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October 7, 2022

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STAY OF CONTRACT PERFORMANCE REQUESTED

Via Hand Delivery, Email, And USPS Priority Express Mail

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¹ On April 8, 2022, DHHS published its guidance document pursuant to Neb. Rev. Stat. 84-901.03 entitled DHHS Procurement Grievance/Protest Procedures. The document states that it is “advisory in nature,” however, and does not reflect its authority or conformity with statutory and regulatory procedures of the Nebraska Department of Administrative Services, Materiel Division. Consequently, for avoidance of doubt, Healthy Blue lodges its protest with both agencies. “Protest,” as defined by the RFP, means a “complaint about a governmental action or decision related to a solicitation or resultant contract, brought by a bidder who has timely submitted a proposal response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.” (RFP, p. xiii.)

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With copy to:

Office of Procurement and Grants
Nebraska Department of Health and Human Services
P.O. Box 95026
301 Centennial Mall South
Lincoln, NE 68509
Email: DHHS.procurement@nebraska.gov

Re: Healthy Blue's Protest of Notice of Intent to Award Under Request for Proposal for Medicaid Managed Care Program, Number 112209 O3 Issued by the Nebraska Department of Health and Human Services

Mr. Kahl and Ms. Block:

This firm, along with Troutman Pepper Hamilton Sanders LLP, represents Community Care Health Plan of Nebraska, Inc. d/b/a Healthy Blue ("Healthy Blue"). Healthy Blue submits this Protest of the Notice of Intent issued by the Department of Health and Human Services ("DHHS") on September 23, 2022, to award contracts arising from the Proposal for Medicaid Managed Care Program, Number 112209 O3 (the "RFP"). Though DHHS has not yet delivered to Healthy Blue a substantial portion of the documents Healthy Blue requested immediately after the announcement of the Notice of Intent, the documents Healthy Blue has received confirm that the proposals submitted by awardees UnitedHealthcare of the Midlands, Inc. ("United"), Nebraska Total Care, Inc. ("Centene"), and Molina Healthcare of Nebraska, Inc. ("Molina") failed to meet the minimum standards established by the RFP and should have been disqualified, resulting in an award to Healthy Blue.

First, Molina's submission misrepresented how it would provide services to DHHS and those Nebraskans who participate in the Medicaid program by artificially enhancing the apparent volume of services it would provide through Nebraska-based entities. Molina's misrepresentations include both a failure to identify more than a dozen out-of-state subcontractors that would play crucial roles in the provision of Medicaid services as well as a misrepresentation of how much work would be performed by Molina's California-based corporate parent. Molina's obfuscation had the effect of inflating the proportion of the services Molina purported to provide in Nebraska itself, when in fact none of the key staff Molina identified in its proposal reside in the state. Unquestionably, the provision of local services is important to Nebraska's Medicaid members, but DHHS was not able to evaluate Molina's bid fairly due to Molina's omissions. Healthy Blue submits that Molina's misrepresentations, which were contrary to the express requirements of the RFP, compel disqualification of Molina's bid. And even if Molina were not disqualified, its scoring must be reduced substantially to account for Molina's misrepresentations. Given the razor thin margin between Molina and Healthy Blue, a reduction of Molina's score would elevate Healthy Blue to a contract award.

Second, Centene's and United's proposals both substantially misrepresent the numerous investigations that states across the country have initiated against them based on ubiquitous issues with management of Medicaid programs. Centene, for example, recently paid no less than \$489 million to at least ten states for alleged mismanagement and overbilling in its Medicaid pharmacy

benefit management (“PBM”) program, yet it disclosed only three PBM-based investigations, undercounting the scope of the issues plaguing its Medicaid management business. In addition, United entirely failed to disclose the scope of investigations to which it has been subject; United instead referred DHHS to an SEC filing and its website that did not comply with the RFP’s clear requirements. Healthy Blue believes Molina may have also failed to account properly the scope of the investigations to which it has been subject, but Molina improperly redacted its list, and DHHS has not provided an unredacted version of Molina’s proposal. Consideration of a bidder’s history of investigations – especially those related to Medicaid overbilling and alleged fraud – are critical for DHHS to preserve the integrity of Nebraska’s Medicaid program, yet DHHS was deprived of this information in evaluating proposals of Centene, United, and, possibly, Molina.

Additionally, based on the information Healthy Blue has received to date in response to its requests, DHHS does not appear to have provided any guidance to its scoring team to assist in evaluating proposals. The result has been widely disparate scoring of proposals. Training and guidance establish essential guardrails to ensure that the evaluation process complies with legal standards and consistently evaluates the proposals. Further, developing concrete and pre-determined scoring criteria before issuing an RFP, including the identification of pass/fail questions, helps to avoid arbitrary, unfair, and biased conduct with scoring after proposals are tendered to the agency. Healthy Blue submits that the proposals for the RFP were not evaluated consistently or fairly, requiring that the Notice of Intent be invalidated and a new procurement conducted.

As stated above, Healthy Blue has not received all of the documents requested in its timely public records request to DHHS. Healthy Blue cannot thoroughly review the fairness of the RFP award without this information. DHHS has promised to deliver additional (non-email) documents by October 21, which, along with the other documents that have not yet been provided in response to Healthy Blue’s timely public records request, Healthy Blue reserves the right to use to supplement its Protest.

For the foregoing reasons, Healthy Blue respectfully insists that the Notice of Intent to award contracts to Centene, United, and Molina be invalidated. As such, Healthy Blue requests a stay of the award until the resolution of this protest to avoid the need for cancellation of any executed contract, an express remedy of the protest process. (State of Nebraska Procurement Manual, § 6.20, p. 44.)

BACKGROUND

Nebraska’s Medicaid program, which is administered by DHHS’s Division of Medicaid & Long-Term Care (MLTC), provides health care services to Nebraska’s low-income residents and residents living with disabilities. (RFP § V(A), p.28.) Healthy Blue was incorporated on October 20, 2015, and has served the Heritage Health program since the program’s inception. Healthy Blue is backed by the resources and experience of a formal joint venture between Anthem Partnership Holding Company, LLC, a subsidiary of Elevance Health, Inc. (previously known as Anthem, Inc.), one of the nation’s leading Medicaid health care companies, and Blue Cross and Blue Shield of Nebraska (BCBSNE), a trusted choice for health care in Nebraska with more than 80 years of experience serving members in the state.

As an incumbent serving members since the beginning of Heritage Health, Healthy Blue is committed to transparency and remaining accountable to the State as well as to members, providers, and stakeholders. Healthy Blue's capacity to serve Nebraskans goes beyond performing functions of the RFP; Healthy Blue focuses on improving the lives of members and building healthier communities across the state. Backed by the strength of a joint venture between Elevance Health and BCBSNE, Healthy Blue creates a powerful alliance that offers a premier health solution for Medicaid members and a long-standing local presence that members recognize and trust and that Nebraska can rely on. Healthy Blue turns this alliance into practice through regular and ongoing communication and collaboration.

Healthy Blue is deeply committed to serving Nebraska and to providing exceptional healthcare coverage and services to the more than 120,000 Nebraskans whom Healthy Blue currently serves. In the last two years, Healthy Blue has made over \$6 million in community investments, aimed at improving whole-health for the state's most vulnerable population. For example, Healthy Blue sponsored a \$250,000 refrigeration system for the Lincoln Food Bank to support the unique needs of certain members, empowering them to lead healthier lives. In addition, Healthy Blue partnered with the Nebraska Diaper Bank, expanding the footprint of the organization to provide essential needs to Nebraska's youngest Medicaid recipients. In August 2022 alone, Nebraska Diaper Bank – with Healthy Blue's partnership and support – increased diaper donations by nearly 40%. Serving Healthy Blue's Nebraska Medicaid members remains a top priority and Healthy Blue plans to continue to deliver on promises to provide access to the services and supports to improve our members' health and well-being.

On or about April 18, 2022, DHHS issued the RFP, seeking vendors to provide services for its Medicaid Managed Care Program. (*See* RFP, Schedule of Events as amended by Addendum 5.) Bidders for the RFP were evaluated based on their written proposals as well as oral interviews. On September 23, 2022, DHHS publicly posted a notification stating that “the State of Nebraska intends to award contracts to three vendors: UnitedHealthcare of the Midlands, Inc., Nebraska Total Care, Inc., [and] Molina Healthcare of Nebraska, Inc.” (Notice of Intent to Award, p.1.)

The three vendors chosen received combined written and oral evaluation scores of 5746.43, 5695.58, and 5471.92. *See* RFP, Evaluation Document, as amended by Addendum 4. Healthy Blue was ranked fourth among the bidders, with a combined score of 5417.21, less than 55 points below Molina, the third-place vendor. (*Id.*) The difference between Molina and Healthy Blue's scores amounts to less than 1% of Molina's score and approximately 0.8% of the 6500 possible points in the RFP scoring process. Moreover, the difference between Healthy Blue's score and that of the highest-scoring bidder is less than 330 points (less than 6% of the total points possible). Thus, the scores between bidders were exceedingly close, and any errors in the evaluation likely had a dispositive impact on the outcome of the process.

Bidders were required to complete the RFP's Terms and Conditions of the solicitation as part of their proposals. (*See* RFP § II, p.10.) “A violation of the Terms and Conditions contained in the solicitation, at any time before or after the awards, *shall* be grounds for State action, which may include rejection of a bidder's proposal or withdrawal of the Intent to Award.” (RFP § I.L., p.6 (emphasis added).) Any error or omission jeopardizing the integrity of the procurement process identified by the State *must* be corrected to protect the integrity of the bid. (*See* State of Nebraska Procurement Manual § 6.20, p.44.) As set forth within, bidders to whom awards were made either

should have been disqualified, or assigned lower scores, resulting in Healthy Blue being selected among the bidders for award.

