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July 30, 2021

SENT BY U.S. MAIL AND EMAIL

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Ms. Jennifer S. Griffin
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Re: Corizon, LLC Protest of Award for RFPS30034902100318-Comprehensive Health Care Services

Dear Mr. King and Ms. Griffin:

I received your June 14, 2021 protest letter, submitted to me on behalf of Corizon, LLC ("Corizon") challenging the above-referenced award to Centurion of Missouri, LLC ("Centurion"). I have reviewed Corizon's protest pursuant to 1 CSR 40-1.050(12) and have considered the information and arguments presented therein. After having done so, **on behalf of the Division of Purchasing ("Division"), I deny Corizon's protest. Pursuant to 1 CSR 40-1.050(12), the Division will take no further action on Corizon's protest.**

FACTS

In August of 2020 the Division issued RFP S30034902100318 ("RFP"), a request for proposals to provide Comprehensive Health Care Services for the state agency, Missouri Department of Corrections ("DOC"). Five addendums to the RFP were subsequently issued prior to the December 2, 2020 deadline for submissions. BAFO 001 to the RFP, including the BAFO request letter to the vendors, was issued on March 3, 2021.

The RFP included the following relevant provisions:

- **Paragraph 2.10.19 states:**
 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

- **Paragraph 6.5.4 states:**
 Terms, conditions, prices, methodology, or other features of the vendor's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the vendor may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.

- **Paragraph 6.6.1 states:**
 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use both objective analysis and subjective judgment in conducting an assessment of the proposal in accordance with the evaluation criteria stated below and the scoring details delineated in Attachment 139. The contract shall be awarded to the lowest and best proposal.

Category	Element	Points
COST PROPOSAL		80 points
TECHNICAL PROPOSAL		110 points
Proposed Methodology, Approach, and Work Plan		30 points
	Healthcare Services	4 points
	Medical Care Services	4 points
	Mental Health Care Services	4 points
	Staffing Plan	10 points
	Implementation Plan	8 points
Team Qualifications		20 points
	Corporate Team	10 points
	Statewide Administrative Team	10 points
Vendor Information and Past Performance		60 points
	Overall Relevant Vendor Medical Care Experience	10 points
	Overall Relevant Vendor Mental Health Care Experience	10 points
	Case Studies/References	40 points

Category	Element	Points
MBE/WBE PARTICIPATION		10 Points
TOTAL		200 points

- **Section 6.7.2 states:**

Objective Evaluation of Cost –

The cost evaluation shall be based on a total cost determined using the quantities provided below and the prices stated on Exhibit A.

Original Contract Period –

- Effective Date of Contract through June 30, 2022 – An offender population of 22,000 for 180 calendar days and an offender population of 22,500 for 185 calendar days.
- July 1, 2022 through June 30, 2023 - An offender population of 23,000 for 180 calendar days and an offender population of 23,500 for 185 calendar days.
- July 1, 2023 through June 30, 2024 - An offender population of 24,000 for 180 calendar days and an offender population of 24,500 for 185 calendar days.

First Renewal Period –

- July 1, 2024 – June 30, 2025 - An offender population of 25,000 for 180 calendar days and an offender population of 25,500 for 185 calendar days.

Second Renewal Period –

- July 1, 2025 – June 30, 2026 - An offender population of 26,000 for 180 calendar days and an offender population of 26,500 for 185 calendar days.

Third Renewal Period –

- July 1, 2026 – June 30, 2027 - An offender population of 27,000 for 180 calendar days and an offender population of 27,500 for 185 calendar days.

Fourth Renewal Period –

- July 1, 2027 – June 30, 2028 - An offender population of 28,000 for 180 calendar days and an offender population of 28,500 for 185 calendar days.

Cost evaluation points shall be determined from the result of the calculation stated above using the following formula:

$$\frac{\text{Lowest Responsive Vendor's Price}}{\text{Compared Vendor's Price}} \times \text{Maximum Cost Evaluation points (80)} = \text{Assigned Cost Points}$$

A sample cost evaluation is included as Attachment 140.

- **Paragraph 6.9.1a states:**

Corporate Team: No more than five (5) Leadership Team (i.e. Chief Executive Officer, Chief Medical Officer, National Director of Mental Health, Corporate Director of Human Resources, and Corporate Information Technologist) members' biographies will be considered in the evaluation. One (1) member of the Corporate Team should be identified as the vendor's primary person responsible for the delivery of the services. By including their biographies, the vendor is committing the Corporate Team members to support the project, should it be awarded.

