



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

**Department of Human Services:
Competitive Bid Process for
Prepaid Medical Assistance
Program and MinnesotaCare 2016**

Special Review

November 24, 2015

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

November 24, 2015

Members of the Legislative Audit Commission:

In response to a request from several legislators, the Office of the Legislative Auditor conducted a limited review of the Department of Human Services' (DHS's) competitive bidding process for the 2016 Prepaid Medical Assistance Program and MinnesotaCare programs. Among their concerns, legislators questioned the department's methodology for scoring proposals submitted by managed care organizations.

We concluded that DHS followed existing legal standards for scoring competitive bids and accurately calculated the total bid scores and top rankings of the proposals that were submitted. We do not offer recommendations related to this aspect of the process. However, we think the Legislature needs to address certain other procurement policies and do so prior to the next round of competitive bidding for public health care programs.

In particular, the Legislature should clarify in law requirements regarding the participation of county-based purchasing organizations in competitive bidding and counties' authority to purchase or provide public health care. Absent such clarifications in law, we think modifying the department's bid scoring methods will not sufficiently address potential dissatisfaction with DHS's overall award process and selection of managed care organizations.

Our review was conducted by Valerie Bombach, Principal Program Evaluator, and Pat Ryan, Audit Coordinator. The Department of Human Services cooperated fully with our review. A letter from the Commissioner of Human Services, Lucinda Jesson, is included in this report.

Sincerely,

A handwritten signature in black ink that reads "Jim Nobles".

James Nobles
Legislative Auditor

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INTRODUCTION

On July 28, 2015, Commissioner Lucinda Jesson announced that the Minnesota Department of Human Services (DHS) had concluded its first ever statewide competitive bidding process for managed care contracts. Under the contracts, the state pays Managed Care Organizations (MCOs) to manage services provided through the state's Prepaid Medical Assistance Program (PMAP) and MinnesotaCare.

The bidding process resulted in DHS extending offers to negotiate final contracts with nearly all of the managed care organizations that responded to the department's Request for Proposals (RFP). However, the department found the proposals from UCare Minnesota and South Country Health Alliance to be less competitive than others. As a result, the department said it did not intend to negotiate a contract with UCare, and it intended to limit its contract with South Country Health Alliance. Both organizations criticized the department's decision and sought redress through mediation and lawsuits.

Concurrent with the mediation, legal action, and DHS's efforts to negotiate contracts with the organizations it did select, the Office of the Legislative Auditor (OLA) was asked to review DHS's competitive bidding process. The request for an OLA review was based, in part, on the fact that data privacy laws prevented the department from disclosing detailed information about the bidding process to legislators and others until all of its managed care contracts were signed. The request for an OLA review came from a group of legislators and Commissioner Jesson.

Because OLA staff were fully engaged on other financial audits and program evaluations, we were unable to commence a full review of DHS's competitive bidding process. We told the legislators that requested a comprehensive evaluation that it would have to wait until next year to be considered by the Legislative Audit Commission. However, we did agree to conduct a limited review focused on the following questions:

- To what extent did DHS use the criteria published in its RFP to evaluate responders' competitive bid proposals?
- To what extent did DHS consider county input in developing its RFP scoring methodology? To what extent did DHS modify its standard scoring methodology to evaluate proposals from county-based purchasing organizations?
- How accurate are DHS's calculations of the total overall scores and rankings of managed care organizations' and county-based purchasing organizations' competitive bid proposals?

This report presents the results of our efforts to address these questions. It was drafted and sent to DHS for review prior to completion of the department's contract negotiations with managed care organizations. Accordingly, the content was framed to comply with disclosure restrictions imposed by the Minnesota Data Practices Act.

CONCLUSION

For the 2016 Prepaid Medical Assistance Program (PMAP) and MinnesotaCare procurement process, the Department of Human Services followed existing legal standards for scoring competitive bids. The Department of Human Services used a reasonable and inclusive process to develop its Request for Proposals evaluation criteria and score proposals. Overall, the Department of Human Services correctly calculated the total technical and price bid scores and top rankings for Managed Care Organizations' PMAP and MinnesotaCare competitive bids.

