

**STATE OF ARKANSAS
ARKANSAS INSURANCE DEPARTMENT
PUBLIC EMPLOYEE CLAIMS DIVISION**

P-10-1

REQUEST FOR PROPOSAL

Pharmacy Benefit Management Contract

June 30, 2010

SECTION 1 ADMINISTRATIVE OVERVIEW

1.1 Background

The Public Employee Claims Division (PECD) of the Arkansas Insurance Department is responsible for administering workers' compensation claims filed by state employees. The Division provides workers' compensation coverage for approximately 55,000 employees and receives around 3,300 workers' compensation claims per year. PECD spent approximately \$1,400,000 on pharmacy benefits between July, 2008 and July, 2009.

1.2 Purpose

The purpose of the Request for Proposal is to solicit proposals to provide pharmacy benefits management and medications for workers' compensation claims involving the public employees of the state of Arkansas. The Public Employee Claims Division (PECD) of the Arkansas Insurance Department manages these claims.

1.3 Issuing Office

Public Employees Claims Division
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201

Issuing Officer - Nathan C. Culp (501) 371-2708
FAX (501) 371-2724

1.4 Contract Administrator

Nathan C. Culp, Director
Public Employee Claims Division
1200 West Third Street, Suite 201
Little Rock, AR 72201

1.5 Procurement Timetable

RFP Issued	June 30, 2010
Closing date for receipt of questions	July 15, 2010
Closing date and time for receipt of proposals and public opening of proposals	August 2, 2010 2:00 PM
Completion of proposal review and contract selection	August 16, 2010
Intent to award letters mailed	August 18, 2010
Award Issued	September 1, 2010

1.6 Submission of proposals

No later than August 2, 2010 at 2:00 p.m., three copies of the Request for Proposal should be mailed or delivered to:

Public Employee Claims Division
Arkansas Insurance Department
1200 West Third Street, Suite 201
Little Rock, AR 72201

The envelope should be labeled:

Proposal Number: P-10-1
Title: Pharmacy Benefits Program
Proposal Opening: 8/02/2010 2:00 p.m.

Addenda or amendments, if any, should be signed, dated and included with the proposal submission. Failure to do so may be cause for rejection of the proposal.

Any confidential, proprietary, copyright or financial content submitted must be marked as such and submitted under separate cover.

Facsimile proposals are not acceptable.

A proposal submitted by express/overnight services must be in a separate inner envelope, sealed, and identified with the Request for Proposal number and the date and time of the proposal opening.

Properly identified proposals will be securely kept unopened until opening time. PECD accepts no responsibility for premature opening of a proposal not properly identified or late arrival of a proposal for whatever reason.

1.7 Rejection of Proposals

The PECD reserves the right to disqualify any proposals received as a result of the Request for Proposal:

- Failing to furnish all information requested.
- Failing to comply with the requirements, terms and conditions established in the Request for Proposal.
- If the offeror takes exceptions to the Request for Proposal which are not acceptable to PECD.

1.8 Contracting Condition

The successful offeror and any entity or person directly or indirectly controlled by, under common control with, or controlling the offeror will not have any financial interest in any other entity providing services to PECD.

1.9 Public Opening Dates

A public opening of all proposals will be held at 2:00 p.m. on 8/02/2010 at:

1st Floor Hearing Room
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201

1.10 Contract Awarding and Signing

Contract awarding and signing will be contingent upon the PECD receiving advice from the State Legislature and approval from the Arkansas Insurance Department, as necessary.

1.11 Performance Bond

The contractor will furnish a \$25,000 performance bond to the issuing office within fifteen (15) days after notification of intent to award the contract. The performance bond will be forfeited if the successful offeror fails to perform the contract as determined by the Public Employee Claims Division.

