



STATE OF TENNESSEE
 DEPARTMENT OF FINANCE AND ADMINISTRATION
 DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION

**REQUEST FOR PROPOSALS # 31865-00460
 AMENDMENT # 2
 FOR PHARMACY COST DISPENSING SURVEY**

DATE: October 11, 2016

RFP # 31865-00460 IS AMENDED AS FOLLOWS:

1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE	CONFIRMED/ UPDATED
1. RFP Issued		September 14, 2016	CONFIRMED
2. Disability Accommodation Request Deadline	2:00 p.m.	September 20, 2016	CONFIRMED
3. Pre-response Conference	2:00 p.m.	September 22, 2016	CONFIRMED
4. Notice of Intent to Respond Deadline	2:00 p.m.	September 23, 2016	CONFIRMED
5. Written "Questions & Comments" Deadline	2:00 p.m.	September 29, 2016	CONFIRMED
6. State Response to Written "Questions & Comments"		October 11, 2016	CONFIRMED
7. Response Deadline	12:00 p.m.	October 24, 2016	CONFIRMED
8. State Completion of Technical Response Evaluations		November 1, 2016	CONFIRMED
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	November 2, 2016	CONFIRMED
10. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	November 3, 2016	CONFIRMED
11. End of Open File Period		November 15, 2016	CONFIRMED
12. State sends contract to Contractor for signature		November 16, 2016	CONFIRMED
12. Contractor Signature Deadline		November 18, 2016	CONFIRMED
13. Contract Start Date		December 1, 2016	CONFIRMED

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
<p>1 Section 4. General Contracting Information & Requirements, 4.8. Disclosure of Response Contents, page 12 –</p> <p>Respondent's experience has shown that pharmacies will not participate if their financial data becomes state property and may be subject to the Federal Open Information Action (FOIA).</p>	<p>RFP Section 4.8 is only relative to the respondent's proposal submitted in response to this RFP, not work product that will be provided resulting from the <i>pro forma</i> contract in RFP Attachment 6.6.</p>
<p>2 We recommend the State accept two reports on response data: 1. A list of the pharmacies that provided a response to the COD survey with no financial data. 2. A blinded copy of the detailed response data with all identifying information removed. The contractor will own and maintain the data including provider identification. This allows us to use our standard non-disclosure agreement to protect the privacy of the respondent (pharmacy provider) as we have done with several other state projects. Will the state accept access to blinded data as a fulfillment for the requirement to unrestricted access to pharmacies' COD responses?</p>	<p>TennCare agrees to not accessing individual identified pharmacies' surveys, unless the pharmacy approves it. TennCare accepts that we will have access to blinded copies of the COD survey, and that the data will be owned by the Contractor. However, the Contractor shall report to the TennCare if obviously fraudulent information is submitted by any network pharmacy provider.</p> <p>Please refer to Item #3 of this amendment for amended Section A.6. The NDA language is not a pre-requirement for the activities, but the language is there in the event that we develop a need for an NDA. Additionally, the provider has a confidentiality agreement with the state, as will the vendor who will act on our behalf.</p>
<p>3 Technical Response & Evaluation Guide, Section C – Technical Qualifications, Experience & Approach Items, Item No. C.5., page 27 –</p> <p>The State requests the respondent provide documentation confirming that it has previously completed at least three (3) different state COD surveys. Please provide your expectations of what "documentation" will satisfy this requirement? Does a listing of COD projects with timeframes from the prospective vendor meet the "documentation" requirement or is the State requesting specific information regarding the project validated by a reference and/or a portion of the final report (blinded unless authorized by the client) to be submitted to satisfy this requirement?</p>	<p>Yes, a listing of COD projects with description of project and timeframes from prospective vendor, including number of participating pharmacies included in the surveys, will satisfy the requirements.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>4 On pages 1, 38, and 44 of the RFP, the timeline for the COD project appears to be laid out with the expectation of completion of the COD survey by February 28, 2017. However, TennCare does not anticipate contract start until December 1, 2016. Based on our firm's experience in completing COD surveys, the minimum length of time to complete a survey is four months and some surveys run five or six months. Survey tasks at project start include obtaining a list of pharmacies and refining the survey tool. Some state agencies prefer to have some interaction with stakeholder groups during the preliminary process. Once surveys are distributed, our experience has indicated that approximately four to six weeks are necessary for pharmacies to complete surveys including all steps to promote a high response rate. Reducing this time period for response can significantly impair the response rate. Surveys must then be reviewed and TennCare has indicated the desire for the performance of on-site field work at no less than 20 pharmacies. Survey data must be analyzed and reported. Given consideration of all of these factors, would TennCare be willing to consider an extended time period to include up to two additional months for project completion?</p>	<p>The State can push the deadline out for an additional two weeks. Please refer to Item #4, #5, and #6 of this amendment.</p>
<p>5 On Page 27 Item C5, TennCare is seeking confirmation that potential bidders have completed at least three surveys with at least 1,700 respondents. A review of a national database of pharmacies indicates that there are only 11 states with more than 1,700 pharmacies. From experience, we are aware that some states with a large number of pharmacies choose to survey only a sample of pharmacies. Furthermore, response rates in COD surveys tend to vary from 40% to 85%. This means that there are very few prior COD survey projects from which any potential contractor will be able to report having received 1,700 or more completed surveys. Would TennCare be willing to consider a lower threshold of 1,000 pharmacies that submitted completed surveys for this requirement?</p>	<p>RFP Section C.5 was modified in RFP 31865-00460 amendment #1, released on September 23, 2016.</p>
<p>6 Page 46 of the RFP, Section A.6, includes language relating to a potential contractor's need to enter into Non-Disclosure Agreements (NDAs) with providers in order to complete the survey. Our firm's experience has been that</p>	<p>Please refer to Item #3 of this amendment for amended Section A.6. The NDA language is not a pre-requirement for the activities, but the language is there in the event that we develop a need for an NDA. Additionally, the provider has a confidentiality agreement with the state, as will the</p>