Additionally, the following provisions of Revised Statutes of Missouri (RSMo) and Code of State Regulations (CSR) are also relevant:

- **Section 34.042 RSMo states:**
...negotiations may be conducted with responsible offerors who submit proposals selected by the commissioner of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements.
- **1 CSR 40-1.050 (10)(O) states:**
Employees of the division, evaluators, and any other persons involved in procurement decisions shall not accept for personal benefit gifts, meals, trips, or any other thing of significant value or of a monetary advantage, directly or indirectly, from a vendor;
- **1 CSR 40-1.050 (22)(A) and (C):**
With regard to competitive negotiation procurements, the basic steps of the evaluation should generally include the following:
(A) Proposals are reviewed for non-responsiveness (non-compliance) with mandatory requirements in the solicitation document. In conjunction with the evaluation committee, if applicable, the division will obtain any clarifications to a response necessary to make a determination of compliance or non-responsiveness. A proposal which contains nonresponsiveness issues which could never be expected to be brought into compliance, even if given an opportunity for competitive negotiations, is considered unacceptable or nonresponsive and eliminated from further consideration in the evaluation. Proposals with non-responsiveness issues which could be corrected during competitive negotiations, if conducted, are considered potentially acceptable and remain in the evaluation process until a decision is made in regard to competitive negotiations. If competitive negotiations are not conducted, proposals with nonresponsiveness issues are considered nonresponsive and are eliminated from further consideration in the evaluation. If competitive negotiations are conducted, the non-responsiveness issues are identified as deficiencies in the best and final offer request;
(C) Request for Proposal revisions may be permitted for the purpose of obtaining best and final offers and making changes to the proposal that are in the best interest of the state;
- **1 CSR 40-1.060 (8)(F) and (8)(G) state:**

The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but shall serve as a guideline for vendor discipline and business ethics—

(F) Obtaining information, by whatever means, related to a proposal submitted by a competitor in response to a Request for Proposal in order to obtain an unfair advantage during the negotiation process;

(G) Contacting proposal/bid evaluators or any other person who may have influence over the award, without authorization from the division, for the purpose of influencing the award of a contract;

ANALYSIS

Corizon's protest raises four claims which this letter restates as follows: **1.** Centurion's proposal with regard to experience and staffing representations was misleading, and they may have attempted to have, or did have, prohibited communications. **2.** Centurion's proposal did not meet a mandatory term of the RFP due to its firing of Wells and therefore should have been considered a non-compliant proposal and ineligible for award. **3.** The award should be invalid because of unfair bias against Corizon demonstrated in the evaluation compared to the other competing vendors. **4.** The awarded contract is not binding on the state due to a lack of appropriation, and the cost evaluation criteria in the RFP are unlawful as applied because the contract was not awarded to the lowest and best bidder as required by statute and the RFP.

The state's analysis concludes the following:

- 1. Centurion's representations regarding their contract with Tennessee and their staffing were accurate at the time of proposal submission. Centurion is contractually obligated to meet substitution criteria in the RFP. The protest's contention that prohibited communications regarding this procurement occurred is not supported by evidence.**

Corizon's protest states:

In its proposal, Centurion knowingly misled the committee regarding its TDOC contract award and contract termination history...In its November 2020 original proposal and in its BAFO response submitted on March 17, 2021, Centurion boasted that it had gained the award of the statewide inmate behavioral health services contract for the TDOC (TDOC contract) in addition to its re-award of the statewide inmate health services contract. ... In addition to reasserting this representation in its BAFO response, Centurion represented that "Centurion has never had a contract terminated by a client for non-performance or any other similar negative reasons." ... When Centurion made these representations they were technically accurate, but their inclusion was misleading because Centurion had information indicating the representations would not remain true.

In their response to RFPS30034902100318 dated December 1, 2020, Centurion indicated they held the contract for Tennessee Department of Corrections (TDOC) for "comprehensive medical, dental, specialty, pharmacy, and utilization management services statewide;

addition of nursing and ancillary services” since September 2013. They also indicated they received the award of the contract to provide offender behavioral health services for TDOC beginning November 1, 2020.