I. GROUNDS FOR PROTEST

A. MOLINA’S PROPOSAL SHOULD HAVE BEEN DISQUALIFIED AS NON-RESPONSIVE BECAUSE IT CONTAINS FALSE AND MISLEADING INFORMATION AND OTHERWISE FAILS TO COMPLY WITH THE RFP.

1. *Molina Should Be Disqualified for Its Failure To Disclose Numerous Subcontractors.*

Section VI of the RFP, titled Proposal Instructions, lists several requirements that bidders must respond to and provides that “failure to do so may result in disqualification.” (RFP § VI.) In particular, the RFP states that “if the bidder intends to subcontract any part of its performance hereunder, the bidder should provide” information regarding its subcontractors, including the tasks to be performed by each subcontractor, the percentage of performance hours intended for each subcontract, and the total percentage of subcontractor performance hours. (RFP § VI.A.10.) This was not a voluntary or optional disclosure, but rather a clear requirement under the RFP’s proposal instructions. *See MSC Indus. Direct Co. v. United States*, 140 Fed. Cl. 632, 643 (2018) (finding that “[e]xplicit statements in the solicitation about what is material receive particular weight”). The RFP makes clear why accurate disclosure of subcontracting formation was necessary for evaluation. “Information such as data concerning **labor hours** and categories, materials, **subcontracts** and so forth, **shall** be considered in the Technical Proposal so that the bidder’s understanding of the scope of work may be evaluated.” (RFP § I.J., p.5 (emphasis added).)² Accordingly, any services Molina intended to subcontract and the subcontractor(s) it intended to use were expressly required to be disclosed. Further, Section V.K. of the RFP required each bidder to provide background information on any subcontractor and the bidder’s monitoring/evaluation process for each subcontractor to enable DHHS and the scoring team to evaluate the entirety of the team each bidder would rely on to provide these critical services.

Despite this unambiguous requirement, Molina disclosed only a fraction of its subcontractors in response to Section VI.A.10. of the RFP, listing only five subcontractors. (Molina Proposal § VI.A.10.) Based on Molina’s own RFP response, Molina should have identified at least fifteen additional entities as subcontractors. Molina named at least 15 additional entities throughout its proposal that would perform a portion of the work DHHS awarded, and some of those entities were even listed as subcontractors in other bidders’ proposals; yet Molina

² The RFP defines a subcontractor as an “[i]ndividual or entity with whom the contractor [i.e., Molina] enters a contract to perform a portion of the work awarded to the contractor.” (RFP, Glossary p. xvi.)

omitted them from its subcontractor list, creating an appearance of being more locally focused. (See Molina Proposal §§ V.F., V.I., V.N.)³ For example:

1. Molina mentions two entities in response to Technical Questions that United disclosed as subcontractors: “OutcomesMTM” is referred to as a “vendor partner” in Question 86 and “RubiconMD” is referred to a behavioral health provider and partner in Questions 33, 35, and 37.
2. Molina refers to “Community Pharmacy Enhanced Services Network,” an entity Centene identified as a subcontractor, as a “key provider” in response to Technical Question 80. It also states that it is “collaborating” with Community Pharmacy in response to Question 51.
3. Molina mentions two entities in response to Technical Questions that Healthy Blue disclosed as subcontractors: “CAQH” is noted as an “external data system” in Question 40, and “FindHelp” is referred to as a “platform” in response to Questions 17, 25, 28, 30, and 73.
4. Molina also references two entities that it previously disclosed in an Ohio RFP response as subcontractors: “CAQH” (mentioned above) and “CityBlock,” which is referred to as an “Ohio affiliate” in Question 51.

Molina’s omission of its subcontractors from its proposal is so extensive that it must have been intentional; it simply cannot be explained by inadvertent oversight. Similarly, Molina misrepresented the amount of work its parent company would perform under the contract (as discussed below), likely to make its business appear to the evaluators as more integrated and locally sourced. Molina’s intentional omissions amount to an improper attempt to score additional points and gain an unfair competitive advantage over other bidders based on inaccurate and misleading information. See *Gaglioti Contracting, Inc. v. City of Hoboken*, 307 N.J. Super. 421, 433 (App. Div. 1997) (finding that “failing to provide a subcontractors list, much like a consent of surety, provides the non-complying contractor with an added advantage over its competition); see also *MSC Indus. Direct Co.*, 140 Fed. Cl. at 643 (holding that rejection of bidder’s proposal was warranted for failing to provide its list of subcontractors when “the solicitation contained a clear requirement for submission of the [subcontractors] as part of the required narrative for the technical evaluation together with a clear statement that omitting any requirement will result in rejection of the proposal”). By failing to properly disclose the existence and identity of all subcontractors, Molina has unquestionably failed to comply with the pass/fail requirements of Section V.K. of the RFP.⁴

³ Molina’s limited disclosure of subcontractors also is a far cry from what other bidders disclosed. Specifically, UnitedHealthcare disclosed 28 subcontractors, Centene disclosed 14, and Healthy Blue disclosed 36 subcontractors.

⁴ Likewise, Molina’s responses to RFP Questions 49 and 50, which were scored on a pass/fail basis, should have resulted in a “fail” score for Molina based on insufficient subcontractor disclosures, because both questions require that the bidder disclose information for each

Moreover, Molina's failure to properly disclose its subcontractors is a violation of the Terms and Conditions of the RFP. RFP Section III.A. lists the bidder's duties if selected as a contractor and states in pertinent part: "If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be *clearly defined* in the contractor's proposal." (Emphasis added.) The Contractor Duties in the RFP and all remaining Terms and Conditions had to be either accepted or rejected (and initialed) with comments by every bidder, and Molina accepted the Terms and Conditions of the RFP. (See Molina Proposal § II.) Based on this deficit alone, Molina's proposal must be rejected, and the intended award to Molina should be withdrawn. As noted above, "[a] violation of the Terms and Conditions [of the RFP] shall be grounds for State action," which includes rejection of a proposal, withdrawal of an Intent to Award, withdrawal of an Award, or even termination of the resulting contract after it has been executed. (See RFP § I.L.) The consequence of Molina's insufficient disclosure is unambiguous: Molina failed to submit a bid that complied with the RFP and its Terms and Conditions, and Molina's bid should be disqualified. See *Gaglioti Contracting, Inc.*, 307 N.J. Super. at 433 (holding that a "bidder's failure to include list of subcontractors with bid was a material, nonwaivable defect"); *MSC Indus. Direct Co.*, *supra*, 140 Fed. Cl. at 643.

2. *Molina Should Be Disqualified for Materially Misrepresenting The Amount Of Work To Be Completed by Its Corporate Parent.*

Molina's misrepresentations in its RFP response were not limited to its omission of subcontractors. First, Molina's description of the work to be completed by its parent company, Molina Healthcare, Inc., contains material omissions in Molina's response to Section VII(A)(10) of the RFP. In that section, Molina was required to list *all* work to be completed by California-based Molina Healthcare, Inc., but instead Molina's response includes a limited iteration of the work to be completed by its out-of-state corporate parent. Specifically, Molina's response to Section VII.A.10. states that the scope of work delegated to Molina Healthcare, Inc. would be limited to the following 12 categories:

- Human resources
- Legal
- Facilities
- IT
- Marketing/public relations
- Corporate finance
- Claims/encounters processing
- Member/provider call center overflow
- Models of care best practices
- Healthcare services support
- Medical policy and economics support
- Program integrity support
- Subcontractor/delegation oversight

subcontractor included in the proposal. However, by failing to accurately identify each subcontractor in its proposal, Molina's response in no way satisfies these RFP Questions.

(Molina Proposal § VII.A.10.) But elsewhere in its proposal, Molina acknowledges, tacitly or explicitly, that the work to be completed by its corporate parent Molina Healthcare, Inc. consists of over 26 services, including, among other things, a 24/7/365 Nurse Advice Line, enterprise pharmacy operations, national provider network, risk adjustment, subcontractor/delegation oversight support, and clinical services. (See Molina Proposal § V.K.49.)

As with its statements regarding subcontractors, this misrepresentation of the work to be performed by Molina's parent in the former section is far too extensive to be explained away as an innocent mistake. This conclusion is buttressed by reviewing a list of key staff for Molina's bid who are not residents of Nebraska. See **Exhibit A**. But obviously, if Molina minimizes the role of its corporate parent in Section VII.A.10., then Molina can (incorrectly) assert that a lower percentage of its work would need to be delegated, and that more work would be performed by the Nebraska-based entity actually being evaluated by DHHS. Thus, in the only scored subcontractor disclosure section, Molina substantially understated the percentage of work on the contract to be performed by its parent company, presumably to obtain a higher score.

These repeated, material misrepresentations throughout Molina's response to the RFP effectively undermine the basis for Molina's scoring and the intent to award. Thus, any intent to award should be revoked from Molina and instead granted to Healthy Blue, the next-highest-scoring bidder.

3. *Molina Intentionally Deceived Reviewers Regarding the Services Molina Provides Through Its In-House Applications.*

Molina also referenced a number of services it procures through subcontractors while implying that these services would be provided directly by Molina. For example, Molina identified "Molina HelpFinder" as a community resource and SDOH referral platform (see Molina Proposal § V(M)(73)), but a simple review of the resource as it is currently available in other areas shows that Molina HelpFinder is powered by FindHelp, a third-party vendor. Molina notably fails to identify FindHelp as a subcontractor in its proposal. In contrast, Healthy Blue offers similar services through FindHelp and accordingly listed FindHelp as a subcontractor in its proposal.