SECTION 20

SCOPE

2.1 This chapter describes the scope of work to be completed under this contract.

2.2 General Requirements

- The contractor must abide by all applicable rules and regulations of the Arkansas Workers' Compensation Commission and the laws of the State of Arkansas. This contract shall be governed by the applicable provisions of Arkansas state law, including, but not limited to, Act 769 of 2009, and codified in Ark. Code Ann. § 4-88-801, et seq.
- The contractor will provide a pharmacy network, medications, database management, and administration of point of sale transactions of medications involving workers' compensation claims for the public employees of the state of Arkansas. As a backup, the contractor may be asked to handle the call center, dispute resolution and drug utilization review services should UAMS College of Pharmacy be unable to perform these functions.
- The contractor will provide for utilization and transaction reporting.
- The contractor will provide for a timely (less than 10 days processing time) review and reduction of bills provided by its network pharmacies which are not identified on the front end as subject to this contract.
- The contractor will provide for mail order of prescriptions in workers' compensation claims selected by PECD. It is anticipated that mail order would be less than ten (10) percent of all prescriptions under the contract with over ninety (90%) being through the retail pharmacy network.
- At the discretion of PECD, medications pertaining to any claims occurring before the time the contract goes into effect may continue to be purchased from other vendors. At PECD's discretion, some prescriptions may be purchased from other vendors.

- PECD intends to contract with the University of Arkansas for Medical Sciences College of Pharmacy for its formulary management, drug utilization review, and call center. The contractor will coordinate with the UAMS College of Pharmacy in providing these services to PECD.
- The contractor will provide access to areas of its databases that are necessary to efficiently operate the workers' compensation pharmacy program for Arkansas state government to the following: PECD staff and Insurance Department personnel authorized by the Director of PECD; Vendors working with PECD including, but not limited to, the managed care company providing nurse case management services and personnel of the UAMS College of Pharmacy Evidence Based Medicine Program.
- The contractor will cooperate with auditors selected by the Public Employee Claims Division and will provide all reasonable and necessary information for the conducting of audits of the pharmacy program for PECD.

PECD manages workers' compensation claims for state employees and some residual school, city and county employee claims. We have employees in all 75 counties of the state. Accordingly, additional weight will be given to this factor in evaluating the pharmacy network. There are a few claims out of state as well and the number of pharmacies in other states (especially those adjacent to Arkansas) will be taken into account.

2.3 Specific Contractor Requirements

A. Formulary Management

- The contractor will provide an ability to limit prescriptions to authorized treating physicians or to specific clinics. Prescriptions by unauthorized prescribers would trigger a requirement of pre-authorization. Some agencies of state government have authorized treating physicians or clinics. For agencies which have limited medical treatment to certain clinics or physicians, approval must be obtained from the employer or PECD should an unauthorized provider issue a prescription. Where the state agency has not limited the treatment to particular providers, the authorized treating physicians limitation will not apply to the

first fill program but will apply to the subsequent fill program.

- The contractor will provide for a first fill program that can be varied by the number of days. The first fill program formulary would be developed by the UAMS College of Pharmacy. It is anticipated that a ten (10) day first fill program will initially be used. Any prescriptions falling outside of the formulary would require pre-authorization.
- The contractor will provide edits in its point of sale transactions for limitation by injury specific formularies and first fill formularies. Medications falling outside of the formularies would require pre-authorization. The formularies would be developed and maintained by the UAMS College of Pharmacy.
- The contractor will provide a means for the UAMS College of Pharmacy Evidence Based Medicine Program to update the formularies as needed.

B. Call Center Operation/Drug Utilization

The contractor may be asked to provide a backup for drug utilization review, formulary management, and/or call center operation, should the UAMS College of Pharmacy be unable to perform these functions. Please list the hours that your call center operates.

C. Pre-authorization

The contractor shall provide a procedure for requesting pre-authorization.

- Prescriptions which do not meet the formulary requirement will be referred to the UAMS College of Pharmacy Call Center for pre-authorization.
- Dispute resolution issues regarding the appropriateness of medication will be referred to the UAMS College of Pharmacy call center.

- Prescriptions which do not meet the authorized treating physician limitation will be referred to the PECD claims manager handling the claim.

E. Electronic Data Interchange

- The contractor will provide for Electronic Data Interchange of information and billing as well as paper copies of bills.

2.4 Reporting Requirements

The contractor will submit at least monthly reports of number of prescriptions filled, total amount billed to PECD, and return on investment for PECD; as well as line item reports of the prescriptions handled by the contractor for PECD showing: the amount paid to pharmacies for each prescription, administrative cost of the prescription, PECD Claim number and claimant's name, total administrative fees and total amount paid to pharmacies, and similar line item reports for mail order prescriptions, and the return on investment.

2.5 Records Retention

The contractor will retain all pertinent records for five years after final payment is made under this contract. In the event any audit, litigation or other action involving these pertinent records is started before the end of the five year period, the contractor will retain these records until all issues arising out of the action are resolved or until the end of the five year period, whichever is later.