In the Division’s request to vendors to submit their Best and Final Offers, each vendor received a cover letter with the following instructions:

The first attachment is the Best and Final Offer (BAFO) Request List and it includes a listing of areas identified in your proposal as concerns, areas requiring clarifications, and areas of deficiency which may not comply with the requirements of the RFP.

The second attachment is a complete copy of the RFP, including revisions to the RFP as a result of the BAFO. It includes a Best and Final Offer (BAFO) Form as the cover page.

Your detailed BAFO response needs to include the BAFO Form, completed and signed by an authorized representative of your organization. In addition, your detailed BAFO response should address each area identified on the BAFO Request List using the same numbering outline as the list. However, please be advised that it is not necessary for you to resubmit your entire proposal. If the entire proposal or section(s) of the proposal are resubmitted, the vendor is requested to make any modifications, additions, or deletions easily recognizable such as by highlighting the modifications, additions, or deletions. Only the signed BAFO Form, your response to the BAFO Response List, and any portions of your proposal that are being revised as a result of this request for a Best and Final Offer need to be submitted.

In your response to this Best and Final Offer, you may make any modification, addition, or deletion deemed necessary to your proposal. However, please understand that the State of Missouri is under no obligation to advise you of concerns regarding your proposal and makes no claim related thereto. Your response to this BAFO request is your final opportunity to ensure that (1) all mandatory requirements of the RFP have been met, (2) all RFP requirements are adequately described since all areas of the proposal are subject to evaluation, and (3) this is your best offer, including a reduction or other change to pricing.

In the BAFO request issued to the vendors, the Division identified proposal deficiencies in which the vendor failed to meet mandatory RFP provisions, and the vendor was advised to correct these specified compliance issues or risk their proposals being removed from further evaluation consideration as a non-responsive proposal. Additionally, as part of the state’s BAFO request to the vendors, the state made changes to the RFP and if those changes resulted in a change to the vendor’s response, the vendor was allowed to revise their proposal accordingly.

While vendors were allowed to make other changes to their response, there was no requirement for the vendors to update all other aspects of their proposal. As examples,

vendors were not required to submit an updated list of their litigation as identified in their original proposal; vendors were not required to submit updated case studies; vendors were not required to submit an updated list of contract awards or contract losses; and vendors were not required to submit an updated personnel list.

Consistent with 1 CSR 40-1.050(22)(A) and (C), the state's primary focus with the best and final offer request was to point out those deficiencies that, left uncorrected, would eliminate the vendor from further evaluation consideration and to identify RFP changes and allow any associated changes needed to address the RFP revisions.

Centurion's TDOC behavioral health contract was still in effect when the BAFO was submitted on March 17, 2021.

Corizon's protest cites various provisions of the RFP regarding the Corporate Team to address their contention that Centurion made misleading statements about its Corporate Team. Corizon contends Centurion failed to immediately report the firing of Jeffrey Wells and seek prior approval to substitute. Corizon supports their contention with paragraphs 2.3.1, 2.10.17, and 2.10.19 which they reference as "bidder requirements" compelling such compliance.

Corizon fails to distinguish that the provisions cited were not obligations of Centurion as a bidder (vendor) during the procurement process but instead are obligations after award of the contract, which in this case is Centurion.

Corizon's proposal also notes:

Despite Wells' critical role in Centurion's proposal, Centurion's BAFO response, submitted over a month after it fired Wells for serious misconduct in the solicitation process for the TDOC contract, falsely asserts that Wells is a key member of the Centurion corporate team and the corporate team member with responsibility for Centurion's performance of the contract in Missouri.

However, in reviewing Centurion's proposal as part of the findings of fact for the protest, while Centurion's original proposal does identify Jeffrey Wells as part of Centurion's Corporate Team and includes information regarding his intended role, Centurion did not address Mr. Wells or information regarding personnel changes in their BAFO response. Consequently, Corizon's contention that Centurion falsely asserted information in their BAFO about Mr. Wells does not appear to be accurate.

