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11265 CONTRACTUAL SERVICES

Contractual services may be utilized to perform work for the design, development, installation, or enhancement of a mechanized claims processing and information retrieval system. An unsolicited proposal submitted by a reputable third party firm is not sufficient for obtaining FFP under §1903(a)(3) of the Act. Procurement of services must be open and competitive, unless one of the provisions found in §11.d(1)-(4) of Appendix G to 45 CFR Part 74 and/or the December 4, 1995 State Medicaid director letter is applicable to the procurement. Normally, a Request for Proposal (RFP) is prepared containing a specific scope of work and related requirements for solicitation of bids from responsible competing systems firms. (See §11266 and §2080.)

Work performed under contract to design, develop, install, or enhance an MMIS which meets all the provisions of §11205 is funded at the 90 percent FFP level; if not, the work is then funded at the 50 percent level. Subsequent operational costs of a certified approved MMIS are funded at the 75 percent FFP level.

Work performed under contract for operation and maintenance of an MMIS and meeting the provisions of §11210 is funded at the 75 percent FFP level. Such acquisitions must receive prior approval if required by §11227.

11266 REQUEST FOR PROPOSAL (RFP)

Your RFP must be approved by HCFA prior to its release to potential bidders if the pertinent provisions of §11227 apply. The RFP has a twofold purpose: to convey to prospective contractors the information needed to prepare a proposal, and to solicit information that procurement and technical personnel need to evaluate the proposals received. The RFP must include at a minimum:

o Statement of the purpose and scope of the specific work and/or services to be performed including a period of performance within which you expect to have the work performed;

o Listing and description of the reference material available to the contractor for use in preparation of proposals and/or in performance of the contract;

o Statement of contract termination procedures;

o Standard format and organization for the proposals including both work to be performed and cost statements;

o Explanation of the proposal evaluation criteria and the relative importance of cost or price, technical, and other factors for purposes of proposal evaluation and contract award;

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o Description of the nature and extent of involvement of Medicaid agency personnel during the contract, including the name and title of the project officer;

o Description of the supplies, clerical support, computer time, work space, etc., that will be made available by the State, if applicable;

o Statement that the prime contractor is responsible for contract performance, whether or not subcontractors are used;

o Requirement that the contractor's personnel resources to be assigned to the contract are identified;

o Requirement for a schedule of proposed work (work statement), including well defined milestones;

o Requirement for a breakout of the total cost to perform the contract including the costs for individual phases or areas of the work statement;

o Requirement for a statement of corporate financial stability and/or for a performance bond; and

o Statement that the proposed contract will include provisions for retention of all ownership rights to the software by the State, if designed, developed, installed, or enhanced with FFP. (See 42 CFR 433.112 (b)(5) and (6), and 45 CFR 95.617(a)).

11267 REQUIRED ASSURANCES

For 90-percent, as well as for 75-percent funding and 50-percent FFP where the threshold amounts found at 95.611(a) are exceeded, give HCFA, with respect to each RFP and/or contract entered into for a system, assurance that:

o Procurements of ADP services and/or equipment for mechanized medical claims processing and information retrieval systems meet the provisions of 45 CFR 74, Administration of Grants;

o Fair competition and public advertising are within Federal and State procurement standards. The Federal procurement standards are in 45 CFR 74, Subpart P and the December 4, 1995 State Medicaid director letter;

o Copies of progress reports, as requested, will be delivered to HCFA; and,

o All deliverables, interim reports, data collection forms, questionnaires, and other working papers which support the final system acceptance will be made available on request to HCFA. This applies to the prime contractor, any subcontractors, and other State or local agencies supplying services.

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11268 COST ALLOCATION PLAN

You must document costs in a cost allocation plan submitted in accordance with 45 CFR 95, and approved by HCFA to support your claim for FFP. You must be able to provide documentation to support wages, fringe benefits, and other expenditure items in accordance with Federal regulations in 42 CFR 433.34, Cost Allocation, and 45 CFR 95, Subpart E.