2.6 Access to Contractor's Records

In accordance with State statutes governing audits the contractor will allow access to pertinent records. This access will be granted, upon request, to the Arkansas Legislative Joint Auditing Committee, or any other entity authorized by PECD for auditing purposes. Access will be given to any electronic data, books, documents, papers or records of the contractor which are directly pertinent to any services performed under the contract.

SECTION 30

REQUIREMENTS

3.1 Personnel

Personnel providing formulary management, utilization review and dispute resolution must be licensed, registered, or certified health care professionals. Certification must be by the applicable state agency and/or professional organization. A contact person is required.

3.2 Experience

The contractor personnel involved in the dispensing of medications or handling the call center dispute resolution process must have suitable occupational injury or disease expertise to render an informed clinical judgement of the medical appropriateness of the medications provided.

3.3 Documentation

The contractor will retain, for a minimum of five years, documentation concerning all audits conducted for the purposes of this contract.

3.4 Time and Place of Contracted Services

The time and place where the contractual services are proposed to be performed will be clearly and prominently stated in the proposal.

3.5 Terms and Conditions

PECD is seeking a transparent financial pricing arrangement from the PBM. "Transparency" refers to financial arrangements which represent a direct and complete pass-through of all elements of negotiated provider pricing (e.g. discounts & dispensing fees, etc.). PECD must receive the full and complete amount of any discounts received by the PBM from any and all pharmacies. The PBM will not retain a differential (i.e. spread) between the amount reimbursed to the PBM by PECD for each transaction and the payments made to the retail pharmacies by the PBM.

PECD must receive all rebates received by the PBM attributable to PECD's utilization that the PBM receives from any and all pharmaceutical manufacturers. A "rebate" will include any amounts received directly or indirectly by the PBM, regardless of title or description, whether by

cash, credit or other in kind methodologies attributable to PECD's utilization.

Except for the following, the only compensation the PBM will receive from or on behalf of PECD, for the services described in this proposal or any subsequent contract, shall be the PBM's quoted administrative fees listed in the PBM's proposal:

Utilization Review

Operation of Call Center should UAMS College of

Pharmacy be unable to provide the services

Charges for Compounding and Special Formulations by

Mail Order

SECTION 40

TECHNICAL AND BUSINESS PROPOSAL

4.1 Introduction

The Technical and Business proposal will include the following tabbed sections:

- I. Transmittal Letter
- II. Executive Summary
- III. Agency Background and Experience
- IV. Independent Price Determination
- V. Certification Statement
- VI. Proposal Price Certifying Statement
- VII. Proposal Price
- VIII. Equal Employment Opportunity Statement
- IX. Certification Regarding Illegal Immigrants

4.2 Transmittal Letter

An individual who is authorized to legally bind the offeror will sign the Transmittal Letter. It will state that the offeror is a legal entity that will meet the specifications set forth in this Request for Proposal. The offeror will certify that the prices proposed were arrived at independently, without collusion, consultation, communication or agreement with any other offeror or competitor.

4.3 Executive Summary

The Executive Summary will condense and highlight the contents of the Request for Proposal.

4.4 Agency Background, Experience, and Viability

This section will include details of the background of the agency, its size and resources and details of experience relevant to this Request for Proposal.

Each offeror must submit a minimum of three (3) letters of recommendation.

Letters of recommendation must be submitted on the letterhead of the party submitting the recommendation. Each offeror must submit the names, addresses, and telephone numbers of three (3) additional references. Recommendations and references must be parties who can attest to the offeror's qualifications relevant to

providing the services outlined in the Request for Proposal.

Organizational or professional recommendations and references must be submitted; personal recommendations and references will not be accepted. Recommendations and references may be verified.

Organizational viability will be of particular interest during the evaluation of proposals. Viability refers to history, financial strength, management, and other characteristics and indicators that the bidding organization will remain strong and effective.

4.5 Independent Price Determination Certification Statement

A proposal will not be considered for award if the price in the proposal was not arrived at independently without collusion, consultation, communication or agreement as to any matter relating to such prices with any other offeror or with any competitor.

The offeror must include a certified statement in the proposal certifying that the price was arrived at without any conflict of interest, as described above. Should conflict of interest be detected any time during the contract, the contract shall be null and void and the contractor shall assume all costs of this project until such time that a new contractor is selected.

