are standard contract language. Addendum 2 removes the contradictory language, therefore the conditions listed in A, B, C and D are requirements.
	Custom Software is NOT a component in the Scope of Work.	52	3.15.1 & 3.15.2	As per the RFP, the Contractor is to: 1 - Utilize a software budget and planning tool to track SDS including staffing costs, items that substitute for human assistance, and transition services for Participants 2 - Ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract. Custom software may not be needed if the contractor has software that will allow the FMCS to meet the requirements outlined in Section 3.15.1 and 3.15.2 of the RFP.
	Colon with nothing after it. However, it appears that C. D. and E. should actually be number 1, 2, and 3 under B.	62	4.26.2	An addendum will be issued to correct so that C, D and E is now numbered 1, 2 and 3 and should be placed under B.
As per the RFP, the Contractor is to: 1 - Utilize a software budget and planning tool to track SDS including staffing costs, items that substitute for human assistance, and	9) The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in Section	72	5.3.2.F.9	As per the RFP, the Contractor is to: 1 - Utilize a software budget and planning tool to track SDS including staffing costs, items that substitute for human assistance, and transition services for Participants

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<p>transition services for Participants 2 - Ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract. 3 - Ensure appropriate controls are implemented to maintain such a secure environment. (i.e., security best practices) In the event that new software is developed, the Contractor must include information about the software development life cycle (SDLC), also referred to as the application development life-cycle, process for planning, analysis, development, testing, implementation, and maintenance. Custom software may not be needed if the contractor has software that will allow the FMCS to meet the requirements outlined in Section 3.15.1 and 3.15.2 of the RFP.</p>	<p>2.4.4. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.</p>			<p>2 - Ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract. 3 - Ensure appropriate controls are implemented to maintain such a secure environment. (i.e., security best practices) In the event that new software is developed, the Contractor must include information about the software development life cycle (SDLC), also referred to as the application development life-cycle, process for planning, analysis, development, testing, implementation, and maintenance.</p>
<p>Can you please define public jurisdiction for our purposes and the SOW of this contract?</p>	<p>B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State’s written request.</p>		<p>3.5.3 B</p>	<p>Public Jurisdiction Data means all data created or in any way originating with the State, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor.</p>
<p>While participants will ultimately have a choice between all selected bidders, we ask again how will contract awardees actually be selected?</p>	<p>In the pre- proposal meeting on June 9, either MDH program or procurement staff was able to respond to a question about what the criteria/methodology would be to select awardees and to determine whether there are two or more. These details are NOT in the</p>			<p>Not relevant to the requirements and scope of the RFP.</p>

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	<p>RFP at the moment and no amendment has yet been posted delineating this process as promised at that meeting. The posted response to this question refers to Amendment 1, which does not address the issue:</p>			
<p>Why would the FMS vendors be expected to take on more responsibilities that what is typically expected under fiscal management services (which tend to be confined to financial management and reporting activities)?</p>	<p>"For example, why does the RFP require FMS establish processes and assume responsibility for:</p> <p>a) determining whether or not an individual is competent enough to self-direct their services (Section 2.3.3.i.4. on page 18); and</p> <p>b) deciding who should be terminated from self-direction services (2.3.5.c. on page 19)?</p> <p>Concern:</p> <p>These provisions run counter to CMS federal guidelines for the provision of HCBS, which "presume competence" of individual participants. Maryland has never required competency exams of individuals who wish to exercise self-direction, and the state should not enact them now. Many people who self-direct require significant support to do so. That is why the system has support brokers, who assist individuals with understanding and carrying out their responsibilities to both the State and their employees. While there are circumstances when self-direction may not be appropriate for some individuals, the decision</p>			<p>Not relevant to the requirements and scope of the RFP.</p>

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	<p>to terminate services should not be made by a sole entity that is contracted by the state to provide financial management services and has limited knowledge of the participant. Instead, it should involve a team of people dedicated to supporting the individual (i.e. the Coordinator of Community Services and the Support Broker) and must be based on published procedures which spell out both the rules and remediation.</p>			
<p>Why does the RFP include technical requirements (for example, the SOC2, Type 2 auditing requirement) that exceed current industry standards, will likely reduce the pool of viable bidders and add costs to the contract? Concern: Most large national providers currently lack the SOC2, Type 2 auditing process, which could discourage or knock out otherwise qualified vendors from bidding for a contract if they are required to have this technical requirement in place as a condition of becoming an FMS.</p>	<p>Request: Remove this technical requirement from the RFP.</p>			<p>Not relevant to the requirements and scope of the RFP.</p>
<p>What consideration was given to this option? Please elaborate why this option has been rejected when new contractors could have been in service way before now.</p>	<p>CMS permits states to offer Fiscal Management Services to participants under the waiver as a required element of their complete person-centered plans. This approach informed the configuration of fiscal management for self-direction when the option was initiated in Maryland in 2005. Offering FMS services under the waiver, instead of as a separate administrative service, would eliminate the need for the costly and unwieldy RFP process--which is</p>			<p>Not relevant to the requirements and scope of the RFP.</p>