11269 REPLACEMENT SYSTEMS

The State may replace the operator of its system at any time; however, the process of changing operators does not constitute the installation of a replacement system and is not eligible for 90-percent funding. Enhanced FFP at the 75-percent rate will continue for an approved system regardless of who operates it. You must comply with the requirements of 45 CFR 74 and 45 CFR 95 when changing the operator of your system. (See §11227.)

A State may also discontinue the operation of an approved system and replace it with a new system that is likely to be more efficient, economical, and effective in administering the State plan. When all six core subsystems are new, this constitutes a replacement system as defined in §11110. The State agency must describe in its APD a plan for continuous systems operation so that there is no interruption between the end of one system and the beginning of another.

In order to receive enhanced FFP, a replacement system must meet all conditions of initial approval. A State must submit an APD that includes (42 CFR 433.117):

o The date the replacement will be in operation; and

o A plan for orderly transition from the system being replaced to the replacement system.

FFP at 90 percent is available for design, development, and installation if the State meets the provisions of 42 CFR 433.112 and follows the procedures of §§11215 through 11268. When a replacement system becomes operational, FFP will be available at 50 percent for operation of the replacement system until HCFA approves it. At that time, increased FFP will be available at 75 percent retroactively to the date HCFA determined the replacement system meet all conditions of approval.

It is the intent of HCFA to fund only one approved system in a State at any one time at the 75-percent rate of reimbursement. However, where fiscal agents are concerned, we recognize that in some instances because of contract overlap, system functions will be performed by two separate contractors with both being potentially reimbursed at 75 percent. Overlap can occur due to different circumstances, such as parallel systems testing. HCFA encourages the use of parallel systems testing as a means to validate the new system. HCFA anticipates that such a testing period would not exceed 30 days.

11270 RESERVED

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11275 APPROVAL PROCESS AND DOCUMENTATION SUBMISSIONS

The title XIX only approvals process described here portrays a composite picture of the approval process. As such, do not interpret it as requiring that any State funding request needs to go through the entire process. The nature of a State's request determines what documents need to be submitted and what approvals need to be secured. For example, if you engage in the design, development, and installation of a replacement MMIS solely utilizing your staff, submit an APD, DIS, any requisite progress reports, and finally, notification that the new system is operational.

On the other hand, if you intend to change the operator of your current MMIS (a 75 percent activity estimated to cost above the threshold found in 45 CFR 95.611­ (a)), submit an APD, RFP, contract, DIS, and any requisite progress or completion reports.

FFP HCFA

Matching Prior Required

Task or Event Rate Approval Submittals

TO OBTAIN 90 PERCENT FFP

1. Feasibility Study (Optional) 50% 1/ N/A

2. Planning, including 90% 1/ N/A

preparation of an APD

3. Authority to proceed under N/A Yes 1/ APD

§1903(a)(3) of the Act to

design, develop, install,

or enhance an MMIS

4. Preparation of an RFP for 90% No N/A

the design, development,

installation, or enhancement

of an MMIS

5. Authority to release the RFP N/A Yes 1/ RFP

to the vendor community

6. Preparation of proposal 90% Yes Proposal

evaluation plan Evaluation

Plan

7. Preparation of the DIS 90% Yes DIS

1/Prior approval is required if the thresholds in 45 CFR 95.611 are exceeded. The threshold for acquisitions (APD, RFP, or contract) at 50% FFP or 75% FFP is $5,000,000 for competitive and $1,000,000 for non-competitive. There is no threshold for acquisitions at 90% and prior approval is always required. All non-competitive acquisitions must receive prior approval.

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FFP HCFA

Matching Prior Required

Task or Event Rate Approval Submittals

TO OBTAIN 90 PERCENT FFP

8. Preparation of project status 90% No Required progress reports report

or document

9. Preparation of contracts for 90% No N/A

the design, development,

installation, or enhancement

of an MMIS

10. Contract award N/A Yes 1/ Contract

11. Preparation of contract 90% Yes 1/ Amended APD

amendments

12. Execution of contract N/A Yes 2/ Contract

amendments amendment

13. System acceptance N/A No Letter and other

documenta-­ tion.

See §11241.

TO OBTAIN 75 PERCENT FFP

1. Initial operation of 75% Yes 3/ Letter and a new or replacement MMIS other

documenta-­ tion.

