



Maryland Health Benefit Exchange Board of Trustees

June 19, 2017

1:00 PM – 3:00 PM

Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Board Members Present

Dennis Schrader, Chair
Tony McCann, Vice Chair
Michelle Gourdine, M.D.
Ben Steffen

Sastry Dhara
Tom Saquella
Linda Sue Comer

Board Members Absent

Al Redmer

Ken Apfel

Also in Attendance

Dr. Howard Haft, MHBE Acting Executive Director; Michele Eberle, MHBE Chief Operating Officer; Venkat Koshanam, MHBE Chief Information Officer; Andrew Ratner, MHBE Chief Marketing Officer; Anthony Armiger, MHBE Director of Finance; Caterina Pañgilinan, MHBE Chief Compliance Office; Sharon Street, Assistant Attorney General for MHBE; Juliana Bell, Assistant Attorney General for MHBE; Trevor Coe, Assistant Attorney General for MHBE; Michelle Compton, MHBE Procurement Manager; Subramanian Muniasamy, Chief Technology Officer, Department of Human Resources

Executive Update

Dr. Howard Haft, MHBE Acting Executive Director

Dr. Haft discussed factors that would likely affect Qualified Health Plan (“QHP”) enrollment moving forward, including: rate increases, uncertainty regarding the potential elimination of Cost-Sharing Reductions (“CSR”), and a lack of enforcement of the individual mandate. Dr. Haft announced that CareFirst has decided as of January 1, 2018 to eliminate producer commissions in the individual market. Additionally, Cigna has decided to leave the individual market. Evergreen has successfully converted to a for-profit entity and is applying to offer plans on the Exchange for 2018; however, their application has not yet been finalized or approved. MHBE is making preparations and contingency plans for the shortened open enrollment period this year with a sense of urgency.

MHBE's Medicaid Managed Care Organization ("MCO") shopping program continues to move along on schedule and on budget. MHBE is also moving forward on its Salesforce CRM conversion, which will improve MHBE's ability to work with constituents. An updated, accurate, and efficient health care provider directory is also in the process of being created for the Exchange.

The terms for two Board members – Mr. Apfel and Mr. Saquella - have expired. They will remain active until the Board has found successors, whom the Board is actively recruiting. MHBE is also actively recruiting new members for the Standing Advisory Committee ("SAC"). Lastly, the Board continues to search for a permanent Executive Director to succeed Dr. Haft at the agency.

Approval of Meeting Minutes

May 15, 2017 Open Session:

Motion by Mr. Steffen; Second by Mr. Saquella; None Opposed

Approval of 2018 Board Meeting Dates

Motion by Ms. Comer; Second by Mr. Steffen; None Opposed

Software Procurement Update

Venkat Koshanam, MHBE Chief Information Officer

Michelle Compton, MHBE Procurement Manager

FY 2018 IDIQ NTE Approval Request

Mr. Koshanam presented IT procurement approval requests for an Indefinite Quantity, Indefinite Delivery ("IDIQ") Master Contract for 2018 Not-to-Exceed ("NTE") \$18,000,000 and for software and hardware license renewals. The Master Contract has been in place since 2015 with 45 approved vendors for 4 major labor categories: PMO Resources, System Support, Enhancements, and Maintenance. Staff will present a request for an NTE increase next month for the MCO Shopping and Salesforce CRM projects, both of which are not accounted for in this NTE.

Mr. Dhara suggested that MHBE consider moving toward firm fixed pricing in place of the IDIQ. The Board, Mr. Koshanam, and Mr. Compton briefly discussed the idea, as well as specifics of the IDIQ NTE request. Chair Schrader recommended discussing further at a future meeting.

Mr. McCann motioned to approve the NTE request. Mr. Dhara seconded. All in favor, none opposed.

Software/Hardware License Renewal Request

Staff previously presented to the Board regarding license renewals for Corticon, Tibco, and Salesforce at the June 2017 meeting, but did not have an exact dollar amount for the NTE at the time. Mr. Koshanam presented an additional request for a one-time increase to the license NTE to add additional storage area network disk space. The total NTE approval request is \$1,412,186.96.

Ms. Compton provided further information on the procurement methodology used for each of the aforementioned solutions as well as for Conduent to obtain the additional 100 TB of disk space. The Board and MHBE Staff discussed specifics of the request and MHBE's potential future approach to such procurements. Mr. Dhara suggested considering the procurement of more open-

source products. Mr. Muniasamy added that the MD Think campaign is working closely with MHBE on these procurements in an effort to leverage resources statewide by creating a common platform, increase efficiency through economies of scale, and decrease costs for MHBE.

Mr. Steffen motioned to approve the NTE request. Mr. Dhara seconded. All in favor, none opposed.