BACKGROUND AND CONTEXT

Historically, DHS has procured services for PMAP and MinnesotaCare by contracting with qualified health maintenance organizations and county-based purchasing organizations.¹ However, in recent years, DHS has used competitive price bidding to purchase some services provided under the PMAP and MinnesotaCare programs.² Competitive bid procurement is one of several initiatives DHS is using to help control rising health care costs while improving health care outcomes for public program enrollees. In competitive price bidding, proposals are scored and rated against established review criteria (including technical requirements, quality measures, and price).³

DHS first implemented a competitive price bidding process in 2011 for 2012 PMAP and MinnesotaCare contracts in the seven-county metropolitan area.⁴ The responders to this RFP included five entities licensed in Minnesota as Health Maintenance Organizations (HMOs): HMO Minnesota d/b/a Blue Plus (Blue Plus); HealthPartners, Inc. (HealthPartners); Medica Health Plans (Medica); Metropolitan Health Plan (MHP); and UCare, Minnesota (UCare). Four Managed Care Organizations (MCOs)—Blue Plus, HealthPartners, Medica, and UCare—were each awarded a contract for at least one county. Metropolitan Health Plan was not awarded any county for PMAP or MinnesotaCare.⁵

DHS carried out competitive bid procurement again in 2013 for 2014 PMAP and MinnesotaCare contracts in 27 additional counties outside of the seven-county metro area. Blue Plus, HealthPartners, Medica, and UCare submitted proposals; however, Blue Plus' response did not score favorably and DHS awarded contracts for these 27 counties to just three MCOs.

¹ *Minnesota Statutes* 2015, 256B.035, 256B.69, 256B.692, and 256L.12. Under this process, evaluation factors are used to ensure that each MCO meets certain benchmarks and is qualified to participate in PMAP and MinnesotaCare.

² *Minnesota Statutes* 2015, 256B.69, subds. 33 and 35.

³ In a competitive grant process, grants are awarded to those applicants that most closely meet the selection criteria identified by the granting agency, based on the availability of grant funds. Competitive bidding means a process by which an award is made to the lowest responsible bidder meeting all terms, conditions, and specifications of the solicitation document. A competitive proposal means a response to a Request for Proposal in which the evaluation criteria upon which an award is based consists of price and other factors, such as vendor qualifications.

⁴ *Laws of Minnesota* 2011, First Special Session, chapter 9, art. 6, sec. 96.

⁵ MHP d/b/a Hennepin Health was awarded an MCO contract as part of a demonstration project to serve adults without children. See *Laws of Minnesota* 2010, First Special Session, chapter 1, art. 16, sec. 20.

On January 26, 2015, DHS published in the State Register and on the DHS website a *Request for Proposals for a Qualified Grantee to Provide Health Care Services to Medical Assistance and MinnesotaCare* in all Minnesota counties. State statutes required DHS to publish the Request for Proposals for a statewide procurement for the 2016 contracts.⁶

County-based purchasing organizations also participated in the 2015 round of competitive bidding.⁷ The responders to this RFP included Blue Plus, HealthPartners, MHP d/b/a Hennepin Health, Medica, and UCare. Three county-based purchasing organizations, formed by member counties to administer the state's public health care programs, also submitted proposals. These organizations were: Itasca Medical Care, PrimeWest, and South Country Health Alliance.

In contrast with earlier procurements, the results of the 2015 bidding process prompted public allegations that the scoring process was unfair and the department's decisions were subjective and not consistent with its own methodology.

Request for Mediation by Individual Counties

State statutes allow a county to seek mediation by a three-person panel when it disagrees with the department's selection of organizations it plans to negotiate contracts with in that county.⁸ The panel makes recommendations to the Commissioner of Human Services, who is then required to resolve the disagreement after taking into account the panel's recommendations. Sixteen individual counties proceeded with mediation during September 2015 to obtain a different result from the department's preliminary procurement awards.⁹

Based on the mediation sessions and recommendations by the mediation panel, Commissioner Jesson added a third MCO in three counties with populations greater than 100,000—Olmstead, St. Louis, and Wright.¹⁰ The mediation panel did not recommend changes to, and Commissioner Jesson did not modify, the preliminary awards in the other 13 counties.

⁶ *Minnesota Statutes* 2014, 256B.69, subd. 35(b), stated: "For calendar year 2016 contracts under this section, the commissioner shall procure through a statewide procurement, which includes all 87 counties, demonstration providers, and participating entities as defined in section 256L.01, subdivision 7. The commissioner shall publish a request for proposals by January 5, 2015."

⁷ Counties in county-based purchasing organizations were included in this larger, statewide procurement with other counties. Historically, DHS held a separate procurement process for just county-based purchasing counties.

⁸ *Minnesota Statutes* 2015, 256B.69, subd. 3a(d).

⁹ The counties were: Becker, Clay, Cook, Faribault, Houston, Lac Qui Parle, Le Sueur, Martin, Mille Lacs, Olmstead, Otter Tail, Pine, Ramsey, Rice, St. Louis, and Wright.