At the time of proposal submission, Jeffrey Wells was a Centurion employee proposed as one of five individuals making up the proposed Corporate Team. RFP paragraph 6.9.1a indicated in the proposal submission instructions to the vendors, "By including their biographies, the vendor is committing the Corporate Team members to support the project, should it be awarded." RFP paragraph 2.10.19 as stated below addresses the contractual obligation of the contractor relative to "substitution of such specific key individual(s)" after contract award:

Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

As previously indicated, the BAFO Request provided definitive instructions as to what was required of the vendors in submitting their BAFO response. The vendors were not required to update their personnel list or their litigation list or their contracts won or lost as part of their BAFO response. However, an accurate submission of this information was requested to be provided at the time of proposal submission which Centurion did provide. At the time of proposal submission Jeffrey Wells was part of the Corporate Team, and his role as part of the Corporate Team makes him a "key individual" for purposes of RFP paragraph 2.10.19. As the awarded contractor, Centurion is contractually obligated to meet the requirements of this paragraph with Wells' replacement. Should Centurion fail to meet these substitution provisions, Centurion would be in breach of their contractual obligations, and the state would pursue available contract remedies in order to address such.

Relative to the protest contention regarding prohibited communications, while Corizon correctly cites RFP provisions that are included to preclude improper communications, Corizon does not cite specific instances of improper communications actually occurring, but does request the right to identify such following the receipt of the open records requested by Lathrop to the state.

Additionally, Corizon's protest identifies the following:

The chart below demonstrates that Centurion's proposal was significantly longer than [sic] the other bidders' proposals.

	Proposal	BAFO
Centurion	498	74* ³⁹
Corizon	246	34
InGenesis	207	26
Wellpath	406	56
Wexford	343	33

The sheer size of Centurion's proposal compared to other vendors' proposals, coupled with the Centurion employee misconduct during the TDOC contract solicitation process from 2019 to 2020 and the involvement of the same Centurion employees in the Missouri bidding process suggest, at a minimum, that Centurion may have attempted to have or had prohibited communications regarding this RFP with MDOC

or other state employees. If this occurred, Centurion may have obtained nonpublic information about the RFP and RFP amendments before this information was available to other bidders and other insider information that it allowed Centurion to begin working on its proposal far in advance of other bidders and to include information in its proposal that the RFP did not suggest would be relied on by the committee in evaluating and scoring proposals.

The comparison of page length and final scoring does not provide any basis for concluding that inappropriate communication occurred and resulted in Centurion winning the award. Typically, after the state agency submits their request to the Division, the individuals who will be participating in the evaluation, whether as an evaluator or subject matter expert, are required, prior to being given access to the proposals, to take the Division's evaluator training and sign a confidentiality statement both of which clearly explain to evaluators the requirement to keep bid and evaluation materials confidential. Those participating in the procurement process are instructed that communications regarding the upcoming procurement with the vendor community must end when the agency initially requests Purchasing to conduct the procurement on their behalf. Those same practices were followed for RFPS30034902100318.

After extensive research, neither the Division nor DOC have identified any inappropriate communication that has transpired relative to the procurement process from time of requirements drafting through contract award. Compliance with communications instructions, taking and following the evaluation training, the signing of confidentiality statements, conducting the evaluation process in accordance with the RFP all appear to have been followed. In the absence of any details other than Corizon's observation of page length of proposals and scoring, Corizon has failed to identify where Missouri's procurement process has failed to follow the provisions of Chapter 34 and 1 CSR 40.

Centurion's representations regarding their contract with Tennessee and their staffing appear to have been accurate at the time of Centurion's proposal submission. According to State of Tennessee officials, Centurion remains authorized to continue to operate under the referenced contract with Tennessee while Tennessee proceeds with their rebid. As of July 29, 2021, the rebid solicitation has not yet been issued.

While it is possible Centurion could have advised the state of Mr. Wells no longer being with Centurion as part of their BAFO response, they were not required to do so. Consequently, despite Corizon's protest contentions to the contrary, the evaluation of Centurion's proposal as a responsive proposal appears to be appropriate. However, Centurion is contractually obligated to meet substitution criteria in the RFP in order to address the gap in the proposed Corporate Team left by Mr. Wells' departure from Centurion.

Corizon's protest contention that prohibited communications regarding the Missouri procurement occurred is not supported by any evidence that such occurred.

Consequently, Corizon has failed to provide basis for overturning the award based on Point I of their protest.

2. Centurion's representations regarding their staffing were accurate at the time of proposal submission. The responsiveness determination for Centurion was properly made; however, Centurion is contractually obligated to meet substitution criteria in the RFP.

The Introduction of Corizon's protest claims Centurion's proposal is non-responsive and should either be cancelled or terminated and rebid. Corizon's protest also indicates even if the proposal was not required to be considered non-responsive, Centurion's proposal was misleading, prevented a fair evaluation, and is void.