The lack of transparency regarding the Molina HelpFinder resource is not an isolated incident. Molina also states that it "developed the Molina Transportation Trip Management app" to assist members seeking transportation for medical services. (Molina Proposal § V.M.45.) This statement, too, is misleading. Molina advertises the same transportation benefit for Ohio Medicaid members, but in reality, those members must download a third-party app, Access2Care, in order to utilize the described benefits. See *Transportation Services*, MOLINA HEALTHCARE, <https://www.molinahealthcare.com/members/oh/mem/medicaid/overvw/coverd/services/transport.aspx> (last accessed Oct. 5, 2022). As with Molina's misrepresentations related to subcontractors, the inconsistencies in Molina's statements regarding the services provided through its in-house apps undermine Molina's credibility as a whole and further confirm that awarding the contract to Molina would not be in the best interests of the State.

4. *Alternatively, Molina's Overall Score Should Be Adjusted For Its Deficient Subcontracting Disclosures.*

Even if Molina were not subject to outright disqualification, which it should be, its misrepresentations demonstrate that Molina's score must be reduced substantially, such that the contract should instead be awarded to Healthy Blue. There are numerous sections of the RFP where scores were inflated due to Molina's misrepresentations of the work to be completed by the bidding entity itself, instead of subcontractors or its California-based corporate parent. At a minimum, Molina's scores must be significantly reduced in multiple sections of the RFP for its failure to fully disclose its subcontractors. The scoring impact of Molina's failure to disclose subcontractors is especially apparent in Molina's responses to the Corporate Overview section of the RFP. (*See* RFP § VII.A.10.) The Corporate Overview section was one of the RFP sections mandating the disclosure of all subcontractors along with specific tasks to be performed and the percentage of performance hours to be performed by each subcontractor. That Section alone was worth 150 points. (*See id.*)

Molina received an average of 125.7 points out of 150 points available for the response to that section, placing 3rd in this scoring category. But for the reasons stated above, Molina's score is inflated and should be significantly reduced. Failure to disclose multiple subcontractors pertained to all subsections of Section VI.A.10. Molina's disclosure of only 5 out of approximately 20 subcontractors amounts to less than 25% of the required disclosures. Even if Molina provided flawless responses regarding the five subcontractors it acknowledged, Molina must lose points for omitting entirely over a dozen subcontractors from the response to this section of the RFP. At a minimum, Molina should receive no more than 25% of the available points, or 37.5 points, for its response to RFP Section VI.A.10. Additionally, for misrepresenting the parent company and dental subcontractor percentage of work, Molina's score should be reduced even further for subsections c. and d.⁵ While Molina should not have received any points at all for intentionally failing to comply with this requirement, even granting Molina 37.5 points, commensurate with its limited disclosure, amounts to a net reduction of Molina's score by at least 88.2 points on this category alone, placing Healthy Blue in an awardee position.

For the failure to properly identify subcontractors Molina should be disqualified. In the alternative, Molina's score for its response to Section VI.A.10, should be appropriately reduced by approximately 88.2 points. Even a conservative re-calculation should have resulted in Molina's score being reduced to, at most, 5383.72. This adjustment would lift Health Blue's total score of 5417.21 into third place, ahead of Molina, justifying a contract award.⁶

⁵ These RFP subsections require a bidder to provide the "percentage of performance hours intended for each contract" and the "total percentage of subcontractor(s) performance hours." (RFP § VI.A.10.)

⁶ Further, Molina's failure to disclose its subcontractors and misrepresentation of the work conducted by its parent company and, thus, a failure of evaluators to realize that much of the work was subcontracted and not local, would have reduced Molina's score on many other questions. For example, disclosure of a third-party vendor FindHelp would have potentially affected Molina's scores for questions 28, 30, and 73.

B. CENTENE’S AND UNITED’S PROPOSALS SHOULD BE DISQUALIFIED AS NON-RESPONSIVE BECAUSE THEIR PROPOSALS FAIL TO COMPLY WITH THE RFP.⁷

1. *Centene Failed to Disclose Numerous Investigations And Settlements Against It Relating To Its Pharmacy Benefit Management Program and Medicaid Overbilling.*

Despite clear RFP requirements, Centene failed to disclose hundreds of millions of dollars its organization paid in at least seven states in the last five years to settle investigations alleging that it overcharged states’ Medicaid programs for pharmacy services. Section VI of the RFP requires that each bidder disclose whether it (and its parent company, affiliates, and subsidiaries⁸) is or has been the subject of *any criminal or civil investigation by a state or federal agency*, during the past five years. (*Id.*) Centene is a subsidiary of Centene Corporation. Therefore, Centene was required to disclose any regulatory action or civil investigation by a state or federal agency against Centene Corporation, and its affiliates, within the last five years. (*Id.*)

In its proposal, Centene only disclosed three investigations related to its PBM program, in Ohio, Mississippi, and New York. (Centene Proposal, pp.273-74.) In addition to Centene’s three disclosed investigations, however, Centene’s parent company and affiliates have been the subject of many more investigations regarding their PBM program and allegations that Centene overbilled Medicaid program members for prescription drugs and pharmacy services during the past five years.⁹ As shown in the table below, Centene has paid hundreds of millions of dollars in settlements for allegations arising from its PBM program, but Centene did not disclose the vast majority of these settlements and their preceding investigations in its proposal¹⁰:

⁷ Molina’s proposal also likely should have been deemed non-responsive for failure to disclose investigations. However, it is not clear because Molina improperly redacted information about its investigations, as well as enforcement actions against it. (*See* Molina Proposal § VII.A.7.)

⁸ The terms parent company, affiliates, and subsidiaries are not defined in the RFP. Thus, to ensure consistency with the RFP, the kinds of entities that fall within these categories should be interpreted in the broadest sense.

⁹ *See, e.g.*, Andy Miller and Samantha Young, “Centene Agrees to Pay Massachusetts \$14 Million Over Medicaid Prescription Claims”, September 29, 2022, <https://khn.org/news/article/centene-massachusetts-medicaid-drug-settlement/>, last accessed on October 5, 2022.

¹⁰ In Centene’s SEC Form 10-K, included in its Proposal, the notes to the consolidated financial statements mention a settlement with the Ohio Attorney General as well as the attorneys general in nine other states; however, the notes fail to elaborate or even name the related investigations in the other states. Moreover, Centene’s financial statement notes state that Centene “is in discussions to bring final resolution to similar concerns in other affected states” and that “[a]dditional claims, reviews or investigations relating to the Company’s PBM business . . . may be brought by other states” (Centene Proposal, p.162.) Still, despite this apparently inadvertent admission, Centene’s proposal is entirely silent as to all but three state investigations into its PBM program.

Date	State	Approximate PBM Program Medicaid Settlement
June 2021	Ohio	\$88,000,000
June 2021	Mississippi	\$55,000,000
October 2021	Arkansas	\$15,200,000
October 2021	Illinois	\$56,700,000
December 2021	Kansas	\$27,600,000
January 2022	New Hampshire	\$21,000,000
July 2022	Texas	\$165,500,000
August 2022	New Mexico	\$13,700,000
August 2022	Washington	\$32,000,000
September 2022	Massachusetts	\$14,200,000
Total		\$488,900,000

Completion of Section VI of the RFP was a mandatory minimum requirement for a bidder's proposal to be considered responsive. (*See* RFP's Evaluation Criteria, as amended by Addendum 4 (noting that "[p]roposals not complete or not meeting mandatory requirements **will** be excluded from further evaluation.") (emphasis added)); *see also* *Great Lakes Dredge & Dock Co., LLC v. State ex rel. Coastal Prot. & Restoration Auth.*, 167 So. 3d 682, 691 (La. App. 1 Cir. 2014) (holding that a bidder's failure to complete a section of the solicitation rendered bid non-responsive and subject to rejection from consideration for state agency when the instructions indicated that failure to submit alternate prices would render the bid non-responsive and cause rejection). Centene's failure to disclose multiple investigations related to its PBM programs across the country is a direct violation of a material provision of the RFP and should concern DHHS. Centene's decision not to be forthcoming with respect to the large (and growing) number of investigations addressing Centene's misconduct in managing Medicaid programs exactly like the subject of this RFP must be viewed as an intentional attempt to gain a competitive advantage. Accordingly, DHHS should have deemed Centene's proposal non-responsive, and Centene should have been prohibited from advancing to Stage 2 of the evaluation process. (*See* RFP's Evaluation Criteria, as amended by Addendum 4; *see also* RFP, Glossary, p. xiv (defining a responsive bidder as a bidder "who has submitted a proposal which conforms to all requirements of the solicitation document").)

2. *United's Proposal Contains a Copious Number Of False And Misleading Statements, Is Incomplete, And Improperly Fails To Disclose Multiple Investigations.*

Similar to Centene, United's proposal suffers from material deficiencies and therefore, it also should have been disqualified. As an initial matter, United completely failed to disclose its state and federal investigations in the form contemplated by the RFP. Rather than disclosing and providing "an explanation with relevant details and the outcome" of any investigations against itself as well as its parent company, affiliates, and subsidiaries, as required by the RFP, United essentially sent DHHS evaluators on a fishing expedition. United's half-hearted response to this

section of the RFP included a bare reference to United's parent company's (UnitedHealth Group) Form 10-K document. (*See* United's Response to RFP § VI(A), PDF p. 33.)

The Form 10-K document referenced in United's proposal is UnitedHealth Group's Annual Report filing required by the U.S. Securities and Exchange Commission ("SEC"), but it utterly fails to meet the RFP disclosure requirements for investigations in the last five years. SEC filings only require "**material** pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject." 17 CFR § 229.103 (emphasis added); *see* also **Exhibit B**.¹¹ The RFP, by contrast, does not limit the disclosure of civil investigations to only material proceedings not incidental to the business, nor does the RFP limit disclosure to those investigations that are currently pending. (*See* RFP § VI, p.174.)