4.6 Proposal Price Certifying Statement and Proposal Price

The proposal price will include services and requirements as described in this Request for Proposal for a period of one year from the date of signing of a contract. The offeror will include a statement certifying that all services properly requested would be performed as required. The proposal price must be stated in individual claim/case increments for administrative fee per prescription for prescriptions filled by network pharmacies; Cost of drugs paid by offeror plus postage plus administrative fee for drugs provided per mail order. See Appendix A: Official Proposal Price Sheet. The proposal price sheet must be submitted in a separate sealed envelope in the proposal. The proposal price sheet shall contain the name of the

offerer and the signature of an individual authorized to make the offer.

The offeror should provide an explanation of how it proposes to charge for compounding and special formulations of medications provided by mail order.

4.7 Equal Opportunity Employment Statement

The proposal will include a copy of the offeror's Equal Employment Opportunity Statement.

4.8 Employment of Illegal Immigrants

Pursuant to Act 157 of 2007, all bidders must certify prior to award of the contract that they do not employ or contract with any illegal immigrants in its contract with the State.

SECTION 50

GENERAL TERMS AND CONDITIONS

5.1 Legal Considerations

The contract shall be construed according to the laws of the State of Arkansas. Any legal proceedings against the State regarding this Request for Proposal or any resultant contract shall be brought in the State of Arkansas administrative or judicial forums. Venue will be in Pulaski County, Arkansas.

5.2 Terms of the Contract

The contract period begins on January 1, 2011, and terminates on June 30, 2011 (six months later). By mutual agreement, the State and the contractor may elect to extend the contract for a maximum of six one-year renewal periods or any portion thereof, but not less than monthly increments, at the contract compensation for those renewal periods. In no case will the contract be extended to a period greater than seven years after the day the contract is signed by the State.

The State shall notify the contractor at least thirty (30) days prior to the end of the contract period or extension thereof if the State intends to renew the contract. If notification is not made, the contract will terminate at the end of the contract period or current extension thereof.

5.3 Payment Schedule

Payment to the contractor will be made monthly. Electronic invoicing along with paper copies are preferred.

5.4 Termination of Contract

The contract resulting from this Request for Proposal shall be subject to the following termination provisions. The contract may be terminated by the state:

- *For default* (See Section 30.5 and 50.10)
- *For convenience*(See Section 50.11)
- *For unavailability of funds*(See Section 50.12)

5.5 Termination for Default

The State may terminate this contract in whole or in part whenever PECD determines that the contractor or subcontractor has failed to satisfactorily perform its contracted duties and responsibilities and is unable to cure such failure within a reasonable period of time specified by the State, taking into consideration the gravity and nature of the default. Such termination shall be referred to herein as "Termination for Default".

Upon determination by the State that the contractor has failed to satisfactorily perform its contractor duties and responsibilities, the State shall notify the contractor of the failure and establish a reasonable time period in which to cure such failure. If the contractor is unable to cure the failure within the specified time period, the State will notify the contractor that the contract in full or part has been terminated for default.

In the event of termination for default, in full or in part as provided by this clause, the State may procure, upon such terms and in such manner as the State may deem appropriate, supplies or services similar to those terminated, and the contractor shall be liable to the State for any excess cost for such similar supplies or services. In addition, the contractor shall be liable to the State for administrative costs incurred by the State in procuring such similar supplies or services.

In the event of termination for default, the contractor shall be paid for those services, which the contractor has delivered to the State. Payments for completed services delivered to and not yet approved by the State shall be an amount determined by the State.

If, after notice of termination for default, it is determined by the State or a court that the contractor was not in default or that the contractor's failure to perform or make progress in performance was due to causes beyond the control and without error or negligence of the contractor or any of their subcontractors, the notice of termination shall be deemed to have been issued as a termination for the convenience of the State and the rights and obligations of the parties shall be governed accordingly.

The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

5.6 Termination for Convenience

The State may terminate performance of work under the contract in whole or in part whenever the State shall reasonably determine that such termination is in the best interest of the State.

Upon receipt of notice of termination for convenience, the contractor shall be paid the following:

At the contract price(s) for completed services delivered to and accepted by the State.

At a price mutually agreed by the contractor and the State for partially completed services.

5.7 Termination for Unavailability of Funds

In the event that Federal and/or State funds for the contract become unavailable, the State shall have the right to terminate the contract without penalty and upon the same terms and conditions as a termination for convenience. Availability of funds will be determined at the sole discretion of the State.