...Centurion's proposal fails to meet all mandatory terms of the RFP due to its firing of Wells. Centurion's proposal identifies Wells as a key corporate team member and provides his biography. The RFP requires Centurion to perform the contract using all key corporate team members for whom it submitted biographies....Because Centurion provided Wells' biography it is required to use him to perform the contract, however, it cannot because Wells is no longer with the company so Centurion clearly cannot satisfy a mandatory term of the contract. The Division must cancel the contract due to Centurion's bid being nonresponsive. Alternatively, Centurion has materially breached the contract so the Division should terminate the contact [sic] for cause or convenience of the State of Missouri.

...even if the Division was not required to reject Centurion's proposal as nonresponsive due to Wells' firing, Centurion, by submitting and failing to correct a proposal that was or became misleading and false in multiple respects during the evaluation process, prevented the committee from fairly evaluating, scoring, and comparing the bids. These disturbing issues rendered the bidding process unfair such that the contract award to Centurion is void. These issues clearly affected the committee's subjective scoring and there is no way to determine how.

Corizon also contends in Point II:

...Centurion's BAFO response identified and provided a biography for corporate team member Wells over a month after it fired him. At that time, Centurion could no longer use Wells to support its performance of the contract, such that Centurion's proposal did not meet a mandatory requirement in the RFP and the Division was required to reject its proposal as nonresponsive. Centurion's false representations and inability to use Wells to perform the contract constitute a material breach of the contract warranting termination of the contract for cause or the convenience of the State of Missouri under paragraph 16.a. of the terms and conditions section of the RFP or paragraph 5.4.1 of the RFP.

At the time of proposal submission, Jeffrey Wells was a Centurion employee proposed as one of five individuals making up the proposed Corporate Team. While RFP paragraph 6.9.1a indicated in the instructions to the vendors who were preparing their proposal responses, "By including their biographies, the vendor is committing the Corporate Team members to

support the project, should it be awarded,” paragraph 2.10.19 as stated below addresses the contractual obligation of the contractor relative to “substitution of such specific key individual(s)” after contract award.

Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

As previously indicated, the BAFO Request provided definitive instructions as to what was required of the vendors in submitting their BAFO response. The vendors were not required to update their personnel list or their litigation list or their contracts won or lost as part of their BAFO response. However, an accurate submission of this information was requested to be provided at the time of proposal submission which Centurion did provide. At the time of proposal submission, Jeffrey Wells was part of the Corporate Team and his role as part of the Corporate Team makes him a “key individual” for purposes of RFP paragraph 2.10.19.

Although included in their original proposal submission, Centurion did not make claims regarding Mr. Wells or his role in the BAFO response which according to Corizon occurred after Mr. Wells' employment with Centurion ended. Consequently Corizon's claim of Centurion making “false representations” is incorrect. Despite Corizon's protest contentions to the contrary, the evaluation of Centurion's proposal as a responsive proposal appears to be appropriate. However, as the awarded contractor, Centurion is contractually obligated to meet the requirements of paragraph 2.10.19 with Wells' replacement. Should Centurion fail to meet these substitution provisions, Centurion would be in breach of their contractual obligations, and the state would pursue available contract remedies in order to address such.

3. The evaluation of Corizon's proposal and the evaluation of other vendors' proposals were conducted in accordance with RFP paragraph 6.6.1 and RFP Attachment 139, Evaluation Criteria for Technical Proposal.

Corizon's protest states:

The maximum total score on the technical proposal was 200 points. The RFP required the evaluation committee to score the proposals "in accordance with the evaluation criteria stated below and the scoring details delineated in Attachment 139." RFP, ¶6 .6.1. The RFP required the assessment of each of the three RFP subjectively evaluated categories using the adjectival ratings provided in Attachment 139 for each RFP category. RFP, Attachment 139. Under the RFP's scoring system, the bidder with the best overall technical proposal should receive an overall score of 110 points (100% of

the total available points) or something very close to it, reflecting it was distinctive compared to the other bidders' proposals.

The maximum total score on the Technical Proposal was 110 points rather than 200 points as Corizon indicates. The evaluation of the vendor's Cost Proposal represented 80 points and MBE/WBE Participation represented the other 10 points of the 200 points.

Additionally, Corizon's contention that, "Under the RFP's scoring system, the bidder with the best overall technical proposal should receive an overall score of 110 points (100% of the total available points) or something very close to it, reflecting it was distinctive compared to the other bidders' proposals," is an inaccurate representation of the RFP's scoring system for the evaluation of the Technical Proposals.