See §§11241- 11269.

2. Continuing system operations 75% Yes Contract extension

justification.

3. System maintenance 75% Yes 1/ Required

and 2/ Document

1/Prior approval is required if the thresholds in 45 CFR 95.611 are exceeded. The threshold for acquisitions (APD, RFP, or contract) at 50% FFP or 75% FFP is $5,000,000 for competitive and $1,000,000 for non-competitive. There is no threshold for acquisitions at 90% and prior approval is always required. All non-competitive acquisitions must receive prior approval.

2/The threshold for contract amendments is $1,000,000. All non-competitive acquisitions must receive prior approval and are only approved on an exception basis.

3/Prior approval of the operating system for 75% FFP is subject to the requirements of §§11240 through 11243 and 42 CFR 433.114 through 433.117.

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11276 COSTS RELATED TO MMIS DESIGN, DEVELOPMENT, INSTALLATION, OPERATION, AND ENHANCEMENT

11276.1 Introduction.--FFP is available at either 90 percent or 75 percent, but may be paid only for those functions attributable to an MMIS. For example, with respect to provider enrollment, only the costs of entering data into the computer system and processing computer exceptions are reimbursed at 75 percent FFP. Other functions, even if performed by the same unit or individuals, are reimbursable at 50 percent FFP. Appropriate costs, including overhead directly attributable to the operation of the system are also reimbursable at 75 percent FFP. (See §11276.9.)

45 CFR 74.171 references OMB Circular No. A-87, which defines direct costs as "those that can be identified specifically with a particular cost objective. Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the result achieved." As explained below, only direct costs identified specifical­ly with the MMIS system may be claimed at the enhanced rate.

11276.2 Costs Reimbursable at 90 Percent FFP.--FFP at 90 percent is available for costs directly attributable to the Medicaid program for the design, development, installation, and enhancement of mechanized claims processing and information retrieval systems. Included are resources needed for systems requirements analysis, design definition, forms development, programming, unit testing, integrated test, conversion, the use of hardware to the extent necessary for design, development, and installation, and supplies for the above. These and other direct costs including personnel costs of the State project management team specifically assigned for the development and installation effort are included. Other administrative activities are matched at 50 percent.

11276.3 Costs Reimbursable at 75 Percent FFP.--FFP at 75 percent is available for MMIS operations and proprietary software.

A. MMIS Operations.--FFP at 75 percent is available for direct costs directly attributable to the Medicaid program for ongoing automated processing of claims, payments, and reports. Included are forms, use of system hardware and supplies, maintenance of software and documentation, and personnel costs of operations control clerks, suspense and/or exception claims processing clerks, data entry operators, microfilm operators, terminal operators, peripheral equipment operators, computer operators, and claims coding clerks if the coded data is used in the MMIS, and all direct costs specifically identified to these cost objectives. Report users, such as staff who perform follow-up investigations, are not considered part of the MMIS.

FFP at the 75 percent level for operations does not cover clerical processing operations, except as indicated. One of the aims of system improvements is the mechanization of front-end manual editing operations to achieve greater edit reliability and the reduction of clerical workload.

B. Proprietary Software.--FFP at 75 percent is available for the license fee associated with proprietary software being used to perform certain functions that are within the confines of an approved MMIS; e.g. information retrieval and report generation (See §11276.5 for Decision Support System policy).

Several regulatory factors govern such use, and are described in 45 CFR 95.617(c);

(1) Software packages sold or leased to the general public are not subject to the ownership provisions normally applied to software developed with FFP (45 CFR 95.617(a) and (b), and

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(2) FFP is not available for proprietary application software developed specifically for the public assistance programs covered under this subpart, (in this case, the Medicaid Program).

Minimally, the proprietary application software must have an applicability to the medical environment/community at large, and be marketed/sold within that medical environment/community at large.

HCFA will approve the use of such proprietary software which;

(a) meets the above restrictions of 45 CFR 95.617(c), and,

(b) where the vendor of the proprietary software agrees, in writing, to grant the State a perpetual license for continued use of the software should the State award a contract for a subsequent take-over of the MMIS operations by another fiscal agent/contractor.

