

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR**

**ACTION REFERRAL**

TO <i>Single for</i>	DATE <i>9-22-08</i>
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<b>DIRECTOR'S USE ONLY</b>	<b>ACTION REQUESTED</b>
1. LOG NUMBER <i>300153</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Hs. For Karen Duggs</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

# Capitol

Consultants, Inc.

RECEIVED

SEP 19 2008

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

September 19, 2008

Ms. Emma Forkner  
Director  
South Carolina Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202

Log: Singleton  
i: EF, hps  
N/A

Hand Delivered to Director Forkner

Mailed to Mr. Hanbey

Mr. Sam Hanbey, CPPM, APM  
Procurement Officer  
Information Technology Management Office  
4430 Broad River Road  
Columbia, SC 29210

Dear Director Forkner and Mr. Hanbey:

I, along with a consultant team, have been working with a company that has a strong interest in SC Solicitation #5400000468 to provide Pharmacy Benefits Administration for South Carolina's Medicaid population and certain special coverage groups. This company has over 34 years of experience with Pharmacy Benefits Services Administration and has proven success in generating significant cost savings in the Medicaid Fee-for-Service program in other states.

Much to our dismay, this company called yesterday and is seriously considering withdrawing from this RFP competition in South Carolina based on what we feel are several unrealistic requirements imposed by the Department of Health and Human Services. Specifically, the compressed timeframe of 4 ½ months for Design, Development, and Implementation is shorter than the industry average of 6-8 months for a project of this scope. An official request by this company to extend the timeline for DDI was denied.

Additionally, several requirements, a Bid Bond of 5% and a Performance Bond of 25%, were added subsequent to the initial release of the Request for Proposals. In today's bond market, what could translate into a \$1.5 - \$2.5 million performance bond requires personal guarantees by ownership. A performance bond per se is not problematic, but a new requirement at such a high level at this stage in the competition certainly is. Unfortunately, a request to allow an Irrevocable Letter of Credit (ILOC) in lieu of the Performance Bond was not an option. An ILOC can mitigate some of the disadvantages of having to go to the bond insurance market.

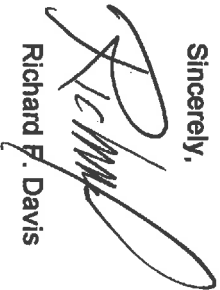
It appears that the RFP released by the Department contains an unintentional bias toward the incumbent. The state forfeits potentially tens of millions of dollars in savings because the process does not represent a truly competitive environment.

To avoid any misunderstanding, we believe some of the constraints within the RFP limit the competitive environment, again, creating a unintentional bias to the incumbent.

This is a very serious situation that needs to be more open, competitive and not written in a manner that allows one vendor an advantage over another. It simply needs attention and improvement. The opportunity to generate the greatest value for South Carolina is at hand, so I am available to meet or speak with you at your earliest convenience.

We are not suggesting that anyone purposely wrote it to advantage the incumbent. We are going to maintain that it gives the incumbent a huge advantage and creates an unfair environment for my client and others who wish to participate in this type bidding. We are convinced that this matter needs immediate and further review before the proposals are due on Thursday, September 25, 2008. Thank you for letting me bring this to your attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard F. Davis', written in a cursive style.

Richard F. Davis

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

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2. DATE SIGNED BY DIRECTOR  <i>cc: Ms. Forbush, Dept</i> <i>4</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <input type="checkbox"/> FOIA DATE DUE _____ <input checked="" type="checkbox"/> Necessary Action

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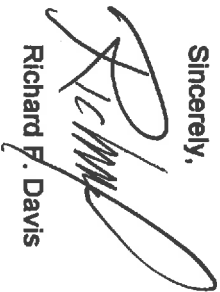
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