

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF HEALTH  
DIVISION OF HEALTH SYSTEMS DEVELOPMENT & REGULATION  
600 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA 57501**

**REQUEST FOR PROPOSALS TO PROVIDE ADDITIONAL LONG-TERM CARE NURSING FACILITY  
CAPACITY IN SOUTH DAKOTA**

**PROPOSALS ARE DUE DECEMBER 21, 2018 5PM CST**

RFP #: 19-0901001-005      CONTACT: Tom Martinec      PHONE: (605) 773-3361

Website: <http://doh.sd.gov/news/>

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGIT): \_\_\_\_\_ FAX NO: \_\_\_\_\_

FEDERAL TAX ID#: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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**PRIMARY CONTACT INFORMATION**

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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## 1.0 GENERAL INFORMATION

### 1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

South Dakota is committed to fostering a system of long-term care services and supports by administering programs, services and activities in the most integrated setting appropriate to the needs of its older citizens and persons with disabilities.

Pursuant to SDCL §§ 34-12-35.6 & 35.7, the Department of Health (DOH) may annually consider the need for additional nursing facility beds in defined areas of the State, and may increase the number of nursing home beds in a defined area in order to meet an identified need. DOH has identified a need for additional long-term care nursing facility capacity within South Dakota. Pursuant to SDCL § 34-12-35.8, DOH shall solicit proposals through the statutorily established request for proposals process. The specific purpose of this RFP is to solicit proposals from long-term care providers who are interested in obtaining additional long term care nursing facility beds.

Consistent with our efforts to identify and address identified needs for additional long-term care nursing facility capacity within the state, the Department of Health also strongly encourages providers to expand their capacity to deliver home and community-based services to ensure that all South Dakotans have the opportunity to live close to family and friends, achieve maximum independence, engage in productive and fulfilling employment, and participate in community life.

Currently, DOH has available a total of 255 nursing facility beds that are eligible to be reallocated in order to meet the long-term care needs of the residents of South Dakota. Proposals are being solicited statewide in an effort to increase additional long-term care capacity within the State. Preference will be given to proposals to the degree that they seek to address the particular special care needs in each area as outlined in this RFP, and to the respondent's commitment to consider developing home and community-based services into the future.

As interested providers develop their proposals, we strongly encourage them to periodically review any additional materials relevant to the RFP (Questions & Answers document, etc) that may be posted on the DOH website at <http://doh.sd.gov/news/>.

### 1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The South Dakota Department of Health is the issuing office for this document and all subsequent addenda relating to it, on behalf of the South Dakota Department of Health, Division of Health Systems Development and Regulations. The reference number for the transaction is RFP # 19-0901001-005. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

### 1.3 LETTER OF INTENT

It is strongly encouraged that all interested providers submit a **Letter of Intent** if they plan to respond to this RFP.

It is requested that the Letter of Intent be provided on or before November 9, 2018, however late submissions will be accepted and submission of a Letter of Intent is not a prerequisite of submitting a proposal. If submitted by mail, the Letter of Intent should be addressed to:

**RFP # 19-0901001-005  
TOM MARTINEC, DEPUTY SECRETARY  
SD DEPARTMENT OF HEALTH  
600 E CAPITOL AVENUE  
PIERRE, SD 57501**

The Letter of Intent may also be submitted to Tom Martinec via email at [tom.martinec@state.sd.us](mailto:tom.martinec@state.sd.us). Please place the following in the subject line of your email: **“Letter of Intent for RFP # 19-0901001-005”**.

You may also fax your letter of intent to the attention of Tom Martinec at (605) 773-5683.

#### **1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)**

RFP Publication	October 29, 2018
Letter of Intent to Respond Due	November 9, 2018
Deadline for Submission of Written Inquiries	November 26, 2018 5pm CST
Responses to Provider Questions	December 3, 2018
Proposal Submission	December 21, 2018 5pm CST
Provider Presentations/discussions	Early January, 2019 (exact dates TBD)
Anticipated Award Decision	February 1, 2019