11276.4 Costs Reimbursable at 90 and 75 Percent FFP for Equipment and Supplies Rented or Purchased.--Purchase rather than rental of mechanized equipment must be justified by establishing that it is to the economic advantage of the State and Federal governments after consideration of the tangible and intangible factors involved. Included in this determination is consideration of the alternative to lease the equipment with option to purchase. Equipment cost for its use during the design, development, and installation or enhancement of an MMIS to assist in accomplishing these tasks is eligible for 90 percent FFP.

Equipment purchased for operational purposes is eligible only for FFP at 75 percent. Cost of equipment used during both implementation and operation of an MMIS is assigned by proration. Depreciation or use allowance for State charges for equipment cost is usual practice. (See 45 CFR 95, Subpart G.) Approval requirements for equipment acquisitions, when waiver is part of the APD, are found in 45 CFR 95.641.

The FFP percentage for purchase of supplies depends upon the life and use of the item. The portion of items consumed during design, development, and installation for system test such as cards, microfilm, and forms (limited quantity) may be charged at 90 percent FFP. The portion of items not consumed and partially used during design, development, and installation may be charged at 90 percent FFP, and the remaining portion at 75 percent FFP. These same items used during system operation must be charged at 75 percent FFP.

Supplies purchased, such as disk packs and magnetic tapes, must be charged at 75 percent FFP since the intent is for use in continuous operations. (See 45 CFR 95 for standards for depreciation and use allowances.)

Costs for site preparation are operational start-up costs and matched at the 75 percent FFP rate.

11276.5 Costs Reimbursable at 75 percent FFP for MAR and SUR Activities and Decision Support Systems.--Costs directly associated with personnel involved in MAR and SUR activities and the cost for operation of Decision Support Systems (DSS) generally qualify for 75 percent FFP.

A. MAR and SUR Activities.--In order for cost of personnel directly associated in the production of reports for MAR and SUR activities to qualify for 75 percent FFP the personnel must routinely perform these functions (and/or SUR parameter changes) as part of their assigned responsibilities. Costs associated with the use or follow-up action of these reports are not eligible for enhanced FFP.

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B. Decision Support Systems.--MMIS was designed to meet operational needs through the processing and payment of claims and generation of pre-formatted management reports through the MAR and SUR functionalities. However, due to the information challenges in today's market, more flexible and timely means of obtaining and reporting information is necessary. A DSS is often a feasible means of managing data needs. DSS is a universal term describing a menu of hardware and software components which can be combined to facilitate access to data and data analysis to serve a wide range of end-users. A DSS provides a mechanism to process data in a manageable quantity and format which is easily accessed by users to manipulate data on-line. A DSS can enhance the MAR and SUR functionalities by giving States the ability to access large volumes of data to produce customized reports.

The funding levels applicable to acquisition, implementation, and operation of a DSS are listed below. These guidelines are predicated on the premise that the DSS is being procured by a State as a replacement for or a supplement to the current MAR and SUR reporting functionalities of the MMIS. A DSS procured for use with other than an MMIS would not be eligible for enhanced funding match, and depending on its relationship (or lack thereof) to the title XIX program, may (or may not) be eligible for only 50% match (or no match).

o License fee for use of the proprietary software 75% FFP

o Development of software to facilitate conversion

of data format, including use of PCS, mainframe or

mass storage 90% FFP

o Initial conversion\* of data, including use of PCS, mainframe,

or mass storage (for testing) 90% FFP

o Repetitive cyclic conversion\* of data 75% FFP

\*If the design of the operation of the DSS requires

a repetitive cyclic conversion of MMIS data then such

subsequent conversion costs will be funded at a 75% FFP rate.

o Training of users 50% FFP

o Operation of the DSS software, including use of PCS,

mainframe, or mass storage 75% FFP

o ADP professionals\*\* 75% FFP

o Users\*\* 50% FFP

\*\*When a State employs an ADP professional to create/key-in the necessary parameters which cause the DSS to generate user-requested reports, that ADP professional is matchable at 75% FFP. However, USERS who have been trained to enter/key-in the parameters necessary to generate their own reports from the DSS are only eligible for 50% FFP match.

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