Not only was United's submission of its Form 10-K for only the most current fiscal year improper and insufficient to respond to RFP requirements, but United also failed to disclose numerous investigations that were initiated against UnitedHealthcare Group and its affiliates in the past five years. United's submission only disclosed two enforcement actions: (1) a January 2021 indictment against UnitedHealthcare Group's subsidiary for alleged anti-trust violations, and (2) a February 2017 action by the DOJ against UnitedHealthcare Group. (*See* United Proposal, Appendix VI.A.2.)

However, even a cursory search reveals at least four additional investigations against UnitedHealthcare Group in the past five years, none of which United included in its proposal. For example:

- (1) The U.S. Department of Justice (DOJ) investigated UnitedHealthcare's billion-dollar acquisition of Change HealthCare in March 2021;¹²
- (2) The U.S. Department of Labor and the New York State Attorney General investigated and filed suit against United Healthcare Insurance and United Behavioral Health regarding violations of the Mental Health Parity and Addiction Equity Act, and caused the companies to pay a \$15.8 million settlement and take corrective actions in 2021;¹³

¹¹ SEC's General Instructions for Form 10-K attached as attached hereto as **Exhibit B**.

¹² *See* Jeff Lagassee, "DOJ investigating UnitedHealth's \$13B acquisition of Change," Healthcare Finance (March 30, 2021), <https://www.healthcarefinancenews.com/news/doj-investigating-unitedhealths-13b-acquisition-change>.

¹³ *See* "United States Intervenes in False Claims Act lawsuit Against UnitedHealth Group Inc. for Mischarging the Medicare Advantage and Prescription Drug Programs," US Department of Justice (May 2, 2017), <https://www.justice.gov/opa/pr/united-states-intervenes-false-claims-act-lawsuit-against-unitedhealth-group-inc-mischarging>.

- (3) Ohio Attorney General investigated and filed suit against HealthCare Group's subsidiary OptumRx regarding claims of overcharging related to its PBM program in 2019;¹⁴ and
- (4) Louisiana's Attorney General filed suit against OptumRX and United Healthcare of Louisiana, Inc. d/b/a United Healthcare Community Plan regarding its PBM program on April 13, 2022, following an investigation beginning in September, 2021.¹⁵

United's proposal also asserts that any "material criminal or civil investigations are disclosed in our financial statements available on the UnitedHealth Group website...." (United Proposal, PDF p.33.) Putting aside the fact that the RFP requires disclosure of "any" state or federal agency civil or criminal investigation against United during the last five years, not just "material" investigations (RFP § VI, at p. 174), United's reference to its website fails to comply with the disclosure requirements of the RFP for the same reasons the Form 10-K does not conform.¹⁶ United's flouting of the RFP's clear specifications merits disqualification. *See, e.g., Parks v. Pocatello*, 91 Idaho 241, 245 (1966) (finding that "City Commission was under the legal duty to reject appellants' proposal" where the proposal did not conform to the city's advertised specifications).

Additionally, the RFP provides that the State could accept deviations from the requirements in the solicitation, but first "[a]ny deviations from the solicitation in Sections II through VI *must* be clearly defined by the bidder by the proposal ... and ... [a]ny specifically defined deviations must not be in conflict with the basic nature of the solicitation, requirements." RFP § I.I (emphasis added). Here, United's proposal could not be considered an acceptable deviation from the RFP because nowhere in United's 1,726-page proposal does it clearly define and/or indicate that (1) United would not disclose all of its required civil investigations or (2) it would fail to provide details about the investigations disclosed and their outcome, as contemplated by the RFP.

United appears to have intentionally misled DHHS in order to gain an advantage, to Healthy Blue's detriment, and in turn failed to comply with the RFP. United did not complete Section VI, a mandatory minimum requirement for a proposal to be considered responsive. (*See* RFP § VI, p.174.) United's proposal should have been disqualified, and United should not have

¹⁴ *See* Marty Schladen and Catherine Candisky, "Attorney General Dave Yost seeking \$16 million repayment from pharmacy middleman OptumRx, usatodaynetwork.com(February 19, 2019), <https://stories.usatodaynetwork.com/sideeffects/attorney-general-dave-yost-seeking-16-million-repayment-pharmacy-middleman-optumrx/>. It appears that OptumRX was also terminated as a result of the investigation.

¹⁵ *See* "Millions Overpaid For Prescriptions In Secretive Scheme, Lawsuit Filed By Attorney General Jeff Landry To Recover Inflated Charges," Louisiana's Department of Justice, <http://www.ag.state.la.us/Article/13028>, (last visited October 7, 2022).

¹⁶ Further, the "financial statements" on UnitedHealth Group's website do not appear to provide disclosure of any additional investigations not already included in the non-compliant Form 10-K Report.

advanced to Stage 2 of the evaluation process. (See RFP's Evaluation Criteria, as amended by Addendum 4.)

3. *Molina's Disclosed Investigations Were Improperly Redacted And Molina Should Be Required To Provide The Unredacted Version.*

The public copy of Molina's proposal improperly redacts its disclosures regarding the federal and state investigations against it, its parent company, and its affiliates. (See Molina Proposal § VII.A.7.) The RFP provides that it is the bidder's responsibility to request that certain records are withheld from public disclosure, otherwise all information will be shared to the public. RFP, Cover Page. The RFP further provides that absent a determination that information may be withheld pursuant to Neb. Rev. Stat. § 84-712.05, all records shall be deemed public documents and must be disclosed. *Id.*

Molina's description of its state and federal investigations does not fall within any category of documents that exempt such information from public disclosure under Neb. Rev. Stat. § 84-712.05. Thus, Molina improperly requested that DHHS redact its federal and state investigations disclosure, and DHHS improperly withheld such information. Descriptions of government investigations are not trade secrets or proprietary information protected from disclosure. Nor would Molina's description of government investigations constitute "[r]ecords *developed or received by law enforcement agencies* and other public bodies...when the records constitute a part of the...investigation." Neb. Rev. Stat. § 84-712.05 (emphasis added); *see also* *Evertson v. City of Kimball*, 278 Neb. 1, 15 (2009) (noting that "the investigatory exception does not apply to protect material compiled ancillary to an agency's routine administrative functions"). The portion of Molina's proposal containing its description of its state and federal investigations is not a record developed or received by a law enforcement agency as part of an investigation.¹⁷ This information should not be withheld from the public, and Healthy Blue requests that DHHS post an updated version of Molina's response without redacted state and federal investigations so that Healthy Blue can fairly evaluate Molina's compliance with this disclosure requirement. Healthy Blue reserves the right to supplement this Protest upon production of such information.

C. DHHS's SCORING PROCESS WAS FLAWED.

1. *DHHS Did Not Follow Its Own Guidance For Evaluating Bidders' Proposals.*

As discussed in detail *supra*, DHHS did not eliminate bidders who failed to complete the required sections of the RFP. Instead, DHHS allowed those bidders to move forward in the evaluation process despite not having responsive proposals. DHHS's acceptance of these incomplete proposals is in direct conflict with its evaluation procedure, which states:

To ensure responsiveness, the proposals will first be examined to determine if all items have been provided below, and if the mandatory requirements of the RFP

¹⁷ Molina was the only bidder who redacted this portion of its proposal response.

have been addressed and warrant further evaluation. Proposals not complete or not meeting mandatory requirements will be excluded from further evaluation.

(RFP's Evaluation Criteria, as amended by Addendum 4.)

Based on Molina's failure to disclose subcontractors and other material misrepresentations, Centene's failure to disclose required investigations, and United's failure to comply with the terms of the RFP, all three intended awardees should have been excluded from further evaluation.

Additionally, under the Terms and Conditions of the solicitation, bidders were required to complete Sections II through VI of the solicitation as part of their proposal. (*See* RFP § II, p.10.) A violation of the Terms and Conditions, at any time before or after the awards, *shall* be grounds for State action which may include, rejection of a bidder's proposal or withdrawal of the Intent to Award. (RFP § I.L., p.6.) It follows then that the failure to complete Sections II through VI of the solicitation is a violation of the Terms and Conditions of the RFP. Consequently, Molina, Centene, and United's failure to complete the required portions of the RFP is a violation of the Terms and Conditions, which mandates State action. (*Id.*) Notwithstanding these deliberate violations of the RFP, DHHS improperly determined that Molina, Centene, and United were entitled to a contract award and has taken no action to address the violations and material deficiencies.

2. *DHHS Failed to Provide Evidence That Proper Guidance On the Scoring and Evaluation Process Was Provided to Evaluators.*

Even after issuing the Notice of Intent to Award and receiving a timely public records request from Healthy Blue, DHHS has not supplied any training manuals or other materials to show that proper guidance on scoring and the evaluation process was provided to evaluators or that evaluators worked within any articulable prescribed guidelines. This is especially concerning where a substantial number of scores in this procurement were significantly out of reasonable range compared to other evaluator scores. For example, one of the proposal evaluators, Carisa Schweitzer Masek, scored each plan significantly lower than her counterparts. Ms. Masek scored Healthy Blue 19.5% less than the compiled score, whereas other bidders had deltas ranging from 12.4% to 17.1%. DHHS's failure to provide proper guidance documents to evaluators results in an erroneous award that is not in the best interest of Nebraska's citizens, because less responsible bidders than Healthy Blue were selected for the program.