¹⁰ Minnesota Department of Human Services, Commissioner Lucinda Jesson, *Final Order of the Commissioner of Human Services Expedited County Mediation 2016 Managed Care Organization Selection*, October 1, 2015. Minnesota Department of Human Services, Commissioner Lucinda Jesson, *Final Order of the Commissioner of Human Services For Non-Expedited County Mediation 2016 Managed Care Organization Selection*, October 9, 2015.

South Country Health Alliance

South Country Health Alliance (SCHA) is one of three county-based purchasing organizations in Minnesota that manage services provided under the state’s public health care program, including PMAP and MinnesotaCare. Members of the Alliance included the following counties: Brown, Dodge, Goodhue, Kanabec, Morrison, Sibley, Steele, Todd, Wabasha, Wadena, and Waseca.¹¹

After concluding its assessment of the managed care proposals it received, DHS notified SCHA that it would enter into negotiations for just 1 of the 11 counties participating in this county-based purchasing organization. For the remaining ten SCHA member counties, DHS offered certain other bidders the opportunity to negotiate contracts for PMAP and MinnesotaCare.

In response, representatives of SCHA and its member counties requested mediation to appeal DHS’s decision. SCHA also filed in Ramsey County District Court a lawsuit and request for emergency relief that included access to scoring information and other data DHS asserted was classified as not public.

In its complaint, SCHA stated that “an actual controversy exists between SCHA and DHS regarding the rights of SCHA, acting as a ‘group of counties’ to provide health care services and to receive payments under [state statutes authorizing county-based purchasing].” Further, “DHS’s proposed procurement decision violates SCHA’s rights.”

On September 10, 2015, SCHA and DHS stipulated to release scoring information to SCHA representatives in order to facilitate its upcoming mediation session on September 16, 2015. Based on the mediation discussion and recommendations of the mediation panel—and despite the results of the evaluation process—Commissioner Jesson added SCHA as one of two health plan options in SCHA’s ten other member counties.

In her October 1, 2015, order, Commissioner Jesson stated, “State law creates some ambiguity about the status of county based purchasers in competitive bidding.” Further, “While our competitive bidding process scored county based purchasers based on their unique status, my decision...is intended to give the Legislature the opportunity to address this issue in a more straightforward manner....”

UCare

Shortly after DHS announced the results of its MCO procurement process and decision to not contract with UCare because its score was not competitive, the company filed a lawsuit against the department in Ramsey County District Court. UCare claimed the department’s decision to not contract with UCare was “arbitrary, capricious, and unreasonable” and “violates the equitable principles of competitive procurement.”

¹¹ For more information about county-based purchasing organizations see <http://www.health.state.mn.us/divs/hpsc/mcs/cbpinfo.htm>.

UCare sought a declaration that the process was flawed and an order directing that “UCare must have the opportunity to negotiate with and enter into a contract with DHS, which [would] allow UCare to be offered as a choice in the counties that recommended UCare.”

DHS responded to the court that the department did not select UCare based on “an evaluation of the quality and cost of UCare’s services as compared to other responders’ combined overall score[s] and program alignment.” The department also argued that even a temporary injunction against implementation of the department’s decision would be disruptive and costly.

On September 3, 2015, Judge Robert Awsumb denied UCare’s request for an injunction to stop DHS from implementing its decision.¹² As part of this order, Judge Awsumb stated that remedies would be available prior to DHS contract year 2016. He set an expedited trial date of November 2, 2015, for UCare’s claims against DHS.

On October 9, 2015, UCare publicly announced it would dismiss its litigation against DHS. On October 13, 2015, a stipulation by the parties to dismiss the action and order signed by Judge Awsumb was entered into the court docket.

SCOPE OF REVIEW

The scope of our work covered the competitive bid scoring process leading up to DHS’s initial decisions to negotiate contracts with certain MCOs, and did not include evaluating DHS’s selection of MCOs or subsequent events.¹³ Rather, we conducted a limited review of DHS’s process for scoring the proposals from the eight MCOs and the department’s calculations of technical and price bid scores. We interviewed DHS representatives and examined documents provided by DHS and other public documents to carry out our work. Specifically, we:

- Evaluated DHS’s compliance with certain standards for scoring competitive bid proposals for the 2016 PMAP and MinnesotaCare programs.
- Verified DHS’s procedures for scoring each MCO’s competitive bid proposal.
- Audited DHS’s calculations of the total overall scores and rankings of MCOs’ competitive bid proposals.