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<p>NDA's submitted by pharmacy providers for consideration almost always include terms that are unacceptable. Often, NDA's presented by pharmacies use the same language that might be used in a potential merger and acquisition setting. These terms would completely prohibit the use of their data for the use by any other party, including the state agency. Our firm has found that the process of negotiating with a pharmacy provider regarding terms of NDA's are extraordinarily time consuming and require costly legal counsel. We do not believe that TennCare's timeline for the COD survey project will allow for that negotiation process with each individual provider. Our firm has found that most COD survey projects can be performed by having the state agency offer their providers assurances of confidentiality and then binding the firm performing the survey to terms of confidentiality within the contract with the state agency. This practice avoids the need to negotiate with providers individually and ensures that the state agency will preserve its rights to use the data collected from pharmacies for purposes of completing the COD survey. Would TennCare be willing to modify this RFP requirement so that the contractor is not expected to negotiate NDA's with providers individually, given that such negotiations are almost guaranteed to seldom result in a "mutually agreeable documents"?</p>	<p>vendor who will act on our behalf.</p>

3. RFP Attachment 6.6, Section A.6 is deleted in its entirety and replaced with the following: (any sentence or paragraph containing revised or new text is highlighted)

A.6. Coordination and Collaboration Responsibilities. The Contractor shall, as directed by the State and at no additional cost to the State, coordinate with, facilitate the prompt exchange of information between, and work collaboratively with any and all other State Contractors, Providers and CMS as required to complete the COD Survey and obtain final unconditional approval from CMS of the SPA revising the TennCare pharmacy reimbursement methodology. If required in order for the Contractor to proceed with any part of the Scope of Services which involves sharing or obtaining information of a confidential, proprietary, or otherwise valuable nature with or from another State contractor or a Provider, the Contractor may be requested, **should the need arise**, to sign mutually agreeable documents, including but not limited to Non-Disclosure Agreements (Non-Disclosure Documents), which are reasonably necessary to maintain cooperation and collaboration among and with such other State contractor and Providers in the performance of the Contract. **A signed Non-Disclosure Agreement is not a requirement of this contract and shall only be signed at the request of the State.**