Additionally, while DHHS stated that it determined which questions were scored using pass/fail metrics before issuance of the RFP, without the scoring guidance given to evaluators, bidders are unable to determine whether DHHS or evaluators arbitrarily changed the scoring criteria for proposals after the RFP was released. Further, the RFP provides that the Best Value Evaluation Criteria ("BVC"), i.e., scoring, is the "criteria against which **all responses** to the Technical Questions, and any Oral Presentation, will be measured ..." (RFP, Glossary p. vii (emphasis added).) However, 75 of the 114 Technical Questions, roughly **65%**, were evaluated based only as pass/fail requirements, which is highly unusual. Notably, numerous Quality

Management and Utilization Management questions were not even scored.¹⁸ It is unclear how DHHS could meet the BVC criteria for evaluating proposal responses without documentation from the agency related to why scoring was designed this way. DHHS's scoring and improper evaluation process created opportunities for undue influence and favoritism, which jeopardizes the integrity of the procurement process and, therefore, must be corrected. (*See* State of Nebraska Procurement Manual (2018), § 6.20, p. 44.)

D. DHHS FAILED TO PROVIDE THE REQUIRED DOCUMENTS IN TIME FOR HEALTHY BLUE TO THOROUGHLY INVESTIGATE THE RFP AWARD.

On September 23, 2022, the date the Notice of Intent to Award was published, DHHS released sparse materials regarding the RFP and proposal evaluations on its website. Specifically, in addition to the Notice of Intent to Award, DHHS released: (1) A one-page final evaluation document with a general summary of scores but no particularized breakdown of the points attributed to each subsection of the RFP, and (2) each of the bidders' redacted proposals. As a result of this limited disclosure of documents, Healthy Blue immediately submitted a public records request to DHHS to receive more substantive information related to the RFP. *See Exhibit C.*¹⁹ Healthy Blue specifically requested, among other things, "[a]ll instructions provided for purposes of evaluating RFP proposals" and emails and other communications regarding the RFP and between evaluators and bidders. *Id.*

Healthy Blue sent its public records request on September 23 – the same day that DHHS announced its Notice of Intent to Award. As of the date of this Protest, however, DHHS has failed to provide all of the requested information. To the contrary, DHHS has forecast that it would need to expend 2300 hours of attorney time and \$126,621.90 to produce the requested emails and an additional 950 hours and \$24,509.83 to produce Webex Messages. DHHS estimates that these email and Webex productions cannot be completed until sometime in 2023; which, if true, would significantly prejudice Healthy Blue's ability to understand the RFP evaluation and scoring process and to identify additional protest grounds. Again handicapping Healthy Blue, DHHS also has stated that it cannot produce the additional non-email and non-Webex documents Healthy Blue requested until October 21, well after DHHS's protest deadline. As discussed previously, Healthy Blue has not received any training manuals or other evaluation documents used by the evaluators to score the proposals. Healthy Blue also has not received any documentation explaining how pass/fail questions were determined before the RFP was released. The delay in providing the requested documents is unreasonable and obviously prejudices Healthy Blue; Healthy Blue has been required to submit this Protest without all the information requested and needed to analyze possible grounds to challenge the Notice of Intent to award.

¹⁸ For example, Questions 65, 69, 71, 72, 76, 78, 79, 81, 82, 83, 84, 86, were evaluated based on a pass/fail examination.

¹⁹ Healthy Blue's public record request is attached hereto as **Exhibit C**.

The delay also is particularly troubling when there are several instances of potential bias indicated from the few documents available to Healthy Blue thus far. Two examples of potential bias that could have affected the outcome of the scores on the RFP are:

- Ryan Sadler, the CEO and Plan President for Molina, lists Dannette Smith, CEO for NE DHHS as a reference on his resume. (*See* Molina Proposal, p.288.) As DHHS is aware, Ms. Smith is a final reviewer in the protest process, and Mr. Sadler is listed as key staff for Molina. This fact alone obviously raises substantial concerns of favoritism, fairness, and biasness with the scoring of proposals.
- DHHS's Plan Managers for United and Centene were listed as reviewers of the protests (Catherine Kearney and Travis Beck), but Healthy Blue's Plan Manager (Jeshena Gold) was not. Each Managed Care Organization has a Plan Manager that works closely as the liaison between the State and the plan. These Plan Managers develop strong working relationships with their assigned plan and have unique understanding of their plans' processes and procedures. Accordingly, United and Centene Plan Manager could likely be biased towards their plan when conducting the proposal reviews, an advantage not shared by Healthy Blue.

Without the benefit of reviewing evaluation training materials and other documentation, including the requested emails/communications, Healthy Blue cannot evaluate, let alone confirm, any potential bias or misconduct. The issue of bias is markedly important here because the point differential between Healthy Blue and the lowest scoring intended contract awardee (Molina) is a mere 55 points. As previously explained, the difference between scores amounts to less than 1% of Molina's score and approximately 0.8% of the 6500 possible points in the RFP scoring process. Therefore, it is crucial that Healthy Blue have the opportunity to review all relevant documents and communications regarding the RFP.

Simultaneously restricting access to the administrative record while insisting that a protest deadline be met also raises due process concerns. *See In re Int. of Mainor T.*, 267 Neb. 232, 243, 674 N.W.2d 442, 455 (2004) ("While the concept of due process defies precise definition, it embodies and requires fundamental fairness."). Consequently, Healthy Blue reserves the right to amend or supplement this Protest after DHHS provides the documents it has promised to deliver by October 21. To the extent Healthy Blue learns of additional facts or information relevant to the grounds for appeal stated herein (including emails or other documents contained in its public records request but which were not provided), or any other grounds for appeal, Healthy Blue will supplement this Protest.

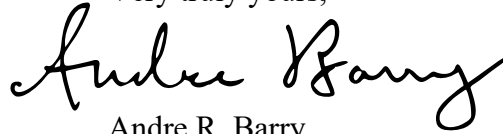
II. CONCLUSION AND REQUEST FOR RELIEF

Based on the foregoing, Healthy Blue asserts that DHHS reached an arbitrary and capricious award determination by finding that Molina, Centene, and United's proposals were responsive and not subject to disqualification or, at a minimum, substantially lower scores. As a result of DHHS's arbitrary and capricious actions, its abuse of discretion, and its clearly erroneous reasoning (all as set forth in this Protest), Healthy Blue has suffered prejudice. Accordingly, Healthy Blue respectfully requests that DHHS sustain its Protest, stay the award, and: (a) conduct a new evaluation correcting the errors described above; or (b) obtain revised proposals, evaluate

October 7, 2022
Page 18

those proposals as mandated by the RFP and make a new award decision in accordance with the evaluation criteria and scheme set forth in the RFP.

Very truly yours,

A handwritten signature in black ink that reads "Andre R. Barry". The signature is written in a cursive, flowing style with a large initial 'A' and 'B'.

Andre R. Barry
For the Firm

Molina Staffing locations, none are local to NE

Title	Name	Location
Chief Executive Officer (CEO)*	Ryan Sadler	Kentucky
Medical Director/Chief Medical Officer*	Jason Dees	Long Beach, CA
Dental Director	Jacinto Beard	Ohio
Behavioral Health Clinical Director	Sasha D. Waring	Seattle, WA
Behavioral Health Manager*	Joel Conger	Phoenix, AZ
Chief Operating Officer (COO)*	Tom Rodakowski	Illinois
Chief Financial Officer (CFO)*	Carol Swanson	Either NE or TX
Program Integrity Officer*	Scott Campbell	Long Beach, CA
Grievance System Manager*	Jeff Larsen	Seattle, WA
Business Continuity Planning and Emergency Coordinator	Michael Wilson	Long Beach, CA
Contract Compliance Officer*	Chris Mardesich	Long Beach, CA
Quality Management (QM) Coordinator*	Lynn Hansen	Long Beach, CA
Performance and Quality Improvement Coordinator*	Deborah Wheeler	Long Beach, CA
Maternal Child Health (MCH)/Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Coordinator*	Rebecca Schupp	Long Beach, CA
Medical Management Coordinator*	Jody Cruz	Long Beach, CA
Provider Services Manager*	James Messina	Long Beach, CA
Member Services Manager*	Blanca Trevizo	Long Beach, CA
Claims Administrator	John Belew	Long Beach, CA
Provider Claims Educator	Elizabeth Vigil	Long Beach, CA
Case Management Administrator*	Lorraine McDonald,	New York
Information Management and Systems Director	Matt Hall	Scottsdale, AZ
Encounter Data Quality Coordinator	Jeff Deshay	California
Tribal Network Liaison*	Cassandra Pena	Arizona
Pharmacist/Pharmacy Director*	Cynthia VanSteenburg	Long Beach, CA
Dental Management Coordinator	Rebecca Nomeland	Minnesota

**EXHIBIT
A**

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

OMB APPROVAL	
OMB Number:	3235-0063
Expires:	May 31, 2025
Estimated average burden hours per response ...	2,254.82

FORM 10-K

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934**

GENERAL INSTRUCTIONS

A. Rule as to Use of Form 10-K.

- (1) This Form shall be used for annual reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) (the "Act") for which no other form is prescribed. This Form also shall be used for transition reports filed pursuant to Section 13 or 15(d) of the Act.
- (2) Annual reports on this Form shall be filed within the following period:
 - (a) 60 days after the end of the fiscal year covered by the report (75 days for fiscal years ending before December 15, 2006) for large accelerated filers (as defined in 17 CFR 240.12b-2);
 - (b) 75 days after the end of the fiscal year covered by the report for accelerated filers (as defined in 17 CFR 240.12b-2); and
 - (c) 90 days after the end of the fiscal year covered by the report for all other registrants.
- (3) Transition reports on this Form shall be filed in accordance with the requirements set forth in Rule 13a-10 (17 CFR 240.13a-10) or Rule 15d-10 (17 CFR 240.15d-10) applicable when the registrant changes its fiscal year end.
- (4) Notwithstanding paragraphs (2) and (3) of this General Instruction A., all schedules required by Article 12 of Regulation S-X (17 CFR 210.12-01 - 210.12-29) may, at the option of the registrant, be filed as an amendment to the report not later than 30 days after the applicable due date of the report.

