9.19 Performance Bond or Bond Substitute

RFP Reference: 23.

HMS obtained a surety bond in the amount of $1,000,000 written with International Fidelity Insurance Company for the length of the previous contract. While we would prefer to use our current insurance policy limits in lieu of the bond, we are prepared to continue this process if required.

Within ten (10) business days after contract award, and annually thereafter by no later than September 30, the Contractor shall submit to AHCCCS (Contracts and Purchasing) a performance bond of standard commercial scope issued by a surety company doing business in this State or a cash deposit in the amount of $1,000,000 for the performance period of this contract to guarantee performance by the Contractor of its obligations under this contract. The performance bond shall be in a form acceptable to AHCCCS and shall be payable to the Arizona Health Care Cost Containment System, an agency of the State of Arizona.

In the event of a default by the Contractor, AHCCCS shall, in addition to any other remedies it may have under this contract, obtain payment under the performance bond or substitute security for the purposes of any of the following:

23.1 Paying any damages sustained by reason of non-performance or other breach of Contractor's obligations under this contract;

23.2 Reimbursing AHCCCS for any administrative expenses incurred by reason of a breach of Contractor's obligations under this contract, including, but not limited to, legal fees and expenses incurred after termination of this contract by AHCCCS for cause;

23.3 Covering a transition period, if any, where the Contractor does not cooperate fully with AHCCCS or a successor Contractor; and

23.4 Use by AHCCCS in the event the Contractor becomes insolvent.

In the event AHCCCS agrees to accept a cash deposit in lieu of a performance bond, the Contractor shall execute any and all documents and perform any and all acts necessary to secure and enforce AHCCCS' security interest in such substitute security including, but not limited to, security agreements and necessary UCC filings pursuant to the Arizona Uniform Commercial Code. In the event such security is agreed to and accepted by AHCCCS, the Contractor shall grant AHCCCS a security interest in the substitute security in order to secure performance of its obligations under this contract.

The Contractor shall provide evidence of a fidelity bond in the amount of $1,000,000 covering any loss to AHCCCS or the State due to any fraudulent or dishonest act on the part of any officer, agent, subcontractor, or employee of the Contractor.

HMS will submit a performance bond to AHCCCS of standard commercial scope issued by a surety company in the amount of $1,000,000 for the performance period of our contract with AHCCCS to guarantee the performance by HMS of our obligations under the contract within 10 business days after contract award (and annually thereafter no later than September 30). The performance bond will be in a form acceptable to AHCCCS and will be payable to the Arizona Health Care Cost Containment System.

We affirm our understanding of AHCCCS's response to any default on our contracted commitment. HMS will provide evidence of a fidelity bond in the amount of $1,000,000 covering any loss to AHCCCS or Arizona due to any fraudulent or dishonest act on the part of any officer, agent, subcontractor, or employee of HMS.

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