[Subsections a. and b. Deleted]

4. **The second paragraph of RFP Section 1.1 is deleted in its entirety and replaced with the following:**
(any sentence or paragraph containing revised or new text is highlighted)

To implement this new PDF requirement, CMS is requiring TennCare to submit a State Plan amendment (SPA) with an effective date no later than April 1, 2017, setting forth TennCare's proposed PDF, the applicable AAC information, and TennCare's revised pharmacy reimbursement methodology. CMS will review the SPA and supporting documentation and make the final decision regarding the appropriate PDF to be included in the TennCare pharmacy reimbursement methodology. The State is currently procuring a contractor under a separate RFP to provide the AAC portion of these requirements. This RFP #31865-00460 seeks to procure a Contractor to conduct a Cost of Dispensing (COD) Survey to be used to determine the appropriate PDF for the TennCare Program, and to assist TennCare with the submission of the COD Survey and SPA to CMS, including assisting with any revisions or adjustments to the COD Survey, SPA or proposed PDF required to obtain CMS approval. The COD Survey will determine the actual cost of dispensing a TennCare pharmaceutical prescription by surveying the entire TennCare pharmacy provider network ("Providers" or "Provider"), consisting of approximately sixteen hundred (1,600) pharmacies located in Tennessee, as well as some out of state pharmacies. Due to the requirement that the SPA have an effective date no later than April 1, 2017, the completed COD Survey and all related data and materials is to be submitted to TennCare for approval on or before **March 15, 2017**. Following that, the Contractor will assist TennCare, as requested, in the preparation of the SPA, its submission to CMS with all required data and documentation, and in providing any additional services needed to obtain CMS approval of the SPA.

5. **The second paragraph of RFP Attachment 6.6, Section A.2 is deleted in its entirety and replaced with the following:**
(any sentence or paragraph containing revised or new text is highlighted)

To implement this new PDF requirement, CMS is requiring TennCare to submit a SPA with an effective date no later than April 1, 2017, setting forth TennCare's proposed PDF, the applicable AAC information, and the TennCare revised pharmacy reimbursement methodology. CMS will review the SPA and supporting documentation and make the final decision regarding the appropriate PDF to be included in the TennCare pharmacy reimbursement methodology. The Contractor shall conduct a COD Survey to determine the proposed PDF and shall assist TennCare, as requested, with the submission to CMS of the COD Survey, SPA and related data and documentation, including assisting with any revisions or adjustments to the COD Survey, SPA, or proposed PDF required to obtain CMS approval of the SPA. The COD Survey shall determine the actual cost of dispensing a TennCare pharmaceutical prescription by surveying the entire TennCare pharmacy provider network ("Providers" or "Provider"), consisting of approximately sixteen hundred (1,600) pharmacies located in Tennessee, as well as some out-of-state pharmacies. Due to the CMS requirement that the SPA have an effective date no later than April 1, 2017, the COD Survey and all related data and materials shall be completed by the Contractor and submitted to TennCare for approval on or before **March 15, 2017**.

6. **RFP Attachment 6.6, Section A.5.a.2.(a)(11) is deleted in its entirety and replaced with the following:**
(any sentence or paragraph containing revised or new text is highlighted)

A.5.a.2.(a)(11) Date for delivery to TennCare of the final COD Survey results, Final Report, as defined in Section A.5.b.10 below, and the proposed PDF amount for use in SPA. Pursuant to Contract Section A.4, this must occur on or before **March 15, 2017**.

7. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.