#### **1.5 SUBMITTING YOUR PROPOSAL**

All proposals must be completed and received in the South Dakota Department of Health, Division of Health Systems Development and Regulations, by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original and five (5) identical copies of the proposal shall be submitted.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the envelope sent by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title. The words “Sealed Proposal Enclosed” must be prominently denoted on the outside of the shipping container. **Proposals must be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL # 19-0901001-005  
PROPOSAL DUE December 21, 2018 5pm CST  
TOM MARTINEC, DEPUTY SECRETARY  
SD DEPARTMENT OF HEALTH  
600 E CAPITOL AVENUE  
PIERRE, SD 57501**

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

#### **1.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this proposal, the provider certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the provider is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

#### **1.7 NON-DISCRIMINATION STATEMENT**

The State of South Dakota requires that all contractors, providers, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the provider certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

#### **1.8 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Proposals may be modified or withdrawn by the provider prior to the established due date and time. No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

#### **1.9 PROVIDER INQUIRIES**

Interested providers may make written or email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Email inquiries must be sent to Tom Martinec at [tom.martinec@state.sd.us](mailto:tom.martinec@state.sd.us) with the subject line “RFP # 19-0901001-005”. If inquiries are submitted by mail, please use the contact information contained in Section 1.5. Be sure to reference the RFP number in your letter.

The Department of Health prefers to respond to provider’s inquiries via e-mail. If a provider does not indicate an email address, the State’s response will be sent via fax. If no fax number is provided, the State will mail the response to the provider. All providers will be informed of any inquiries and the State’s response. Providers may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Providers will be notified in the same manner as indicated above regarding any modifications to this RFP.

As interested providers develop their proposals, we strongly encourage them to periodically review any additional materials relevant to the RFP (Questions & Answers document, etc) that may be posted on the DOH website at <http://doh.sd.gov/news/>.

#### **1.10 PROPRIETARY INFORMATION**

The proposal of the successful provider(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Providers must clearly identify in the Executive Summary and mark in the

body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

### **1.11 GOVERNING LAW**

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota. The laws of South Dakota shall govern this transaction.

### **1.12 DISCUSSIONS WITH PROVIDERS (ORAL PRESENTATION/NEGOTIATIONS)**

An oral presentation by a provider to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Provider. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the provider's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

## **2.0 STANDARD CONTRACT TERMS AND CONDITIONS**

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1** The successful responding provider will perform those services described in the resulting contract or agreement.
- 2.2** The services to be provided under the contract shall commence and terminate on mutually agreed upon dates. Terms for early termination shall be included in the agreement as negotiated by the parties.
- 2.3** The Provider agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Provider to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents and employees.
- 2.4** The Provider, at all times during the term of the Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

**A. Commercial General Liability Insurance:**

The Provider shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than 1,000,000 for each occurrence and 3,000,000 aggregate.

B. Worker's Compensation Insurance:

The Provider shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

C. Certificates of Insurance:

Before beginning work under the Agreement, the Provider shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the State. The Provider shall furnish copies of insurance policies if requested by the State.

- 2.5** While performing services under agreement with the State, the Provider is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- 2.6** Provider agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury, or death, to the person or property of third parties, or which may otherwise subject Provider or the State to liability. Provider shall report any such event to the State immediately upon discovery.
- Provider's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Provider's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Provider to report any event to law enforcement or other entities under the requirement of any applicable law.
- 2.7** The Agreement may be terminated by either party by providing written notice as mutually agreed and specified in the Agreement. In the event the Provider breaches any of the terms or conditions of the Agreement, the Agreement may be terminated by the State at any time with or without notice. Upon termination the State may take over the work and may award another party an agreement to complete the work under the Agreement.
- 2.8** The Agreement depends upon the continued availability of authority from the Legislature for the intended purpose. If for any reason the Legislature terminates the authority of the State to authorize additional nursing facility beds, the Agreement will be terminated by the State. Termination for this reason is not a default by the State nor does it give rise to a claim against the State.
- 2.9** The Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part thereof, and be signed by an authorized representative of each of the parties thereto.
- 2.10** The Provider will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to the Agreement, and will be solely responsible for obtaining current information on such requirements.
- 2.11** In the event that any court of competent jurisdiction shall hold any provision of the Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision thereof.