We did not assess whether: (1) DHS developed the “best” score criteria and weights to assure the success of the programs, (2) reviewers assigned the “right” scores to MCOs’ proposals, or (3) DHS developed the “correct” bid regions, for example. We also did not evaluate whether DHS’s decisions to negotiate with or award contracts to particular responders represented the

¹² The judge assigned to the case, Judge Robert Awsumb, allowed Blue Plus, Medica, Hennepin County, and HealthPartners to intervene in the lawsuit. Each organization disagreed with UCare’s claims and objected to the court issuing an injunction against implementing DHS’s decision.

¹³ Provisions in law and policy separately address standards for the scoring process and the award process. For example, see Minnesota Department of Administration, Office of Grants Management Policy 08-02, *Policy on Rating Criteria for Competitive Grant Review* (St. Paul, MN, 2008).

best configuration of service providers around the state, the right number of managed care organizations, or the best way to coordinate or align public health care programs. We note that the outcomes of any objective scoring process may be affected by contract negotiations, and do not ensure a predetermined share of business in counties assigned more than one MCO.¹⁴

DISCUSSION

DHS relied largely on federal and state procurement standards to guide its competitive bidding process for the 2016 PMAP and MinnesotaCare contracts.¹⁵ These standards require that the department's RFP lay out requirements which the bidders must fulfill and identify all factors and their relative importance to be used in evaluating bids or proposals.¹⁶

The results of a competitive bid scoring process are used to make decisions in the award and negotiation of contracts. Federal competitive procurement standards direct that "Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered."¹⁷ DHS notified bid responders of possible outcomes of its scoring and evaluation process. In its original RFP, DHS stated:

"The state anticipates that if bids are competitive we may reduce the number of MCOs in a county to take advantage of additional value. For PMAP, the State may select one MCO for each county except in [metropolitan statistical area] counties where at least two MCOs are required to be selected. For MinnesotaCare, the State will select at least two MCOs for each county."¹⁸

Based on the results of the scoring and other factors, DHS extended an intent to contract for PMAP and MinnesotaCare to three MCOs in the seven-county metropolitan area and two MCOs

¹⁴ See, for example, Department of Human Services, *Request for Proposals for a Qualified Grantee to Provide Health Care Services to Medical Assistance and MinnesotaCare* (St. Paul, MN, 2015), Section VII. Further, an award of a contract to an MCO means only that the MCO may enroll individuals seeking services. Individuals eligible for these programs are enrolled when: (1) the individual selects an MCO, sometimes with county or DHS assistance; (2) an enrollee remains with an MCO when contracts are renewed; or (3) DHS designates an MCO for individuals who do not select an MCO. DHS does this either by assigning individuals on a rotating basis to each MCO providing services in a particular county or, under competitive bidding, designating the highest scoring bidder as the "default" MCO for enrollment. For contract year 2014, UCare was the default MCO in 27 counties.

¹⁵ For DHS's 2015 PMAP and MinnesotaCare procurement, department staff referenced *45 CFR*, 74.40-74.48 and 92.36(b) through (i) (2014); *42 CFR*, 600.410 (2015); *Minnesota Statutes* 2014, 16B.97-98; and Minnesota Department of Administration, Office of Grants Management policies.

¹⁶ *45 CFR*, 74.43, 74.44(a)(3), and 92.36(c)(3) (2014); and Department of Administration, *Policy on Rating Criteria for Competitive Grant Review*. *45 CFR*, 74.43 (2014), also states "Any and all bids or offers may be rejected when it is in the [state's] interest to do so." In its RFP, DHS stated "The evaluation team reserves the right to reject unreasonable costs proposed by Responders. Specifically, the evaluation team will not consider any proposed costs that are, at the sole discretion of the State, not rational or are not competitively priced. Such Proposals will be regarded as nonresponsive and receive no further consideration."

¹⁷ *45 CFR*, 74.43 and 92.36(d)(3)(iv) (2014).

¹⁸ DHS, *Request for Proposals*, 2015, 9. See also *42 CFR*, 438.52 (2014); and *Minnesota Statutes* 2014, 256B.69, subd. 33(a), and 256L.121, subd. 1.

in all other eighty counties.¹⁹ More specifically, for each county participating in one of two county-based purchasing organizations, DHS awarded one MCO for PMAP and two MCOs for MinnesotaCare. For each of the remaining counties, DHS initially awarded two MCOs to provide services for both PMAP and MinnesotaCare.

We examined DHS's documentation of the competitive bid evaluation process leading up to DHS's selection of MCOs. In particular, we looked at how DHS developed and selected scoring criteria, provided notice of evaluation factors to potential bidders, and calculated the final scores and rankings of the MCOs' proposals.

