

Departments’ Response to Proposed Suggestions or Amendments for Iowa Plan RFP Med 09-010:

Section Number	Proposed Suggestion/Amendment	Departments’ Response
Section 1	The state should consider amending the RFP to include all available State funded MH and SA services in the Iowa Plan. Specifically, services outlined on page 10, lines 136-154, and on page 18, lines 65-75. The addition of these services will assist the vendor with developing a comprehensive and coordinated system of care for adult and children experiencing mental health and substance abuse disorders, and will reduce the fragmentation of care currently experienced by Iowans.	The Departments are unable to accept this change, in whole or in part.
Section 6	<p>Proposed Alternative Verbiage for Section 6.8.2, the eighth bullet beginning at Line 2870 on page 127:</p> <ul style="list-style-type: none"> • “promulgating written policies for Contractor and all Contractor employees, including management, that provide detailed information about the following: <ul style="list-style-type: none"> • the Federal False Claims Act under title 31 of the United States Code, sections 3729 through 3733; • administrative remedies for false claims and statements under title 31 of the United States Code, chapter 38;any State laws pertaining to civil or criminal penalties for false claims and statements; • Whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in title 42 of the United States Code, section 1320a-7b(f)), and • the Contractor’s policies and procedures for detecting and preventing fraud, waste, and abuse.” 	The Departments are unable to accept this change, in whole or in part.
Section 6	<p>Proposed Alternative Verbiage for Section 6.8.2, new ninth bullet beginning at Line 2284 on page 127:</p> <ul style="list-style-type: none"> • “promulgating a Compliance Plan applicable 	The Departments are unable to accept this change, in whole or in part.

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	<p>to employees, contractors, subcontractors and agents of Contractor that provides detailed information about the following:</p> <ul style="list-style-type: none"> • the Federal False Claims Act under title 31 of the United States Code, sections 3729 through 3733; • administrative remedies for false claims and statements under title 31 of the United States Code, chapter 38;any State laws pertaining to civil or criminal penalties for false claims and statements; • Whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in title 42 of the United States Code, section 1320a-7b(f)), and • the Contractor's policies and procedures for detecting and preventing fraud, waste, and abuse." 	
Section 9	<p>Proposed New Section 9.1(4)(e) Aggregate Amounts[Lines 963-1042 on pages 157-158]: "Regardless of any provision in this Contract, the Departments agree that the aggregate amount of any monies due to the Departments (collectively) for Contractor's failure to perform, including without limitation liquidated damages, performance disincentives and/or other fees or financial penalties that is or may be imposed, in any contract year shall be limited to _____ dollars (\$_____)."</p> <p>[OR "Regardless of any provision in this Contract, the Departments agree that the aggregate amount of any monies due to a Department (individually) for Contractor's failure to perform, including without limitation liquidated damages, performance disincentives and/or other fees or financial penalties that is or may be imposed, in any contract year shall be limited to _____ dollars (\$_____) OR _____ percentage (___%) of the total administrative fees paid by the involved Department to Contractor, not to exceed a</p>	The Departments are unable to accept this change, in whole or in part.

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	maximum aggregate amount of _____ dollars (\$____) paid by the Departments (severally or collectively) to Contractor in any contract year.”]	
Section 9	Proposed New Verbiage to the end of Section 9.1(6) [Lines 1120-1143 on pages 160-161]: “Following the above referenced final determination by a Director, Contractor may pursue judicial review and action and any associated appeals pursuant to applicable State and/or Federal laws, rules or regulations, including without limitation Iowa Code, Chapter 17A, the Iowa Administrative Procedure Act, Sections 17A.19 and 17A.20, as may be amended.”	The Departments are unable to accept this change, in whole or in part.
Section 9	Proposed New Verbiage to Section 9.1(12) Publications, Copyrights and Rights in Data and Patents [Lines 1219-1244 on pages 162-163]: Add the following phrase to the beginning of the second sentence starting on Line 1222: “Except to the extent necessary to perform services under the Contract and/or as otherwise part of Contractor’s operations in support of performance under the Contract,…”	The Departments are unable to accept this change, in whole or in part.
Section 9	Proposed New Verbiage to Section 9.1(12) Publications, Copyrights and Rights in Data and Patents [Lines 1219-1244 on pages 162-163]: Add the following new paragraph to the end of the section at Line 1244: “Notwithstanding the above or any other provision to the contrary, the Departments agree that to the extent Contractor information, processes, systems, data, technology, proprietary software, methodologies, techniques, tools or otherwise which are assets of Contractor prior to submission of Contractor’s response to RFP or which are developed by Contractor independent from its performance under this Contract (the “ <i>Contractor Properties</i> ”) are embedded in, or required to be used in connection with, any Deliverable, the Departments hereby grant to Contractor a non-exclusive, irrevocable, world-wide, perpetual, fully paid-up and royalty-free license for Contactor, Contractor’s affiliates and their third	The Departments are seeking a provider of the activities described in this RFP. While the Departments are not seeking a provider’s technology, it is possible that tools would be created specifically for the Iowa population being served the Departments would want to have the ability to use those tools properly developed because of this RFP for use at other times. Because of this, the Departments are not able to accept this change.