5.8 Procedure on Termination

Upon delivery by certified mail to the contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the contractor shall:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- Place no further orders or subcontracts for materials or services.
- Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.

- Assign to the State in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the contract under the orders or subcontracts so terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- With the approval or ratification of the Contract Administrator, the contractor shall settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or part, in accordance with the provision of the contract.
- Transfer title to the State (to the extent that the title as not already been transferred) and deliver in the manner, at the time, and extent directed by the Contract Administrator, all files, processing systems (excluding equipment and operating systems), data manuals or other documentation, in any form, that relate to the work terminated by the Notice of Termination.
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.
- Take such action as may be necessary, or as the contract Administrator may direct, for the protection and preservation of the property to the contract which is in the possession of the contractor and in which the State has or may acquire an interest.
- The contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.

5.9 Termination Claims

After receipt of a Notice of Termination, the contractor shall submit to the Contract Administrator any termination claim in the form and with the certification prescribed by the Contract Administrator. Such claims shall be submitted promptly. The contractor and the State may agree upon the amounts to be paid to the contractor by reason of the total

or partial termination of work pursuant to this article. The contract shall be amended accordingly.

In the event of the failure of the contractor and the State to agree in whole or in part as to the amounts with respect to costs to be paid to the contractor in connection with the total or partial termination of work pursuant to this article, the State shall determine, on the basis of information available, the amount, if any, due to the contractor by reason of termination and shall pay to the contractor the amount so determined.

The contractor shall have the right of appeal, as stated under Disputes, from any such determination made by the Contract Administrator.

5.10 Contractor

It is expressly agreed that the contractor and any subcontractors and agents, officers, and employees of the contractor or any subcontractors in the performance of this contract shall act in an independent capacity and not as officers or employees of the State. It is expressly agreed that this contract shall not be construed as a partnership or joint venture between the contractor or any subcontractor and the State of Arkansas.

No official or employee of the Arkansas Insurance Department and no other public official of the State of Arkansas or the Federal government shall participate directly or indirectly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract or subcontract, and any solicitation or proposal thereto in government shall participate directly or indirectly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract or subcontract, and any solicitation or proposal thereto in which, to the employee's knowledge:

1. The employee or any member of the employee's immediate family has a financial interest;
2. A business or organization has a financial interest in which business or organization the employee, or any member of the employee's immediate family has a financial interest; or:

1. Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, audit, or in any other capacity.

2. Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the Director of the State of Finance and Administration.

The offeror will provide a disclosure statement as required by Arkansas Governor Executive Order EO-98-04 prior to approval of the contract.

5.11 Force Majeure

The contractor will not be liable for any excess cost to the State of Arkansas if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God, fires, quarantine restriction, strikes and freight embargoes. In all cases, the failure to perform must be beyond the control and without fault or negligence of the contractor.

5.12 Disputes

The Contract Administrator who shall reduce his decision in writing and serve a copy to the contractor shall decide any dispute concerning performance of the contract. The decision of the Contract Administrator shall be final and conclusive unless within thirty (30) days from the date on service the contractor files with the Contract

Administrator a petition for administrative hearing addressed to the Insurance Commissioner.

Pending final determination of any dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the Contract Administrators direction.

5.13 Confidentiality of Information

The contractor shall treat all information, and in particular, information relating to recipients and providers, which is obtained by it through its performance under the contract as confidential information to the extent that confidential treatment is provided under State law, and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and securement of its rights hereunder.

5.14 Confidentiality of Claimant Information

All information as to personal facts and circumstances concerning claimants obtained by the contractor shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the State, provided that nothing herein shall prohibit the disclosure of information in summary, statistical, or other form which does not identify particular individuals. The use of disclosure of information concerning recipients will be limited to proposals directly connected with the administration of the contract.

5.15 Public Disclosure

Upon signing of the contract by all parties, terms of the contract shall become available to the public, following the provisions of Ark. Code Ann., Sections 25-19-101 et seq.

5.16 Inspection of Work Performed

The State of Arkansas or their authorized representatives shall, at all reasonable times, have the right to enter into contractor's premises, or such other places where duties under the contact are being performed, to inspect, monitor, or otherwise evaluate the quality, appropriateness and timeliness of work being performed. The contractor and

all subcontractors must provide access to all reasonable facilities and assistance. All inspections and evaluations shall be performed in such a manner as will not unduly delay work.