Competitive Bid Scoring Standards

We concluded that:

- **For the 2016 Prepaid Medical Assistance Program and MinnesotaCare procurement process, the Department of Human Services followed existing legal standards for scoring competitive bids.**

One important characteristic of competitive bid procurement is to have a well-structured, standardized process for scoring proposals. For PMAP and MinnesotaCare, Minnesota statutes lay out some broad criteria—such as provider network access, coordination of health care with other local services, and alignment with public health goals—that DHS must use in its process for selecting managed care organizations.²⁰ Minnesota statutes do not prescribe the relative importance of each of these criteria, and other considerations, in the overall scoring process.

For example, state statutes direct DHS to include county boards in the development of requests for proposals and provide opportunity to make recommendations regarding the selection of MCOs.²¹ Further, DHS and a county board shall mutually select MCOs for participation in PMAP in that county.²² However, state statutes do not describe the relative weight of county board preferences in the overall scoring and ranking of competitive bid proposals, or how to reconcile differences between board recommendations and scores by county staff designated to review proposals.

Absent more specific direction in state statutes, we compared DHS's scoring processes and documentation with the standards listed in Exhibit 1. Exhibit 1 does not represent an exhaustive list of competitive bid procurement legal requirements and standards; however, the actions listed are described in either federal or state law or policy. We discuss DHS actions to address some of these standards below.

¹⁹ DHS's determinations of the number of MCOs awarded a contract in each county were based on legal requirements, enrollee use of services, ratings of MCOs' provider networks and capacity, and other factors.

²⁰ *Minnesota Statutes* 2014, 256B.33(c) and 256L.121, subd. 1.

²¹ *Minnesota Statutes* 2015, 256B.69, subd. 3a.

²² *Ibid.*

Exhibit 1: Key Competitive Bid Scoring Standards, 2015

Standards	Elements	Required	DHS Process
Define Selection Criteria	Align selection criteria with goals and priorities	X	X
	Finalize prior to publication of Request for Proposal (RFP)	X	X
	Address financial risk and prior performance	X	X
Notify Potential Responders	Publish in a competitive grant RFP the selection criteria and relative weight in ranking system, and review process (Evaluation subcriteria do not need to be in RFP)	X	X
Standardize Scoring Process	Use rating system that assesses how well each responder's proposal conforms to each of the selected criterion. Scores for each criterion are tallied to arrive at a cumulative score for each proposal.	X	X
	Use a numeric scoring system rather than a qualitative rating system		X
	Use standard scoring sheet	X	X
	Address conflict of interest disclosure	X	X
	Determine highest score relative to the evaluation criteria	X	X

NOTE: Office of the Legislative Auditor, review of Minnesota Department of Human Services competitive bid process for the 2016 Prepaid Medical Assistance Program (PMAP) and MinnesotaCare.

SOURCES: Minnesota Department of Administration, Office of Grants Management, Policy Numbers: 08-02 (July 2008), 08-03 (June 2012), 08-06 (September 2011), 08-13 (March 2009); 2 *CFR*, 200.205 (2014); *Minnesota Statutes* 2015, 16B.98, subd. 1; 45 *CFR*, 74.43-74.44(a)(3) and (d); and 92.36 (b)(3), (b)(8), (c)(3), and (d)(3) (2014); and *Minnesota Statutes* 2014, 256B.0914.

Notice and Use of Evaluation Factors

Generally, requests for proposals must be publicized and provide advance notice of the qualification requirements and evaluation process. This includes identifying the scoring criteria and their relative weight in a ranking system. In its guidance to state agencies to develop RFPs, the Minnesota Department of Administration advises that an RFP does not have to disclose the subcriteria—or detailed evaluation questions—for each evaluation factor; however, an agency should finalize the detailed subcriteria before the proposals are due.²³

DHS provided advance notice to the MCOs of the requirements and scoring components to be used to evaluate proposals, and also finalized detailed subcriteria before the proposals were due. The department's Request for Proposals and appendices comprised the factors and framework for the documents and standardized scoring templates used by DHS staff, Minnesota Department of Health staff, and county reviewers to evaluate the MCOs' minimum qualifications, technical proposals, and price bids. We found that the scoring documents used by state and county reviewers aligned overall with the evaluation criteria published in the RFP appendices.