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	party service providers to use, copy, modify, maintain, support, and create derivative works of such Contractor Properties solely in connection with Contractor's internal business processes and requirements."	
Section 9	Proposed New Verbiage to Sections 9.1(4) Monitoring Clause [Line 1477 on page 168] and 9.1(5) Review Clause [Line 1481 on page 168] – Both refer to Section 6.5 of the RFP Contract Monitoring and General Reporting Requirements [Lines 2537-2563 on pages 119-120]: Add the following to the end of fourth literary paragraph at Line 2257: "Should the Departments require any such additional or more frequent reports which may necessitate additional administrative or information systems work or allocation of work by the Contractor, the Departments agree to provide the Contractor a reasonable period of time within which to develop, format and implement such additional or more frequent reports."	The Departments would be willing to accept a change such as this if the time frame is not completely subjective or arbitrary. Therefore, a maximum period would be acceptable such as "...within a reasonable time not to exceed sixty (60) days..." The Departments suggest 60 days.
Section 9	Proposed New Verbiage to Section 9.2(2) Duration of Contract [Lines 1548-1553 on page 170]: Add the following to the end of the section at Line 1553: "Should the Departments elect to modify or adjust funding available and/or fees paid to Contractor under the Contract to be effective in the next Contract year, and such next Contract year is an extension of the initial term or a renewal term exercised by the Departments, any such extension or renewal term will be mutually agreed upon by the parties."	The Departments are unable to accept this change, in whole or in part.
Section 9	Proposed New Verbiage to Section 9.2(4)(b) Withholding Payments [Lines 1573-1580 on page 170]: Add the following to the end of the section at Line 1580: "The Departments will provide Contractor with written notice of the specifics of any failure to perform or a Deficiency in a Deliverable with a reasonable period of time to attempt to correct the noted failure or Deficiency prior to withholding of funds or payments as provided for above. The amount of any such withhold will be based on the specific	This would be acceptable if the "reasonable" time is not open ended. The Departments would suggest sixty (60) days.

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	duties or obligations for which Contractor has failed to perform or the Deficiency identified in a Deliverable.”	
Section 9	Proposed New Verbiage to Section 9.2(4)(c) Setoff Against Sums Owed by the Contractor [Lines 1581-1587 on pages 170 and 1710]: Add the following to the end of the section at Line 1587: “The Departments agree to allow Contractor the opportunity to pay the Departments any such amounts proposed for setoff within a reasonable time period prior to setoff as provided for hereunder.”	This would be acceptable if the “reasonable” time is not open ended. The Departments would suggest sixty (60) days.
Section 9	Proposed New Verbiage to Section 9.2(7)(a)(1) [Line 1759 on page 174]: “Any material breach of this Contract;”	The Departments are unable to accept this change, in whole or in part.
Section 9	Proposed New Verbiage to Section 9.2(7)(a) [Lines 1750-1772 on page 174]: Add new subsection 9.2(7)(a)(6) at Line 1773: (6) In no event will contracted or participating providers be deemed an agent or subcontractor of Contractor unless such provider is a “Subcontractor” to whom Contractor delegated certain administrator services.”	The Departments are unable to accept this change, in whole or in part.
Section 9	Proposed New Verbiage to Section 9.2(11)(a) Ownership and Assignment of Other Deliverables [Lines 1867-1886 on pages 176-177]: Add to the end of the section at Line 1886: “Notwithstanding the above or any other provision to the contrary: (1) should the Deliverables, in whole or in part, be an integral or material part of information, documents, files or data for which Contractor must maintain in the performance of duties and obligations during the term of the Contract and/or following the expiration or termination of the Contract, the Departments agree that Contractor will maintain and such Deliverables only as necessary to perform such duties and obligations; (2) Contractor may retain any such Deliverables during the term of the Contract and/or following the expiration or termination of the Contract as reasonably necessary for Contractor to meet any legal or contractual obligations or responsibilities; (2) the Departments agree that to the extent	The Departments are unable to accept this change, in whole or in part.

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	<p>Contractor information, processes, systems, data, technology, proprietary software, methodologies, techniques, tools or otherwise which are assets of Contractor prior to submission of Contractor's response to RFP or which are developed by Contractor independent from its performance under this Contract (the "<i>Contractor Properties</i>") are embedded in, or required to be used in connection with, any Deliverable, the Departments hereby grant to Contractor a non-exclusive, irrevocable, world-wide, perpetual, fully paid-up and royalty-free license for Contractor, Contractor's affiliates and their third party service providers to use, copy, modify, maintain, support, and create derivative works of such Contractor Properties solely in connection with Contractor's internal business processes and requirements; and/or (3) any retention or use of Deliverables provided for hereunder will be royalty free.</p>	
Section 9	<p>Proposed New Verbiage to Section 9.2(12)(b) [Lines 1916-1926 on page 177]: Add the following to the opening phrase at Line 1916: "Subject to the terms and conditions of the Contract," Contractor represents and warrants:...</p>	<p>The Departments are unable to accept this change, in whole or in part.</p>
Section 9	<p>Proposed New Verbiage to Section 9.1(14)(mm) Immunity From Liability [Lines 2325-2328 on pages 185-186]: Revise the section to read as follows: "Every person who is a party to the Contract is hereby notified and agrees that the State, the Departments, and all of their employees, agents, successors, and assigns are immune from liability and suit by a third party for Contractor's and/or Subcontractors' activities in performance under the Contract, unless such activities were performed at the specific direction of the Departments, individually or collectively."</p>	<p>The Departments are unable to accept this change, in whole or in part.</p>