B. Application of General Rules and Regulations.

- (1) The General Rules and Regulations under the Act (17 CFR 240) contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this Form.
- (2) Particular attention is directed to Regulation 12B which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in Rule 12b-2 should be especially noted. *See also* Regulations 13A and 15D.

C. Preparation of Report.

- (1) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b-12. Except as provided in General Instruction G, the answers to the items shall be prepared in the manner specified in Rule 12b-13.
- (2) Except where information is required to be given for the fiscal year or as of a specified date, it shall be given as of the latest practicable date.
- (3) Attention is directed to Rule 12b-20, which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading."

D. Signature and Filing of Report.

- (1) Three complete copies of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, and five additional copies which need not include exhibits, shall be filed with the Commission. At least one complete copy of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.
- (2) (a) The report must be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer or officers, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions. Where the registrant is a limited partnership, the report must be signed by the majority of the board of directors of any corporate general partner who signs the report.

(b) The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the report. Attention is directed to Rule 12b-11 (17 CFR 240.12b-11) concerning manual signatures and signatures pursuant to powers of attorney.
- (3) Registrants are requested to indicate in a transmittal letter with the Form 10-K whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices, or in the method of applying any such principles or practices.

E. Disclosure With Respect to Foreign Subsidiaries.

Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant. However, financial statements and financial statement schedules, otherwise required, shall not be omitted pursuant to this Instruction. Where information is omitted pursuant to this Instruction, a statement shall be made that such information has been omitted and the names of the subsidiaries involved shall be separately furnished to the Commission. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

F. Information as to Employee Stock Purchase, Savings and Similar Plans.

Attention is directed to Rule 15d-21 which provides that separate annual and other reports need not be filed pursuant to Section 15(d) of the Act with respect to any employee stock purchase, savings or similar plan if the issuer of the stock or other securities offered to employees pursuant to the plan furnishes to the Commission the information and documents specified in the Rule.

G. Information to be Incorporated by Reference.

- (1) Attention is directed to Rule 12b-23 which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of a report.
- (2) The information called for by Parts I and II of this form (Items 1 through 9A or any portion thereof) may, at the registrant's option, be incorporated by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a-3(b) or Rule 14c-3(a) or from the registrant's annual report to security holders, even if not furnished to the Commission pursuant to Rule 14a-3(b) or Rule 14c-3(a), provided such annual report contains the information required by Rule 14a-3.

Note 1. In order to fulfill the requirements of Part I of Form 10-K, the incorporated portion of the annual report to security holders must contain the information required by Items 1-3 of Form 10-K; to the extent applicable.

Note 2. If any information required by Part I or Part II is incorporated by reference into an electronic format document from the annual report to security holders as provided in General Instruction G, any portion of the annual report to security holders incorporated by reference shall be filed as an exhibit in electronic format, as required by Item 601(b)(13) of Regulation S-K.

- (3) The information required by Part III (Items 10, 11, 12, 13 and 14) may be incorporated by reference from the registrant's definitive proxy statement (filed or required to be filed pursuant to Regulation 14A) or definitive information statement (filed or to be filed pursuant to Regulation 14C) which involves the election of directors, if such definitive proxy statement or information statement is filed with the Commission not later than 120 days after the end of the fiscal year covered by the Form 10-K. However, if such definitive proxy statement or information statement is not filed with the Commission in the 120-day period or is not required to be filed with the Commission by virtue of Rule 3a12-3(b) under the Exchange Act, the Items comprising the Part III information must be filed as part of the Form 10-K, or as an amendment to the Form 10-K, not later than the end of the 120-day period. It should be noted that the information regarding executive officers required by Item 401 of Regulation S-K (§ 229.401 of this chapter) may be included in Part I of Form 10-K under an appropriate caption. See the Instruction to Item 401 of Regulation S-K (§ 229.401 of this chapter).
- (4) No item numbers or captions of items need be contained in the material incorporated by reference into the report. When the registrant combines all of the information in Parts I and II of this Form (Items 1 through 9A) by incorporation by reference from the registrant's annual report to security holders and all of the information in Part III of this Form (Items 10 through 14) by incorporating by reference from a definitive proxy statement or information statement involving the election of directors, then, notwithstanding General Instruction C(1), this Form shall consist of the facing or cover page, those sections incorporated from the annual report to security holders, the proxy or information statement, and the information, if any, required by Part IV of this Form, signatures, and a cross-reference sheet setting forth the item numbers and captions in Parts I, II and III of this Form and the page and/or pages in the referenced materials where the corresponding information appears.

H. Integrated Reports to Security Holders.

Annual reports to security holders may be combined with the required information of Form 10-K and will be suitable for filing with the Commission if the following conditions are satisfied:

- (1) The combined report contains full and complete answers to all items required by Form 10-K. When responses to a certain item of required disclosure are separated within the combined report, an appropriate cross-reference should be made. If the information required by Part III of Form 10-K is omitted by virtue of General Instruction G, a definitive proxy or information statement shall be filed.
- (2) The cover page and the required signatures are included. As appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the Form.
- (3) If an electronic filer files any portion of an annual report to security holders in combination with the required information of Form 10-K, as provided in this instruction, only such portions filed in satisfaction of the Form 10-K requirements shall be filed in electronic format.

I. Omission of Information by Certain Wholly-Owned Subsidiaries.

If, on the date of the filing of its report on Form 10-K, the registrant meets the conditions specified in paragraph (1) below, then such registrant may furnish the abbreviated narrative disclosure specified in paragraph (2) below.

- (1) Conditions for availability of the relief specified in paragraph (2) below.
 - (a) All of the registrant's equity securities are owned, either directly or indirectly, by a single person which is a reporting company under the Act and which has filed all the material required to be filed pursuant to section 13, 14, or 15(d) thereof, as applicable, and which is named in conjunction with the registrant's description of its business;
 - (b) During the preceding thirty-six calendar months and any subsequent period of days, there has not been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within thirty days, with respect to any indebtedness of the registrant or its subsidiaries, and there has not been any material default in the payment of rentals under material long-term leases;
 - (c) There is prominently set forth, on the cover page of the Form 10-K, a statement that the registrant meets the conditions set forth in General Instruction (I)(1)(a) and (b) of Form 10-K and is therefore filing this Form with the reduced disclosure format; and
 - (d) The registrant is not an asset-backed issuer, as defined in Item 1101 of Regulation AB (17 CFR 229.1101).

- (2) Registrants meeting the conditions specified in paragraph (1) above are entitled to the following relief:
- (a) Such registrants may omit the information called for by Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations provided that the registrant includes in the Form 10-K a management's narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most recent fiscal year presented and the fiscal year immediately preceding it. Explanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels such as unit sales volume, prices charged and paid, production levels, production cost variances, labor costs and discretionary spending programs. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or method of application that have a material effect on net income as reported.
 - (b) Such registrants may omit the list of subsidiaries exhibit required by Item 601 of Regulation S-K (§ 229.601 of this chapter).
 - (c) Such registrants may omit the information called for by the following otherwise required Items: Item 10, Directors and Executive Officers of the Registrant; Item 11, Executive Compensation; Item 12, Security Ownership of Certain Beneficial Owners and Management; and Item 13, Certain Relationships and Related Transactions.
 - (d) In response to Item 1, Business, such registrant only need furnish a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the registrant and its subsidiaries, and in response to Item 2, Properties, such registrant only need furnish a brief description of the material properties of the registrant and its subsidiaries to the extent, in the opinion of the management, necessary to an understanding of the business done by the registrant and its subsidiaries.

J. Use of this Form by Asset-Backed Issuers.

The following applies to registrants that are asset-backed issuers. Terms used in this General Instruction J. have the same meaning as in Item 1101 of Regulation AB (17 CFR 229.1101).

- (1) *Items that May be Omitted.* Such registrants may omit the information called for by the following otherwise required Items:
- (a) Item 1, Business;
 - (b) Item 1A, Risk Factors;
 - (c) Item 2, Properties;
 - (d) Item 3, Legal Proceedings;
 - (e) [RESERVED];
 - (f) Item 5, Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities;
 - (g) [RESERVED];
 - (h) Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations;
 - (i) Item 7A, Quantitative and Qualitative Disclosures About Market Risk;
 - (j) Item 8, Financial Statements and Supplementary Data;
 - (k) Item 9, Changes in and Disagreements With Accountants on Accounting and Financial Disclosure;
 - (l) Item 9A, Controls and Procedures;
 - (m) If the issuing entity does not have any executive officers or directors, Item 10, Directors and Executive Officers of the Registrant, Item 11, Executive Compensation, Item 12, Security Ownership of Certain Beneficial Owners and Management, and Item 13, Certain Relationships and Related Transactions; and
 - (n) Item 14, Principal Accountant Fees and Services.

(2) *Substitute Information to be Included.* In addition to the Items that are otherwise required by this Form, the registrant must furnish in the Form 10-K the following information:

- (a) Immediately after the name of the issuing entity on the cover page of the Form 10-K, as separate line items, the exact name of the depositor as specified in its charter and the exact name of the sponsor as specified in its charter. Include a Central Index Key number for the depositor and the issuing entity, and if available, the sponsor.
- (b) Item 1112(b) of Regulation AB;
- (c) Items 1114(b)(2) and 1115(b) of Regulation AB;
- (d) Item 1117 of Regulation AB;
- (e) Item 1119 of Regulation AB;
- (f) Item 1122 of Regulation AB; and
- (g) Item 1123 of Regulation AB.