- 2.12** All other prior discussions, communications and representations concerning the subject matter of the Agreement are superseded by the terms of the Agreement, and except as specifically provided therein, the Agreement constitutes the entire agreement with respect to the subject matter thereof.
- 2.13** Any notice or other communication required under the Agreement shall be in writing and sent to the appropriate address and individuals indicated in the Agreement, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.14** The Provider may not use subcontractors to perform the services described in the Agreement without the express prior written consent of the State. The Provider will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of the Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with the Agreement. The Provider will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

### **3.0 SCOPE OF WORK**

A total of 255 nursing facility beds are currently available for redistribution statewide. Proposals must be specific to meeting the long-term care needs of residents of South Dakota. Through the authorization of these additional beds from the Department of Health, providers shall provide additional long-term care nursing facility services in accordance with the following requirements. Proposals shall describe how they intend to meet each of the following requirements:

- 3.1** Any additional nursing facility beds received by long term care providers via this RFP process shall be housed in new or existing nursing facilities located within South Dakota.
- 3.2** Any additional nursing facility beds received by long term care providers via this RFP process shall be made operational as soon as possible, but no later than two (2) years from the date of the resulting contract or agreement.
- 3.3** Responding providers shall verify in the proposal that their nursing facility is Medicare-certified, Medicaid-certified, or both, or have skilled nursing services available on-site. The skilled services shall be part of the facility's normal delivery of services.
- 3.4** The nursing facilities shall accept residents with complex medical conditions or increased levels of care requiring specialized equipment and/or increased staff resources.
- 3.5** The nursing facilities may not place any restriction on admissions as part of the facility's admissions agreement, other than those allowed in ARSD article 44:73.
- 3.6** To the extent possible, the nursing facilities will dedicate all or a portion of the awarded beds to meet the identified special care needs in the respective community (see Section 4.4).
- 3.7** The nursing facilities shall meet all statutorily-mandated occupancy rates within a reasonable timeframe, but no later than the end of the next state fiscal year after the additional beds are licensed.
- 3.8** The nursing facilities shall make a good faith effort to fully utilize the additional beds on a continuous basis in an effort to meet the identified need for additional long term care services in South Dakota.

Such good faith efforts shall continue until such time as the facility either voluntarily or involuntarily relinquishes its authority for those additional beds.

#### **4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS**

- 4.1** The responding provider is cautioned that it is the provider's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The provider's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- 4.2** Responding providers shall include in the proposal any and all specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements.
- 4.3** Responding providers shall describe in the proposal their resources available to perform the work.
- 4.4** Responding providers shall describe in the proposal their commitment to dedicate all, or a portion, of any awarded beds to meet the specifically-identified special care needs in their respective community. The specifically-identified special care needs include bariatric services, behavioral health services, long term care services for residents who may be a risk to themselves and others (including residents who are registered sex offenders), tracheostomy care services, and extended long-term stay services (as opposed to short-term rehabilitation services).

Therefore, responding providers shall specifically indicate in their proposals the extent to which they intent to dedicate all, or a portion, of any awarded beds to meet the long term care needs of the following special needs populations: 1) bariatric residents, 2) residents requiring behavioral health services, 3) residents who may be a risk to themselves and others (including residents who are registered sex offenders), 4) residents with tracheostomy care needs, and 5) residents anticipated to require an extended stay in a nursing facility (as opposed to short-term rehabilitation).

- 4.5** As there is also an identified need to further develop home and community-based services in all areas of the state, responding providers shall describe in the proposal their commitment to consider providing additional home and community-based services in order to create more long term care options for elderly South Dakotans.
- 4.6** Responding providers shall demonstrate in the proposal their familiarity with the long term care issues pertinent to South Dakota communities, and their ability to effectively utilize additional nursing facility beds to adequately address the identified long term care needs in the respective community.
- 4.7** Responding providers shall indicate the exact number of additional nursing facility beds they are requesting, and the applicable community.
- 4.8** Responding providers shall provide in their proposal an estimated timeline for bringing any newly awarded beds online within the maximum two (2) year allotted timeframe.
- 4.9** Responding providers shall provide a copy of the facilities audited financial statements as an attachment to the proposal. The audited financial statements shall be provided in the form of an independent auditor's report from the most recent fiscal period available. The audited financial statements shall demonstrate the provider's overall financial health and long term financial stability.