Consolidated Service Center Award

Michele Eberle, MHBE Chief Operating Officer

Ms. Eberle presented an update and recommendation for the Request for Proposal (“RFP”) for MHBE’s Consolidated Services Center (“CSC”) contract. Ms. Eberle reviewed the CSC RFP process and outcome. MHBE performed a final review and gave a recommendation for an awardee on June 6 and issued an award letter pending Board approval on June 9, 2017. The evaluation panel unanimously recommended awarding the contract to Maximus for 2 years with 3 optional 1-year extensions, and with a flat operational fee and fixed unit price per call fee, for a total FY18 NTE of \$26,120,000.00.

The Board and Ms. Eberle discussed specifics of the award, including budgetary questions.

Mr. McCann motioned to approve the NTE request. Mr. Dhara seconded. All in favor, none opposed.

Budget Update

Anthony Armiger, MHBE Director of Finance

Mr. Armiger presented and explained the budget and allocations for FY18. Mr. McCann stated that, because MHBE is now running on a regular budget routine, the Board should not need a quarterly briefing unless something is running significantly over or under budget. Mr. Armiger answered additional questions from the Board regarding the budget.

Compliance Update

Caterina Pañgilinan, MHBE Chief Compliance Office

Ms. Pañgilinan provided an update on the conclusion of MHBE’s FY16 individual and programmatic external audits. One prior finding regarding segregation of journal duties has since been resolved with a plan to implement new procedures prior to the next SMART review by CCIIO. The programmatic audit produced 2 findings. The first is that some consumers were not required to answer questions about their incarceration status. MHBE identified and corrected the issue in February, so no further action is required. The second is that some consumers who did not ask for enrollment were nevertheless enrolled. MHBE is performing a root cause analysis and will implement internal controls to ensure the issue does not occur and that consumers are not being required to pay premiums as a result of any such errors.

MHBE has fulfilled its duty to complete the audits and cleared findings from last year. A summary and report of the audit findings and compliance efforts are now available publicly through the

website. Mr. McCann inquired about a third finding regarding plan certification. Ms. Pañgilinan responded that MHBE cleared that finding and others last year. Mr. McCann asked how many total findings MHBE is working on at the moment. Ms. Pañgilinan responded roughly 11-15, including those found through last year's Privacy Impact Assessment ("PIA"), primarily related to internal controls. MHBE is in the process of adding language regarding those controls to their privacy notice and procedures and including those in the FY18 PIA, which is due June 30. Compliance will report back to the Board in September about the status of the findings.

Closed Meeting

Chair Schrader solicited a motion to move into closed session for the purpose of consulting with counsel to obtain legal advice regarding a pending protest of a grant award, pursuant to General Provisions Art., § 3-305(b)(7). Mr. McCann so moved. Mr. Dhara seconded the motion. All in favor, none opposed. Thereafter, the meeting moved into closed session at 2:10 pm.

The Board returned from closed session and resumed open session at 2:40pm. Chair Schrader announced that, during the closed session, the Board reviewed and approved closed meeting minutes from April 17, 2017, May 3, 2017, and May 17, 2017, and received legal advice about a pending protest of a grant award. The Board was joined by Dr. Gourdine. Also present were Sharon Street, Assistant Attorney General for MHBE, and Cynthia Wilson, Executive Assistant to the Executive Director.

Connector Entity Procurement Award

Michele Eberle, MHBE Chief Operating Officer

Ms. Eberle presented a Connector Entity ("CE") grant approval request for the Board's consideration. MHBE recommended renewal of 6 of 8 CE grants for the Far West (AHEC West), Central (HCAM), Capital North (Montgomery County Government), Capital South (Prince George's County Department of Social Services), Upper Shore (Seedco), and Lower Shore (Worcester County Health Department) regions.

Mr. Steffen motioned to approve the 6 grants for renewal. Mr. McCann seconded the motion. All in favor, none opposed.

Ms. Eberle announced that Healthy Howard did not reapply for grants this year for their 2 regions – Southern and Midwest. Ms. Eberle presented the Request for Application ("RFA") process that MHBE undertook to find a new awardee for those regions. After careful consideration and review of all submitted application documents, the evaluation committee recommended Seedco as the grantee for both regions based on overall value and proven effectiveness of Navigator program activities, especially in rural areas. The award is effective July 1, 2017 - June 30, 2018 with a 1 year option for grant extension, in the amount of \$842,800.00 for the Midwest region and \$519,400 for the Southern region. Ms. Eberle requested that the Board vote on the award.

Due to a pending protest by HCAM of the recommended grant award to Seedco, the Board and Staff discussed the CE RFA grant evaluation process, including the composition and decision-making process used by the evaluation committee; the Board's options for approving, denying, or deferring the award; and the performance of both bidders as current CEs for other regions. Ms.