(3) *Signatures.*

The Form 10-K must be signed either:

- (a) On behalf of the depositor by the senior officer in charge of securitization of the depositor; or
- (b) On behalf of the issuing entity by the senior officer in charge of the servicing function of the servicer. If multiple servicers are involved in servicing the pool assets, the senior officer in charge of the servicing function of the master servicer (or entity performing the equivalent function) must sign if a representative of the servicer is to sign the report on behalf of the issuing entity.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

OMB APPROVAL	
OMB Number:	3235-0063
Expires:	May 31, 2025
Estimated average burden hours per response	2,254.82

(Mark One)

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended _____
or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number _____

(Exact name of registrant as specified in its charter)

State or other jurisdiction of
incorporation or organization

(I.R.S. Employer
Identification No.)

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code _____

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered

Securities registered pursuant to section 12(g) of the Act:

(Title of class)

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
 Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.
 Yes No

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Exchange Act from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

Note.—If a determination as to whether a particular person or entity is an affiliate cannot be made without involving unreasonable effort and expense, the aggregate market value of the common stock held by non-affiliates may be calculated on the basis of assumptions reasonable under the circumstances, provided that the assumptions are set forth in this Form.

APPLICABLE ONLY TO REGISTRANTS INVOLVED IN BANKRUPTCY

PROCEEDINGS DURING THE PRECEDING FIVE YEARS:

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes No

(APPLICABLE ONLY TO CORPORATE REGISTRANTS)

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

DOCUMENTS INCORPORATED BY REFERENCE

List hereunder the following documents if incorporated by reference and the Part of the Form 10-K (e.g., Part I, Part II, etc.) into which the document is incorporated: (1) Any annual report to security holders; (2) Any proxy or information statement; and (3) Any prospectus filed pursuant to Rule 424(b) or (c) under the Securities Act of 1933. The listed documents should be clearly described for identification purposes (e.g., annual report to security holders for fiscal year ended December 24, 1980).

PART I

[See General Instruction G2]

Item 1. Business.

Furnish the information required by Item 101 of Regulation S-K (§ 229.101 of this chapter) except that the discussion of the development of the registrant's business need only include developments since the beginning of the fiscal year for which this report is filed.

Item 1A. Risk Factors.

Set forth, under the caption "Risk Factors," where appropriate, the risk factors described in Item 105 of Regulation S-K (§ 229.105 of this chapter) applicable to the registrant. Provide any discussion of risk factors in plain English in accordance with Rule 421(d) of the Securities Act of 1933 (§230.421(d) of this chapter). Smaller reporting companies are not required to provide the information required by this item.

Item 1B. Unresolved Staff Comments.

If the registrant is an accelerated filer or a large accelerated filer, as defined in Rule 12b-2 of the Exchange Act (§240.12b-2 of this chapter), or is a well-known seasoned issuer as defined in Rule 405 of the Securities Act (§230.405 of this chapter) and has received written comments from the Commission staff regarding its periodic or current reports under the Act not less than 180 days before the end of its fiscal year to which the annual report relates, and such comments remain unresolved, disclose the substance of any such unresolved comments that the registrant believes are material. Such disclosure may provide other information including the position of the registrant with respect to any such comment.

Item 2. Properties.

Furnish the information required by Item 102 of Regulation S-K (§ 229.102 of this chapter).

Item 3. Legal Proceedings.

- (a) Furnish the information required by Item 103 of Regulation S-K (§ 229.103 of this chapter).
- (b) As to any proceeding that was terminated during the fourth quarter of the fiscal year covered by this report, furnish information similar to that required by Item 103 of Regulation S-K (§ 229.103 of this chapter), including the date of termination and a description of the disposition thereof with respect to the registrant and its subsidiaries.

Item 4. Mine Safety Disclosures.

If applicable, provide a statement that the information concerning mine safety violations or other regulatory matters required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K (17 CFR 229.104) is included in exhibit 95 to the annual report.

PART II

[See General Instruction G2]

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

- (a) Furnish the information required by Item 201 of Regulation S-K (17 CFR 229.201) and Item 701 of Regulation S-K (17 CFR 229.701) as to all equity securities of the registrant sold by the registrant during the period covered by the report that were not registered under the Securities Act. If the Item 701 information previously has been included in a Quarterly Report on Form 10-Q or in a Current Report on Form 8-K (17 CFR 249.308), it need not be furnished.
- (b) If required pursuant to Rule 463 (17 CFR 230.463) of the Securities Act of 1933, furnish the information required by Item 701(f) of Regulation S-K (§229.701(f) of this chapter).
- (c) Furnish the information required by Item 703 of Regulation S-K (§229.703 of this chapter) for any repurchase made in a month within the fourth quarter of the fiscal year covered by the report. Provide disclosures covering repurchases made on a monthly basis. For example, if the fourth quarter began on January 16 and ended on April 15, the chart would show repurchases for the months from January 16 through February 15, February 16 through March 15, and March 16 through April 15.

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Furnish the information required by Item 303 of Regulation S-K (§ 229.303 of this chapter).

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Furnish the information required by Item 305 of Regulation S-K (§ 229.305 of this chapter).

Item 8. Financial Statements and Supplementary Data.

(a) File financial statements meeting the requirements of Regulation S-X (§ 210 of this chapter), except § 210.3-05, § 210.3-14, § 210.6-11, § 210.8-04, § 210.8-05, § 210.8-06 and Article 11 thereof, and the supplementary financial information required by Item 302 of Regulation S-K (§ 229.302 of this chapter). Financial statements of the registrant and its subsidiaries consolidated (as required by Rule 14a-3(b)) must be filed under this item. Other financial statements and schedules required under Regulation S-X may be filed as "Financial Statement Schedules" pursuant to Item 15, Exhibits, Financial Statement Schedules, and Reports on Form 8-K, of this form.

(b) A smaller reporting company may provide the information required by Article 8 of Regulation S-X in lieu of any financial statements required by Item 8 of this Form.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.

Furnish the information required by Item 304(b) of Regulation S-K (§ 229.304(b) of this chapter).

Item 9A. Controls and Procedures.

Furnish the information required by Item 307 and 308 of Regulation S-K (§229.307 and §229.308 of this chapter).

Item 9B. Other Information.

The registrant must disclose under this item any information required to be disclosed in a report on Form 8-K during the fourth quarter of the year covered by this Form 10-K, but not reported, whether or not otherwise required by this Form 10-K. If disclosure of such information is made under this item, it need not be repeated in a report on Form 8-K which would otherwise be required to be filed with respect to such information or in a subsequent report on Form 10-K.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

(a) A registrant identified by the Commission pursuant to Section 104(i)(2)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214(i)(2)(A)) as having retained, for the preparation of the audit report on its financial statements included in the Form 10-K, a registered public accounting firm that has a branch or office that is located in a foreign jurisdiction and that the Public Company Accounting Oversight Board has determined it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction must electronically submit to the Commission on a supplemental basis documentation that establishes that the registrant is not owned or controlled by a governmental entity in the foreign jurisdiction. The registrant must submit this documentation on or before the due date for this form. A registrant that is owned or controlled by a foreign governmental entity is not required to submit such documentation.

(b) A registrant that is a foreign issuer, as defined in 17 CFR 240.3b-4, identified by the Commission pursuant to Section 104(i)(2)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214(i)(2)(A)) as having retained, for the preparation of the audit report on its financial statements included in the Form 10-K, a registered public accounting firm that has a branch or office that is located in a foreign jurisdiction and that the Public Company Accounting Oversight Board has determined it is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction, for each year in which the registrant is so identified, must disclose:

(1) That, for the immediately preceding annual financial statement period, a registered public accounting firm that the PCAOB was unable to inspect or investigate completely, because of a position taken by an authority in the foreign jurisdiction, issued an audit report for the registrant;

(2) The percentage of shares of the registrant owned by governmental entities in the foreign jurisdiction in which the registrant is incorporated or otherwise organized;

(3) Whether governmental entities in the applicable foreign jurisdiction with respect to that registered public accounting firm have a controlling financial interest with respect to the registrant;

(4) The name of each official of the Chinese Communist Party who is a member of the board of directors of the registrant or the operating entity with respect to the registrant; and

(5) Whether the articles of incorporation of the registrant (or equivalent organizing document) contains any charter of the Chinese Communist Party, including the text of any such charter.

PART III

[See General Instruction G(3)]

Item 10. Directors, Executive Officers and Corporate Governance.

Furnish the information required by Items 401, 405, 406 and 407(c)(3), (d)(4) and (d)(5) of Regulation S-K (§ 229.401, § 229.405, § 229.406 and § 229.407(c)(3), (d)(4) and (d)(5) of this chapter).

Item 11. Executive Compensation.

Furnish the information required by Item 402 of Regulation S-K (§ 229.402 of this chapter) and paragraph (e)(4) and (e)(5) of Item 407 of Regulation S-K (§ 229.407(e)(4) and (e)(5) of this chapter).

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Furnish the information required by Item 201(d) of Regulation S-K (§ 229.201(d) of this chapter) and Item 403 of Regulation S-K (§ 229.403 of this chapter).

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Furnish the information required by Item 404 of Regulation S-K (§ 229.404 of this chapter) and Item 407(a) of Regulation S-K (§ 229.407(a) of this chapter).

Item 14. Principal Accountant Fees and Services.

Furnish the information required by Item 9(e) of Schedule 14A (§240.14a-101 of this chapter).

- (1) Disclose, under the caption Audit Fees, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10-Q (17 CFR 249.308a) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.
- (2) Disclose, under the caption Audit-Related Fees, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under Item 9(e)(1) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (3) Disclose, under the caption Tax Fees, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (4) Disclose, under the caption All Other Fees, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in Items 9(e)(1) through 9(e)(3) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (5) (i) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2-01 of Regulation S-X.