On January 26, 2015, DHS published a Request for Proposal, 249 pages in length, with appendices that represented the questions and issues against which the MCOs were to prepare and submit responses. In its RFP, DHS stated "Proposals will be evaluated on 'best value' as

²³ Similarly, federal guidance for federal grant announcements encourages, but does not require, publication of subcriteria and relative weights. See 2 *CFR*, Part 200, Appendix I (2014).

specified [herein]...using a 100 point scale.”²⁴ MCOs’ proposals were scored on technical qualifications worth up to a possible 55 points. An MCO’s price bid component could be awarded up to 45 points. Exhibit 2 describes the evaluation components published in the RFP.

Exhibit 2: Department of Human Services (DHS) Request for Proposal Evaluation Factors, Prepaid Medical Assistance Program (PMAP) and MinnesotaCare Procurement, 2016

Factor	Description	Weight/ Possible Score Points	Reviewer
Required Statement Review	Appendices A-K: Executive Summary Description of the Applicant Organization Service Delivery Plan	Pass/Fail	DHS
	Appendix M: Assurances	Pass/Fail	DHS Individual Counties
Technical Requirements	Appendix N: County Exhibits (Questions prepared by and specific to counties grouped into 11 regions)	15	Individual Counties
	Appendix O: State Exhibits (Questions prepared by DHS staff from various departments)	10	DHS
	Appendix P: Quality of Care and Services Evaluation (Measures of past performance on health care outcomes)	5	DHS
	Appendix Q: Health Care Reform Initiatives	10	DHS
	Appendix R(a): Provider Network Appendix R(b): County Preferred Providers	10 5	MDH Individual Counties
Price Bid	Price Bid: MCO proposed price for medical, administrative, and margin (contribution to reserves)	45	DHS
	Total Technical and Price Bid Score	100	
Other Evaluation Factors, Including but Not Limited to:	<ul style="list-style-type: none"> Whether the organization meets the State Plan definition of an MCO Qualifications of the organization and its personnel Can serve most or all of the counties in the geographic area Ability to accept all enrollment for the county Demonstrate the ability to integrate health services with community, public health, and social services Completeness of the response and ability to meet all requirements contained in this RFP, which includes providing all services and tasks required in the model contract MCO’s ability to provide accessible, quality, and timely medical care to Medical Assistance and MinnesotaCare recipients Number of potential responders and availability of providers in the responder’s service areas 		DHS

NOTE: Office of the Legislative Auditor, summary of DHS competitive bid evaluation factors for 2016 PMAP and MinnesotaCare.

SOURCE: Minnesota Department of Human Services, *Request for Proposals for a Qualified Grantee to Provide Health Care Services to Medical Assistance and MinnesotaCare*, published January 26, 2015.

²⁴ “Best value” describes a result intended in the acquisition of all goods and services. Price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to, environmental considerations, quality, and vendor performance. See *Minnesota Statutes* 2015, 16C.02, subd. 4.

The DHS RFP described the information required from responders, including minimum “pass/fail” qualifications (12 appendices) and the technical component (6 appendices).²⁵ For the price bid component, DHS separately published the price bid template and detailed instructions.²⁶ In February 2015, DHS held two separate RFP “bidders” conferences to provide additional instructions and answer questions. On April 30, 2015, DHS published its detailed scoring methodology and supporting data for evaluating the MCOs’ price bids due June 1, 2015.

The price bid component required each MCO to separately estimate and propose its costs for medical services, administrative costs, and margin—also referred to as “contribution to reserves.” For price bidding purposes, DHS grouped counties into five regions. Each MCO submitted a separate price bid for PMAP and MinnesotaCare for those regions in which it was seeking to provide services. County-based purchasing organizations were only required to submit price bids for MinnesotaCare, and not for PMAP, to provide services in member counties.

The DHS RFP also stated “Other factors upon which the proposals will be evaluated by the State include, *but are not limited to*, the following: [emphasis added]. . . .” In its documentation of the RFP process, DHS identified additional factors for possible consideration, shown in Exhibit 2.

One particular federal and state requirement for DHS’s consideration was that its competitive procurement process must include criteria to ensure coordination between MinnesotaCare and other Medicaid and state-administered programs to ensure enrollee continuity of care.²⁷ DHS refers to this coordination requirement as “program alignment.” DHS did not explicitly list program alignment as an evaluation criterion in the RFP, but considered it to be one “other factor” in its award process.

One other important factor for consideration was the recommendations by each county board. For scoring purposes, DHS did not assign “points” to board recommendations in its overall scoring methodology. DHS reviewed board recommendations for individual counties when selecting MCOs for initial contract awards.