5.17 Subcontracts

The contractor is fully responsible for all work performed under the contract.

The contractor may, with consent of the State, enter into written subcontract(s) for performance of certain of its functions under the contract. The Contract Administrator prior to the effective date of any subcontract must approve subcontracts in writing.

No subcontracts that the contractor entered into with respect to performance under the contract shall in any way relieve the contractor of any responsibility for performance of its duties.

The contractor shall give the Contract Administrator immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the contractor by any subcontractor or vendor which in the opinion of the contractor may result in litigation related in any way to the contract or the State. The Public Employee Claims Division encourages the employment of small business and minority business enterprise pursuant to the provisions of Part 19 of the Federal Acquisition Regulations.

5.18 Indemnification

The contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from:

Any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials, or supplies in connection with the performance of the contract.

Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts, including without limitation disregard of State Workers' Compensation rulings or statutes of the contractor,

its officers, employees, or subcontractors in the performance of the contract.

Any claims or losses resulting to any person or firm injured or damaged by the contractor, its officers, or employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by State regulations or statutes.

Any failure of the contractor, its officers, employees, or subcontractors to observe Arkansas laws, including but not limited to labor laws and minimum wage laws.

5.19 Assignment

The contractor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the Contract Administrator.

5.20 Employment Practices

In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the vendor agrees that: (a) the vendor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the vendor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the vendor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the vendor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause shall be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the vendor will include the provisions of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

The offeror must provide a copy of its Equal Employment Opportunity statement with the proposal.

5.21 Waiver

No covenant, condition, duty, obligation or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, any other party shall have the right to invoke any remedy available under law of equity, notwithstanding any such forbearance or indulgence.

5.22 State Property

The contractor shall be responsible for the proper custody and care of any State owned property furnished for contractor's use in connection with the performance of this contract and the contractor will reimburse the State for its loss or damage, normal wear and tear excepted.

5.23 Contract Variations

If any provision of the contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the State and the contractor shall be relieved of all obligations arising under such provision; if the remainder on the contract is capable of performance, it shall not be affected by such declaration of finding and shall be fully performed.

5.24 Attorney's Fees

In the event that either deems it necessary to take legal action to enforce any provision of the contract, in the event the State prevails, the contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

5.25 Antitrust Assignment

As part of the consideration for entering into any contract pursuant to this invitation for bid, the bidder named on the front of this invitation for bid, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this state for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.

5.26 Disclosure

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

SECTION 60

PROCUREMENT

6.1 Rules of Procurement

To facilitate the Request for Proposal procurement, various rules have been established; they are described in the following paragraphs.

6.2 Contact

The Issuing Officer is the sole point of contact from the date of release of this Request for Proposal until the selection of the successful offeror(s). Offerors wishing to submit questions and requests for clarification should mail all such correspondence to the Issuing Officer.

6.3 Written Questions Concerning the Request for Proposal

Written questions must be submitted to the Issuing Officer and marked "QUESTIONS P-10-1 ". The closing date for receipt of questions will be July 15, 2010. The questions will be answered in written form and posted on the Public Employee Claims Division's website.

6.4 Request for Proposal Amendments

The PECD reserves the right to amend the Request for Proposal prior to the date for proposal submission. Amendments will be posted on the Public Employee Claims Division's website:

<http://www.insurance.arkansas.gov/PECD/divpage.htm>

Amendments must be signed, dated and included with the offeror's proposal submission.

6.5 Cost of Preparing proposal

Costs for preparing the proposals are solely the responsibility of the offerors. The State of Arkansas will provide no reimbursement for such costs. Any costs associated with any oral presentations to the State will be the responsibility of the offeror and may not be billed to the State.

6.6 Disposition of proposals

All proposals become the property of the State of Arkansas and will be a matter of public record. If the proposal includes material, which is considered by the offeror to be proprietary or confidential under Arkansas law, the offeror shall so designate the material. The successful proposal will be incorporated into the resulting contract and will be a matter of public record subject to the provisions of Arkansas law. The Arkansas Insurance Department shall have the right to use all ideas or adaptations of those ideas, contained in any proposal received in response to this Request for Proposal. Selection or rejection of the proposal will not affect this right.

6.7 Proposal Amendments and Rules of Withdrawal

Before the proposal due date, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the department, signed by the offeror.