RFP paragraph 6.6.1 and Attachment 139 identified the scoring criteria that would be used in the evaluation of the Technical Proposals. Specifically:

- Table 1 identified the adjectival ratings and their definitions that would be used in evaluating each of the five elements that are part of the Proposed Methodology, Approach, and Work Plan evaluation criterion. Table 2 identified the point values for each of the adjectival ratings for the specific elements of Proposed Methodology, Approach, and Work Plan.
- Table 3 identified the adjectival ratings and their definitions that would be used in evaluating each of the two elements that are part of the Team Qualifications evaluation criterion. Table 4 identified the point values for each of the adjectival ratings for the specific elements of Team Qualifications.
- Table 5 identifies the adjectival ratings and their definitions that would be used in evaluating each of the three elements that are part of the Vendor Information and Past Performance evaluation criterion. Table 6 identified the point values for each of the adjectival ratings for the specific elements of Vendor Information and Past Performance.

Each vendor is scored element-by-element in accordance with Attachment 139's rating definitions and associated scoring in the tables noted above. Vendors only receive a Distinctive rating if the score is earned according the RFP's scoring criteria. The scoring of the vendor's Technical Proposal is not determined by a comparison of vendors to each other. Consequently, a vendor would only earn the full 110 Technical Proposal points if they earned a Distinctive rating for each evaluation element within each evaluation criterion.

Corizon further notes:

With one minor exception, the committee scored Corizon's proposal extremely low despite the fact that it had been performing the contract in Missouri for nearly three decades and had a good plan, team qualifications similar to those of Centurion and Wellpath, and a history of performing to the satisfaction of the MDOC and its cited references and developing programs that improved correctional healthcare. ... The similar scoring of Corizon's and In Genesis' proposals and the extreme disparity

between scoring of Corizon's proposal compared to Centurion's and Wellpath's proposals demonstrate unfair bias against Corizon in the evaluation process. ... Correspondingly, the SE reflects numerous instances where the committee's comments and conclusions misstate or ignore the contents Corizon's proposal compared to other proposals, or inappropriately penalize Corizon for not providing information not requested by the RFP.

Corizon's protest identifies examples where Corizon did not receive fair consideration in the following areas of the evaluation: Plan Category Scoring, Team Qualification Category Scoring, and Performance Category Scoring (including Case Studies/Reference Scoring, DOC's Satisfaction with Corizon's Performance, and Longevity and Success).

Under Plan Category Scoring, Corizon cites the first example of Mental Health Care Services and disagrees with the evaluation committee's assessment which stated:

The prevalent weakness within this section is that Corizon does not describe how they will provide the aforementioned services and provides limited details on the services they propose.

Other than Corizon stating they provided descriptions in 30 of the 90 pages of their Mental Health Care Services section within their proposal, Corizon offered nothing to support their concerns other than a subjective disagreement with the evaluator's findings.

Under Plan Category Scoring, Corizon also cites Economic Impact to Missouri as an example of where the scoring "is nonsensical and contrary to the contents of Corizon's proposal and the other proposals."

Specifically, Corizon's protest indicates:

Despite the fact that Corizon was the only bidder with a demonstrated history of providing a positive economic impact in Missouri that would continue and indicated it was Missouri-based, the committee awarded Corizon a score of 1 out of 10 while awarding Centurion and Wellpath a 4, and Wexford a 3. The committee's score also ignores comments in the SE about Corizon, including that Corizon met and in places exceeded requirements of the RFP.

In paragraph 1.6 of Corizon's proposal they speak to their economic impact while they have been a contractor but Corizon does not indicate if they anticipate the same economic impact for a newly awarded contract.

While Corizon indicates in their paragraph 1.6 write-up that they are a Missouri-based company, the signature page of their proposal and their Missouri Secretary of State registration both show Tennessee addresses:

VENDOR NAME	Corizon, LLC
MAILING ADDRESS	103 Powell Court
CITY, STATE, ZIP CODE	Brentwood, TN 37027

Entity Name
CORIZON HEALTH, INC.