Eberle was joined by Ms. Compton and Juliana Bell, Assistant Attorney General for MHBE, to answer the Board's grant evaluation and legal questions regarding offering the award as a grant through an RFA process rather than a contract through an RFP process.

Chair Schrader invited Traci Kodeck, CEO of Health Care Access Maryland ("HCAM"), and John Dougherty, Kramon and Graham, Counsel for HCAM, to present HCAM's protest. Mr. Dougherty and Ms. Kodeck provided background information regarding HCAM, including their current role as CE with MHBE. HCAM applied for the grant and contends that they should have received the award on the basis of HCAM's performance as a current CE, HCAM's relationship with local Navigators, that HCAM has taken over financial management responsibilities for Health Howard, that HCAM is a Maryland-based nonprofit entity while Seedco is a for-profit company based in New York, and that, in its application, HCAM proposed to take only 10% of the allotted 15% of the grant on administrative overhead expenses, so more money would be available for the Navigator program. Ms. Kodeck requested that the Board reconsider the award.

Chair Schrader and other members of the Board noted that the Board may re-evaluate the procurement process, but generally relies upon the judgment of MHBE staff. Chair Schrader inquired whether HCAM contended that the evaluation committee process deviated from MHBE policy. Mr. Dougherty responded in the negative, but noted his positions that the MHBE process does not provide an opportunity for discovery and that HCAM should receive the award based on a qualitative assessment. Seedco was not in attendance to provide a response.

Chair Schrader and Mr. Steffen inquired whether there would be any irreparable injury if the grant award were delayed. Mr. Dougherty responded that HCAM is willing to work with staff as expeditiously as necessary and that, oftentimes, in these situations a grant will be extended until the successor comes on board. Ms. Eberle added that there would be gaps in Navigator assistance, as the grants end on June 30. Given the upcoming shortened open enrollment period, MHBE wants to stay on track and not lose any preparation time or seasoned Navigators. Dr. Haft thanked HCAM for its contributions to the Exchange and expressed his hope that consumer assistance services would continue uninterrupted.

Mr. McCann asked if a mechanism to extend the current grant exists if the Board wanted to delay the award. Ms. Bell replied that, under the current grant, existing funding cannot be extended, and that she is not prepared to answer whether the grant language could be amended at this point. Ms. Eberle added that Healthy Howard might not be prepared to extend their services because they are in the process of winding down operations.

Mr. McCann then asked whether the difference in proposed administrative costs between applicants factored into the award decision, and whether there were other offsetting factors considered. Ms. Eberle responded that the Exchange's expectation is that as much money as possible will go to Navigators, that the administrative costs are capped at 15%, and that those costs were considered in the decision. Additionally, the evaluation committee considered the applicants' relationships in the community, including how effectively they support Navigators, Application Counselor Sponsoring Entities, and Certified Application Counselors. The Board and staff continued discussion of the merits of the applicants and the factors considered in the evaluation.

Mr. McCann and Mr. Steffen expressed support for postponing the decision for a week so the Board and staff may fully evaluate the award recommendation. Mr. Dhara recommended a future discussion about evaluation committee operations.

Ms. Bell advised that the Board could allow the award, and the protest would move forward formally under Exchange policy. An award is appealable to the Board. Because grant evaluations are based solely on the parameters of the RFA, the Board would have to decide whether additional factors should be included in the RFA and the Best and Final Offer (“BAFO”), and reevaluate the applications. Another option is to issue a new solicitation and start over. Chair Schrader, Mr. McCann, Mr. Dhara, Ms. Bell, Ms. Eberle, and Dr. Gourdine, engaged in further discussion.

Mr. McCann motioned to award the grant for the Connector Entity for the Southern and Midwest Regions to Seedco, as recommended by staff. Dr. Gourdine seconded the motion.

Mr. Dhara reiterated his recommendation that MHBE review and reconsider how procurement committees are constituted. Mr. McCann recommended that staff put together a proposal for a revised grant application evaluation process. Mr. Steffen emphasized the need for due process and that approving an award does not eliminate the protestor’s right to appeal.

The Board held a roll-call vote to award the grant as follows:

Mr. Dhara – No
Mr. Steffen – No
Chair Schrader – Yes
Dr. Gourdine – Yes
Mr. McCann – Yes
Mr. Saquella – Yes
Ms. Comer – No Response

Chair Schrader stated that the Board had voted to grant the award and the motion had carried. The motion in fact failed with only 4 affirmative votes and the award was not granted. *See* Md. Code, Ins. § 31-104(h)(3).

Mr. Steffen motioned to adjourn. Mr. Dhara seconded the motion. All in favor, none opposed. The meeting was adjourned at 4:00pm.