- 4.10** Responding providers shall provide documentation of local community support for the proposal, including letters of support from area health care providers, local government, and nonprofit organizations/associations.
- 4.11** Responding providers shall verify in the proposal that their facility has not been selected as a special focus facility by the Centers for Medicare and Medicaid Services.
- 4.12** Responding providers shall verify in the proposal that their facility is either currently operating on a full, unrestricted state license or a provisional license related solely to construction or structural improvements currently in progress.
- 4.13** Responding providers shall provide a quality assurance plan as an attachment to their proposal. The plan shall identify the following:
- 1) The members of the quality assurance committee by position;
  - 2) How often the committee meets;
  - 3) The guiding principles of the committee;
  - 4) Committee member assignments;
  - 5) The process of how the committee identifies concerns, implements corrective action, and monitors progress; and
  - 6) The methods that employees can use to submit quality improvement ideas to the committee.
- 4.14** The responding providers shall include in the proposal a detailed workforce plan that outlines how the nursing facility will meet its workforce needs.
- 4.15** The responding providers shall indicate in the proposal that it has a facility-based certified nurse aid training program, or an acceptable alternative.
- 4.16** The responding providers shall include in the proposal a plan and timeline for coming into compliance with the statutory minimum Medicaid occupancy rates as mandated in SDCL § 34-12-35.9.
- 4.17** The responding providers shall include in the proposal any additional information that it deems relevant to demonstrating the facility's ability to successfully and effectively complete the Scope of Work.
- 4.18** Responding providers shall include in the proposal information that establishes the provider's ability and proven history in handling special project constraints.
- 4.19** Responding providers and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the Department of Health. Responding providers and their agents may not contact any state employee other than the identified Department contact person regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Responding providers and their agents who have questions regarding this matter should direct them to the identified Department contact person.

## **5.0 PROPOSAL RESPONSE FORMAT**

- 5.1** An original and five (5) copies shall be submitted.
  - 5.1.1** The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.
  
- 5.2** All proposals must be organized and tabbed with labels for the following headings:
  - 5.2.1 RFP Form.** The State's Request for Proposal form completed and signed.
  - 5.2.2 Executive Summary.** The one or two page executive summary is to briefly describe the provider's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the provider. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
  - 5.2.3 Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:
    - 5.2.3.1** A complete narrative of the provider's assessment of the work to be performed, the provider's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the provider's understanding of the desired overall performance expectations.
    - 5.2.3.2** A specific point-by-point response, in the order listed, to each requirement in Sections 3.0 and 4.0 in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.
    - 5.2.3.3** A clear description of any options or alternatives proposed.

## **6.0 PROPOSAL EVALUATION AND AWARD PROCESS**

- 6.1** After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria in the relative order of importance:
- 6.1.1** Anticipated effectiveness of the proposal to adequately address the identified need for additional nursing facility services while taking into consideration but not limited to the following: proposal viability under existing statutory and regulatory restrictions, proposed timeframe for making awarded beds operational, extent to which the proposal dedicates awarded beds to meet the specifically-identified special care needs in the respective community, local community support, and the extent to which the proposal demonstrates the provider's commitment to considering further development of home and community-based services within the State;
  - 6.1.2** Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
  - 6.1.3** Resources available to perform the work, including any specialized services, within the specified time limits for the project, taking into consideration but not limited to the proposed workforce plan;
  - 6.1.4** Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
  - 6.1.5** Availability to the project locale;
  - 6.1.6** Familiarity with the project locale;
  - 6.1.7** Proposed project management techniques;
  - 6.1.8** Ability and proven history in handling special project constraints;
  - 6.1.9** Plan for meeting statutorily-mandated occupancy rates; and
  - 6.1.10** Quality assurance
- 6.2** Experience and reliability of the Provider's organization are considered subjectively in the evaluation process. Therefore, the Provider is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3** The qualifications of the personnel proposed by the Provider to perform the requirements of this RFP, whether from the Provider's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the Provider should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4** The Department of Health reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota. The Department of Health also reserves the right to award multiple proposals.

**6.5 Award:** The Department of Health and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including performance schedule.

**6.5.1** If the Department and the highest ranked offeror are unable for any reason to negotiate an agreement to perform the scope or work, the Department shall, either orally or in writing, terminate negotiations with the highest ranked offeror. The Department may then negotiate with the next highest ranked offeror.

**6.5.2** The negotiation process may continue through successive offerors, according to Department ranking, until an agreement is reached or the Department terminates the negotiation process.