Type
General Business For Profit - Foreign

Status
Good Standing

Registered on
06/14/2007

Due Date
09/30/2021

Addresses

Reg. Address
120 South Central Avenue, Clayton, Missouri, 63105, United States

Owner Address
105 Westpark Drive, Suite 200, Brentwood, Tennessee, 37027, United States

Principal Office Address
103 Powell Court, Brentwood, Tennessee, 37027, United States

As the current contractor, Corizon is required to have an office in Jefferson City, Missouri. The same was true for all vendors – all would have been required to have a statewide administrative office in Jefferson City, Missouri as specified in paragraph 2.1.3 of the RFP if awarded the contract.

Throughout the arguments in this section, Corizon suggests they should have scored higher either because they consider themselves of similar caliber to Centurion and WellPath rather than to InGenesis or because of prior, individually-noted communications with DOC. Corizon fails to recognize vendors were evaluated against the adjectival definitions and not against each other in the evaluation of Technical Proposals. Consequently, Corizon’s vendor-caliber comparisons and references to individually-noted communications with DOC is inconsistent with the scoring process identified in the RFP.

Corizon’s protest does not identify where Corizon’s ratings were not aligned with the RFP’s adjectival definitions for a specified evaluation element and therefore fails to identify any basis for overturning the award.

- 4. The state’s appropriation cycle for SFY2022 and the appropriations process for fiscal years covering the entire contract period have not yet occurred. The supplemental budget cycle has historically been necessary for funding the contract with Corizon. The cost evaluation was completed consistently with the provisions of the RFP.**

Corizon’s protest raises the following point:

It is impossible to conclude that Centurion is the lowest and best bidder when its cost proposal exceeds the Missouri General Assembly's appropriation by more than \$21.6 million for the first year of the contract and more than \$329.4 million for the entire contract.

The appropriations cycle for the first year of the contract (SFY 2022) is not complete. Per Article IV, Section 25 of the Missouri State Constitution, the Governor may recommend emergency appropriations to General Assembly for approval in the Supplemental Budget cycle. For SYF 2022 the Supplemental Budget Cycle will occur during the 2022 Legislative Session.

Likewise the appropriations process for the fiscal years covering the entire contract period have not occurred yet.

The Supplemental Budget Cycle has been used repeatedly in past fiscal years when the appropriations level was not sufficient to meet the projected annual costs of the Offender Healthcare Contract. DOC received supplemental appropriations in SFY's 2018, 2017, 2016, 2014, 2013, 2012, 2008, 2003, and 2001 to provide sufficient funding for the projected full years costs of the contract either due to changes in the offender population size and/or changes in the contractual rate.

Corizon's protest also raises the following point regarding the cost evaluation:

In addition, because the application of the cost formula here results in an award of the contract to a bidder that is not the lowest and best bidder, it is contrary to statute and the RFP and unlawful. For example, the Cost Proposal in the RFP is 80 points out of a maximum of 200 points or 40% of the total for proposal. ... The RFP required that cost evaluation points be determined using the following formula... As demonstrated by the Division's cost analysis contained in its evaluation report, application of this formula resulted in the lowest bidder receiving 80 points and Centurion, a bidder whose price was more than \$303.8 million higher, receiving 66.68 points-a mere 13.32 points less than the lowest bidder. ... This result is completely nonsensical and contrary to the language in § 34.032.3 [sic], RSMo and the RFP requiring the contract to be awarded to the lowest and best bidder. Accordingly, the cost formula is unlawful and the Division's award is void.

Paragraph 6.6.1 of the RFP specifically identifies the criteria that will be used in the evaluation of the proposals in order to determine the lowest and best proposal in accordance with section 34.042.3 RSMo which states, "The contract shall be let to the lowest and best offeror as determined by the evaluation criteria established in the request for proposal and any subsequent negotiations conducted pursuant to this subsection." Section 6.7.2 of the RFP clearly articulated how cost would be evaluated including identification of the mathematical formula that would be used to calculate final cost points. Corizon did not raise

any objection to these provisions until after award. The cost evaluation appears to have been completed consistently with the explanation provided to the public in the RFP.

The issues raised in Point IV do not provide a legal basis to overturn the award of the contract.

CONCLUSION

For the reasons set forth above, I find that Corizon's protest fails to establish a basis for cancellation of the Division's award of RFPS30034902100318 (Comprehensive Health Care Services) to Centurion. Therefore, **on behalf of the Division, I deny Corizon's protest.** Pursuant to 1 CSR 40-1.050(12), the Division will take no further action on Corizon's protest.

Sincerely,



Karen S. Boeger, CPPB
Director