(ii) Disclose the percentage of services described in each of Items 9(e)(2) through 9(e)(4) of Schedule 14A that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2-01 of Regulation S-X.
- (6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

PART IV

Item 15. Exhibit and Financial Statement Schedules.

- (a) List the following documents filed as a part of the report:
 - (1) All financial statements;
 - (2) Those financial statement schedules required to be filed by Item 8 of this form, and by paragraph (b) below.
 - (3) Those exhibits required by Item 601 of Regulation S-K (§ 229.601 of this chapter) and by paragraph (b) below. Identify in the list each management contract or compensatory plan or arrangement required to be filed as an exhibit to this form pursuant to Item 15(b) of this report.
- (b) Registrants shall file, as exhibits to this form, the exhibits required by Item 601 of Regulation S-K (§ 229.601 of this chapter).
- (c) Registrants shall file, as financial statement schedules to this form, the financial statements required by Regulation S-X (17 CFR 210) which are excluded from the annual report to shareholders by Rule 14a-3(b) including
 - (1) separate financial statements of subsidiaries not consolidated and fifty percent or less owned persons;
 - (2) separate financial statements of affiliates whose securities are pledged as collateral; and
 - (3) schedules.

Item 16. Form 10–K Summary.

Registrants may, at their option, include a summary of information required by this form, but only if each item in the summary is presented fairly and accurately and includes a hyperlink to the material contained in this form to which such item relates, including to materials contained in any exhibits filed with the form.

Instruction: The summary shall refer only to Form 10-K disclosure that is included in the form at the time it is filed. A registrant need not update the summary to reflect information required by Part III of Form 10-K that the registrant incorporates by reference from a proxy or information statement filed after the Form 10-K, but must state in the summary that the summary does not include Part III information because that information will be incorporated by reference from a later filed proxy or information statement involving the election of directors.

SIGNATURES

[See General Instruction D]

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant) _____

By (Signature and Title)* _____

Date _____

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By (Signature and Title)* _____

Date _____

By (Signature and Title)* _____

Date _____

Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act

(a) Except to the extent that the materials enumerated in (1) and/or (2) below are specifically incorporated into this Form by reference, every registrant which files an annual report on this Form pursuant to Section 15(d) of the Act must furnish to the Commission for its information, at the time of filing its report on this Form, four copies of the following:

- (1) Any annual report to security holders covering the registrant’s last fiscal year; and
- (2) Every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant’s security holders with respect to any annual or other meeting of security holders.

(b) The foregoing material shall not be deemed to be “filed” with the Commission or otherwise subject to the liabilities

of Section 18 of the Act, except to the extent that the registrant specifically incorporates it in its annual report on this Form by reference.

- (c) If no such annual report or proxy material has been sent to security holders, a statement to that effect shall be included under this caption. If such report or proxy material is to be furnished to security holders subsequent to the filing of the annual report of this Form, the registrant shall so state under this caption and shall furnish copies of such material to the Commission when it is sent to security holders.

SCOTT D. KELLY
MARK A. CHRISTENSEN
RICHARD P. GARDEN, JR.
SUSAN K. SAPP
KEVIN J. SCHNEIDER
ROCHELLE A. MULLEN
TRENTEN P. BAUSCH
MICHAEL C. PALLESEN
RICHARD P. JEFFRIES
TRACY A. OLDEMEYER
TRENT R. SIDDEES
ANDRE R. BARRY
DAVID J. ROUTH
JASON R. YUNGTUM
MEGAN S. WRIGHT
THERESA D. KOLLER
AUSTIN L. MCKILLIP
KEITH T. PETERS
ANDREW R. WILLIS
TARA A. STINGLEY
SEAN D. WHITE
MICHELLE L. SITORIUS
MICHAEL J. WHALEY
RUSSELL J. SPRAGUE
RENEE A. EVELAND
HENRY L. WIEDRICH
DANIEL W. OLDENBURG
ADAM W. BARNEY
GREGORY S. FRAYSER
JENNIE A. KUEHNER
TRAVIS W. TETTENBORN
BEAU B. BUMP

CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.

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KATIE A. JOSEPH
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JOHN F. ZIMMER, V
NATHAN D. CLARK
PAUL B. DONAHUE
ALISON JANECEK BORER
SYDNEY M. HUSS
BRITTNEY M. HOLLEY
ISAIAH J. FROHLING
CHRISTOPHER B. GREENE
JESSICA K. ROBINSON
AARON N. GOODMAN
STEPHEN E. GEHRING
L. BRUCE WRIGHT
ROBERT J. ROUTH
DAVID R. BUNTAIN
JOHN C. MILES
THOMAS C. HUSTON
DON R. JANSSEN
GARY R. BATENHORST
RICHARD A. SPELLMAN
DAVID O. COLVER†
DONALD F. BURT (INACTIVE)
STEPHEN H. NELSEN (INACTIVE)
TERRY R. WITTLER (INACTIVE)

†ATTORNEYS ADMITTED IN COLORADO ONLY

September 23, 2022

VIA EMAIL

Nebraska Department of Health and Human Services
DHHS Public Records Office
DHHS.PublicRecords@nebraska.gov

Re: Request for Proposal Number 112209 O3

Dear sir or madam:

Pursuant to Neb. Rev. Stat. § 84-712, *et seq.*, we ask that you provide the following records, or copies of the same, related to DHHS Request for Proposal No. 112209 O3 (the "RFP"):

1. The complete procurement file for the RFP, including but not limited to the following—
 - a. All bids, replies, responses, proposals, best and final offers, clarification requests, and other documents submitted in response to the RFP, together with all exhibits and attachments to those documents.
 - b. All instructions and training materials provided for purposes of evaluating RFP proposals.
 - c. All questions posed by bidders or potential bidders, and all answers to questions from bidders or potential bidders.
 - d. All transcripts, emails, instant messages, chats (e.g., Teams chats), notes, memos, spreadsheets, slides, or other documents created, reviewed, or relied upon in connection to

EXHIBIT

C

12910 PIERCE STREET
SUITE 200
OMAHA, NE 68144-1105
(402) 397-1700

1207 M STREET
P.O. BOX 510
AURORA, NE 68818
(402) 694-6314

215 MATHEWS STREET
SUITE 300
FORT COLLINS, CO 80524
(970) 221-2637

131 W. EMERSON STREET
HOLYOKE, CO 80734
(970) 854-2264

communications with bidders or potential bidders or the evaluation of bids or proposals.

- e. All evaluations, scoring sheets, rankings, notes, analyses, and other documents used in evaluation of proposals, together with all evaluator entries or comments for all bidders both before and after oral presentations.
 - f. All documents used by any bidder in connection with the oral presentations conducted by DHHS.
 - g. Documents sufficient to show all individuals who served on the RFP evaluation committee or who served as consultants or advisers in connection with the award of contract(s) pursuant to the RFP.
 - h. All communications by or with bidders or potential bidders maintained as part of the file.
 - i. All communications by or with employees of the State of Nebraska or its consultants regarding the procurement.
 - j. All intents to award or award notices that have been issued.
 - k. All contracts (and drafts thereof) that have been drafted or executed.
2. All recorded communications and other documents (including correspondence, emails, text messages, instant messages, chats, messages sent using social media, and audio or video files) exchanged between those who evaluated responses to the RFP and those who submitted responses to the RFP.
 3. All recorded communications and other documents (including correspondence, emails, text messages, instant messages, chats, messages sent using social media, and audio or video files) exchanged between DHHS and bidders or potential bidders relating to the RFP.
 4. All recorded communications (including correspondence, emails, text messages, instant messages, chats, messages sent using social

media, and audio or video files) exchanged between and among the persons involved in scoring the RFP proposals and/or selecting the final awardees.

5. All communications between elected or appointed officials, or representatives of elected or appointed officials, and DHHS that relate to the RFP, responses to the RFP, or any person who responded to the RFP.
6. All documents constituting, summarizing, or otherwise describing or discussing negotiations related to the RFP.
7. All documents that DHHS or its representatives provided to any person who responded to the RFP in connection with the RFP.
8. All documents, whether created by DHHS or any other party, that refer or relate to any irregularities with respect to the RFP process or the evaluation of responses to the RFP. For purposes of this request, “irregularities” include (a) all deviations from the evaluation process set out in the RFP; (b) all deviations from statutory requirements, administrative rules or procurement policy with respect to the evaluation of responses to the RFP; (c) any actual or potential bias by anyone involved in the evaluation process; (d) any acts or communications that relate to any appearance of impropriety by anyone involved in the evaluation process; and (e) any effort to influence the evaluators by means not consistent with the procedures set out in the RFP.
9. Any bid protests and responses thereto submitted in connection with the procurement.
10. All documents produced to any other bidder in connection with the procurement.

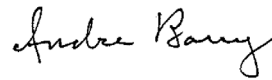
In construing the requests above, the terms “and” and “or” should be read broadly to make the requests inclusive rather than exclusive. If items listed in paragraphs 1a – j exist but are not maintained as part of an official file, they are nonetheless requested and should be produced.

Nebraska DHHS
September 23, 2022
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Pursuant to Neb. Rev. Stat. § 84-712(4), these records should be produced as soon as possible and without delay, but not more than four business days after receipt of this request. If the entire request cannot be fulfilled within four business days, we respectfully ask you to notify us as soon as possible, together with a statement of the earliest practicable date by which the request can be fulfilled. In any event, we believe the entire file, as requested in # 1, above, should be available and produced within the four days set forth in statute.

Thank you for your prompt attention to this request

Very truly yours,



Andre R. Barry
For the Firm