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	<p>now in its fourth year and still incomplete. The waiver service approach could allow a limited number of qualified FMS entities to offer their services to participants-- just like the many other DDA providers who now serve Marylanders with DD. It would also allow for competition and cost-effective, seamless transitions for both new entrants to the marketplace and for participants themselves. This recommendation has been part of SDAN recommendations for the last two RFPs and a legislator's recommendation to Secretary Schrader in March 2021.</p>			
	<p>Errors, Omissions, Ambiguities and Unanswered Questions – Detailed Section-by- Section Review We are surprised that the same errors have reappeared in successive RFPs. Problems that would not be tolerated in small civil contracts, such as a contract for the sale of a home, remain unresolved or uncorrected on a multimillion dollar state contract after more than three years. And the latest version has a whole new set of issues. (errors, omission and clarity issues are highlighted in yellow)</p>			<p>Not relevant to the requirements and scope of the RFP.</p>
<p>Will MDH remove this wording from this RFP?</p>	<p>Are inappropriate duties for an FMS and should be left to the team of individuals supporting that individual/participant and working with him/her on a regular basis. Only the participant chosen team (which should include a CCS & Support</p>	<p>21</p>	<p>2.3.6.a.7) c.4)a)b)c)</p>	<p>An addendum will be issued to reflect: The Contractor will identify trends and patterns of excessive or under billing or unusual circumstances, such as including but not limited to the following indicators: that must be documented and reported to the Contract Monitors quarterly, following the first full quarter of collected data. The Contractor shall give to the Contract Monitors an indication of what would be considered an over or under the limit or unusual flag:</p>

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	<p>Broker/Support Planner), working with the individual, is able to assess who is benefiting from a family member working as staff or if the situation is abusive and/or represents Medicaid fraud. The language in this section is offensive, shows a bias against family working as staff, which is often chosen by the participant and in his/her best interest. In no situation should this determination or reporting come from an FMS entity.</p>			<p>1) Participant self directing their services; 2) Approving extensively more hours than allocated; 23) High fees to employees, vendors, or providers (based on established quality indicators); and 34) Other similar instances and/or situations such as: a) Indications that the financial benefit to the family is the driving factor, instead of providing quality supports to the Participant. b) Especially when the self-advocate the participant is being more isolated from the community, by the family member(s) serving as staff or the Support Broker. b) Besides situations like these being abusive and ones of exploitation they are also constitute Medicaid Fraud, and therefore necessary reporting is required.</p> <p>The above indicators must be documented and reported to the Contract Monitors quarterly, following the first full quarter of collected data. The Contractor shall give to the Contract Monitors an indication of what is would be considered an over or under the limit or unusual flag.</p>
<p>Request: Make disclosure of the contractors' charges for these services a requirement of the contract and part of the evaluation criteria.</p>	<p>In the second paragraph, it is unclear what the term "Provider(s)" is referring to since the second and third sentences of this paragraph discuss how participants will be informed of their choices of FMCS "providers" and where the choice of "Provider" will be noted. However, other parts of this paragraph discuss participants acting as the employer of "their chosen Provider(s)" and "Provider" services being "subject to federal and State tax employment withholding as domestic workers..." FMCS providers will act as vendors of the State. Any discussion of employment only applies to workers directly hired for the services approved in each participant's plan. It is those workers "provider" services that are subject to federal</p>	<p style="text-align: center;">2</p>	<p style="text-align: center;">2.2.1</p>	<p>Not relevant to the requirements and scope of the RFP.</p>

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	<p>and State tax employment withholdings and those workers who are “domestic workers working for household employers...” This paragraph should be revised to discuss the employees of the participants versus the provision of service from the state FMCS contractors. However, the selected awardees’ charge for these employer taxes and other expenses, such as workers’ compensation and unemployment insurance, while not a charge to be included in the bids for this contract, is a charge that should be required to be disclosed as part of this contract. Currently, most individuals in self-direction pay 14% of wages for employer taxes, workers compensation, and unemployment insurance. Should the selected awardees of this contract charge more than this 14%, it will reduce the funds available for these direct services, which are also funded by State and federal dollars. By not having bidders disclose the percentage or amount they will impose on participant-paid wages, it is possible for a bidder to under-represent the cost to the state of their services in their response to this RFP.</p>			
<p>a. What consideration, if any, was given to having a fixed price contract due to the fact that multiple bidders were aware of each other’s bids after the last RFP for this service, which puts them at an advantage and may put new entrants at a disadvantage? b. How will having a “race to the bottom” in regard to the price of this service help to</p>	<p>A fixed price contract seems appropriate given a price for these services was determined last year via the RFP process before the entire RFP was canceled.</p>			<p>Not relevant to the requirements and scope of the RFP.</p>

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<p>provide the stakeholders with quality services and help Maryland avoid issues such as those with the Optum Contract?</p>				
<p>We ask that someone examine this section to ensure it is correct for the needs of participants and the state.</p>	<p>Much of the wording in this section significantly differs from the RFP Template and seems inconsistent with the Template instructions. Sections B. and C. actually seem to fit into Sections C and D from the template, which are to be used for a Temporary Personnel Contract. It seems that section A and B of the template is more appropriate. Template instructions seem to indicate that not ALL the sections E. F. and G. should be in the same contract.</p>	<p>37 & 38</p>	<p>3.7.2 Security Clearance / Criminal Background Check</p>	<p>Language from the RFP template is typically adjusted to fit the program's needs, as was done in this case. No changes will be made.</p>