Unless requested by the Public Employee Claims Division, the division will not accept any amendments, revisions, or alterations to the Request for Proposal after the proposal due date.

6.8 Acceptance of Proposals

The Public Employee Claims Division will accept all proposals properly submitted. However, the division reserves the right to request necessary amendments, reject any or all proposals received, or cancel this Request for Proposal according to the best interest of the State.

The division also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the State.

Where the division may waive minor irregularities, such waiver shall in no way modify the Request for Proposal requirements or excuse the offeror from full compliance with the Request for Proposal specifications and other contract requirements of the offeror is awarded the contract.

6.9 Evaluation of Proposals

Submission of a proposal implies vendor acceptance of the evaluation technique and recognition that subjective judgments must be made by the Evaluation Team during the assignment of rating points.

Proposals will be evaluated by the Public Employee Claims Division to determine if the mandatory requirements as described in this Request for Proposal have been agreed to and/or met. Failure to comply will deem a proposal non-responsive. The division may reject any proposal that is incomplete. However, the division may waive minor irregularities.

Proposals will be evaluated in two phases as outlined in 6.10 (phase one), which includes agency background, past performance, experience, staffing and ability to provide service to every county in the state; and in 6.11 (phase two), proposal price. The contract will be awarded to the offeror whose proposal receives the highest cumulative point total for phase one and two evaluations.

6.10 Phase One Evaluation Method and Criteria

All areas of evaluation will be graded utilizing a point scale. A maximum of 45 points will be available for phase one. The following explanation is meant to clarify how each area will be evaluated.

A. Background, Experience and Viability - 20 points

This area will include details of the background of the offeror, its size and resources and details of experience relevant to this Request for Proposal.

- Each offeror must submit a minimum of three (3) letters of recommendation. Letters of recommendation must be submitted on the letterhead of the party submitting the recommendation.
- Each offeror must submit the names, addresses and telephone numbers of three (3) additional references. Persons making recommendations and references must be parties who can attest to the offeror's qualifications relevant to providing the services outlined in the Request for Proposal.

- Each offeror should list the name and address of at least two agencies or companies (if there are any) which they provided services for whom they no longer provide service.

B. Project Organization, Staffing, and Coverage - 25 points

Organization and Staffing - This area will describe, in detail, the offeror's organizational plan for meeting the requirements in this Request for Proposal.

- It will include organizational charts of proposed personnel at all levels of the organization that would be involved in providing services to PECD.
- Staffing information will detail the tasks performed and the qualifications and certification of each.
- A listing of all pharmacies in the offeror's network located in the State of Arkansas with names, addresses and phone numbers of each pharmacy.

Coverage - Weight will be given to this segment due to employees in all 75 counties of the state.

6.11 Phase Two Evaluation Method and Criteria

This phase of evaluation will be graded utilizing a point scale. A maximum of 65 points per vendor will be available.

Proposal Price - The proposal price will include services and requirements as described in this Request for Proposal. The proposal price must be stated as outlined in Appendix A: Official Proposal Price Sheet. The Proposal Price Sheet shall contain the name of the offer and the signature of an individual authorized to make the offer.

<u>Service</u>	<u>Possible Points</u>
Medication Costs	20
Charges for Call Center(Backup Service)	10
Utilization Management Review (Backup Service)	5
Administrative Fee (per prescription filled by local pharmacies)	20
Administrative Fee (per prescription filled by mail order)	5
Charges for Compounding and Special Formulations	

Provided by mail order

5

Total Possible: 65

6.13 Award Notice

The notice of intended contract award shall be sent by mail to all offerors.

The pricing sheet must be included in a separate sealed envelope from the rest of the proposal.

APPENDIX A

P-10-1 OFFICIAL PROPOSAL PRICE SHEET

Offeror Name: _____

Proposal Pricing Sheet must be submitted no later than by the time and date as outlined in Section 10.5. Addenda or amendments, if any, should be signed, dated and included with the respondent's proposal submission.

Respondent must include a breakdown of the following cost areas:

Medication Costs (Current MAC and Brand Name Costs for the attached prescription list)	Attach list
Charges for Call Center (Backup Service)	\$
Utilization Management Reviews (Backup Service)	\$
Administrative Fee per prescription (filled by local network pharmacies)	\$
Administrative Fee per prescription (by mail order)	\$
Charges for Compounding and Special Formulations (by mail order)	

Signature

NOTE: Vendor may use backside of this form when needed to address any of the above line items.