Financial Review

For the 2016 PMAP and MinnesotaCare procurement process, federal and state standards require that DHS collect and review financial information about each MCO to assess whether it is financially stable and poses any potential financial risk for the state. As stated in its RFP, DHS required each MCO to provide a certified financial audit, a recent five-year history of its medical loss ratio for PMAP and MinnesotaCare, and other financial documentation. Each MCO

²⁵ Responses to these sections were due on April 6, 2015. For DHS requirements not fully specified in the RFP, the RFP referenced how and where responders could obtain the information. In February 2015, DHS amended the initial RFP to address issues raised by MCO representatives and provide additional instructions. Between February and May 27, 2015, DHS published additional templates and responses to MCOs’ questions and concerns.

²⁶ These documents were first made available to potential responders on February 17 and February 25, 2015.

²⁷ 42 CFR, 600.410(e)(5) (2015). See also *Minnesota Statutes* 2014, 256L.121, subs. 1 and 3. DHS also included specific selection criteria to assess MCOs’ coordination of health care with other local health and social services.

provided its financial information to DHS. DHS staff also independently researched the financial status of each responder.

As part of ensuring against financial risk, DHS developed a confidential, actuarially sound rate range for each bid region. DHS used these rate ranges to evaluate the soundness of MCOs' price bids.

Develop Request for Proposal Evaluation Criteria and Score Proposals

We also concluded that:

- **The Department of Human Services used a reasonable and inclusive process to develop its Request for Proposals evaluation criteria and score proposals.**

County Input

DHS staff began developing the RFP for PMAP and MinnesotaCare 2016 programs in mid-2014. To help identify and prioritize the factors for evaluating bids from potential responders, DHS solicited input from providers, health services groups, managed care organizations, public advocacy groups, and other stakeholders.

In particular, DHS obtained regional and county input to help develop RFP evaluation criteria that addressed issues defined in statutes.²⁸ DHS met with representatives of the Minnesota Association of County Social Services Administrators (MACSSA) to hear their concerns and obtain recommendations regarding the RFP development process and county involvement. DHS also held a video conference and other meetings with county human services and public health staff in late 2014.

DHS took into account some of the managed care service issues raised by county representatives when developing the RFP scoring criteria. To more directly address county's needs, the DHS RFP and evaluation process provided for involvement by individual counties. As part of the RFP, each county provided a separate narrative of its area and unique service needs, populations, and concerns for consideration by potential responders.

²⁸ *Minnesota Statutes* 2014, 256B.69, subd. 35(b), requires "As part of the procurement process, the commissioner shall: (1) seek each individual county's input; (2) organize counties into regional groups, and consider single counties for the largest and most diverse counties; and (3) seek regional and county input regarding an MCO's ability to: fully and adequately deliver required health care services, offer an adequate provider network, provide care coordination with county services, and serve special populations, including enrollees with language and cultural needs." Additional evaluation factors in DHS's RFP scoring addressed, but were not limited to other criteria in law, including: consideration of health care needs of enrollees; local availability of health care providers to ensure the appropriate number, mix, and geographic distribution to meet the needs of the anticipated number of enrollees to ensure that access to services is at least sufficient to meet federal access standards; use of a managed care process to improve the quality, accessibility, appropriate utilization, and efficiency of services; performance measures and standards focused on quality of care and improved health care outcomes; past performance on health care outcomes; participation in recommended preventive and early diagnostic care; care coordination and care management for enrollees with chronic health conditions; coordination with local health and social services; and measures to prevent, identify, and address fraud, waste, and abuse.

Counties also participated in evaluating MCOs' technical proposals for three of the RFP appendices. For this purpose, DHS grouped counties into 11 regions as defined by MACSSA. With some guidance and parameters set by DHS, the department required each regional group to develop up to ten questions that addressed local needs for their own scoring templates. Each county scored only the MCOs' responses to questions specific to its region. DHS included the option for each county to develop a list of "preferred providers" as a template for scoring MCOs' provider networks; however, not all counties submitted a preferred provider list to DHS.

Standardized Scoring System

DHS developed and used a standardized scoring system with standard scoring sheets, required proposal statements to facilitate objective scoring, and numeric scoring values. To provide more structure to the review of proposals, DHS supplemented the RFP evaluation criteria with more detailed subcriteria. Reviewers also were directed to provide a reason for awarding an MCO less than the total possible points for any question. We found that DHS used only the scores for these criteria to rank the MCOs' total technical and price bids.

DHS also had to balance the use of a standardized process with expectations regarding participation by county-based purchasing entities in the statewide competitive bid procurement.²⁹ In particular, DHS modified its standard scoring system for price bids in county-based purchasing counties in which DHS has historically set the PMAP payment rate for MCOs. For these counties, DHS did not include MCOs' price bids when scoring and ranking MCOs' bids. This approach increased the weight of the county reviewers' technical scores from a possible 20 percent up to more than 35 percent of the total score.

Conflict of Interest Disclosure

DHS implemented protocols to address potential conflicts of interest by reviewers selected to evaluate and score proposals. Specifically, state and federal standards require competitive proposal reviewers to file financial disclosure information and identify whether the reviewer has an actual or apparent conflict of interest.

As part of including counties in the procurement process and scoring of technical bids, DHS delegated to all counties the responsibility to select reviewers that met these standards for independence.³⁰ These standards presented an additional challenge when selecting independent reviewers in counties that participate in county-based purchasing organizations that also bid for the PMAP and MinnesotaCare programs.

²⁹ For example, as a way to promote better coordination and integration of health care services, social services, and other community-based services, state statutes allow DHS to directly contract with a county-based purchasing plan on a single-health plan basis. See *Minnesota Statutes* 2014, 256B.694. County-based purchasing organizations were considered by DHS to be eligible to participate in the statewide procurement as a demonstration provider and participating entity specified in *Minnesota Statutes* 2014, 256B.69, subd. 35(b).

³⁰ For more information, see DHS, *Request for Proposals*, 22.

From each state and county reviewer, DHS collected forms and supporting documents that addressed qualifications and assurances of compliance with financial disclosure standards. Statewide, county staff designated to review the MCO proposals were generally considered to have knowledge and expertise in public programs. DHS did not reject any of the reviewers selected by counties.

Audit of Competitive Bid Scores

Lastly, we concluded that:

- **Overall, the Department of Human Services correctly calculated the total technical and price bid scores and top rankings for Managed Care Organizations' Prepaid Medical Assistance Program and MinnesotaCare competitive bids.**

The end product of the Request for Proposals evaluation process—that is, total scores and rankings—is derived from information provided by each MCO in its technical proposals and price bids for PMAP and MinnesotaCare. We audited the final overall scores assigned for each proposal and verified the department's calculations and final rankings of top scoring MCOs.³¹

Specifically, we traced the department's overall total scores for each MCO to each original scoring document submitted by state and county reviewers (that is, the technical scores submitted for the RFP Appendices N through R(b)). We verified that the original technical scores by DHS, MDH, and county reviewers were correctly calculated and accounted for by DHS in its final scoring documents.³² Using the MCOs' original price bids, we also verified DHS's calculations of the final scores for each MCO's proposed medical price, administrative price, and margin (or contribution to reserves).³³

Lastly, we verified DHS's rankings of the highest scoring MCOs for each county. Along with other evaluation factors, these rankings were used by DHS to help select individual MCOs with whom to negotiate contracts for PMAP and MinnesotaCare services around the state.

³¹ We audited DHS's final combined technical and price bid score spreadsheet files entitled *Combined Scoring_PMAP_Final* and *Combined Scoring_MCRE_Final*.

³² On DHS's PMAP combined score spreadsheet, we found two small errors that did not affect the overall scores and rankings of MCOs for selection and award purposes. One value on the PMAP score spreadsheet was underreported by 0.1. For ranking purposes, DHS flagged rankings of up to four MCOs, depending on the county. For one county awarded just two MCOs, DHS incorrectly flagged one MCO's PMAP score as third, rather than fourth.

³³ For this work, we did not audit the appropriateness or accuracy of the underlying databooks, DHS's algorithms to adjust bids for partial regions, or actuarial assumptions or other data—including enrollment and health care outcomes—used for or built into DHS's templates.



Minnesota Department of **Human Services**

November 20, 2015

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for the opportunity to review the findings and recommendations from your special review of the competitive bid process for 2016 PMAP and MinnesotaCare. I appreciate your willingness to provide this special review upon such short notice, and the diligence of your staff in analyzing the first statewide competitive bid process for PMAP and MinnesotaCare. The conclusions of this report underscore the integrity of the bid process, as well as reflect the commitment and professionalism of the many state and county staff who participated in the development of the RFP and evaluation of the bids themselves.

Since 2011 competitive bidding along with other managed care reforms have saved taxpayers over a \$1.6 billion dollars. As we look to future procurements we will be partnering with counties, legislators and other key stakeholders to develop even stronger methods to increase both the quality of care delivered to our enrollees and the cost-effectiveness to taxpayers.

Sincerely,

Lucinda E. Jesson
Commissioner, Minnesota Department of Human Services