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Feedback on 2023 CMS Draft MA Bid Instructions

Appendix B (Section 13.4 and 13.5, page 97) - Supporting Documentation for Related Parties:

The draft 2023 bid instructions require MAOs to declare and provide supporting documentation for each related party if the ratio of the total related party expenses on Worksheet 4 (cell M100 plus cell M101) to the total revenue requirement on Worksheet 4 (cell H108) is greater than 10%.

We acknowledge that these new requirements were drafted with the intent to provide more clarity and reduce the overall workload in regards to collecting and reviewing supporting documentation for related parties. However, the changes to the draft 2023 bid instructions do raise other questions and concerns, which we have outlined below:

1. The requirement of providing related party documentation when the aggregate related party costs exceed 10% of the revenue requirement does not take into account the magnitude and financial impact of each the individual related party cost that are part of the total related party expenses reported in Worksheet 4 (cell M100 plus cell M101).

For instance, the difference between an MAO with a total related party expense to revenue ratio of 9.9% and an MAO with a total related party expense to revenue 10.1% is only 0.2% and a fairly immaterial impact on pricing. However, given the guidance of the draft 2023 bid instructions, the MAO with a related party expense to revenue requirement ratio of 10.1% would be required to bear the heavy burden of submitting all the required documentation whereas the MAO with a related party expense to revenue requirement ratio of 9.9% would not be subject to the same expectation.

We outline a few proposals below that would help remedy the situation:

a. The requirements for providing support for related parties could be limited to the top five largest related party arrangements for each MAO.

b. The threshold for providing supporting documentation for related party expenses could be based on the ratio of all costs within an individual related party arrangement to the total revenue requirement. We believe a reasonable threshold for this assessment of each individual arrangement would be 2%.

Both of these proposals would result in reducing the overall workload for MAOs and bid reviewers by focusing the support and review of related party agreements to only those with material financial impact on bid pricing.

2. Additionally, the requirement for providing related party documentation also does not consider the MAOs investment into the related party organization. For example, an MAO's investment and ownership of a related party may be very small, but the burden of collecting the documentation required can be very large. We agree that disclosing each of these arrangements is appropriate, however would propose to only provide cost documentation if the organization has more than a 10% ownership and also meets the 2% of total required revenue outlined in #1.

3. In section 13 of Appendix B, the draft MA bid instructions refer to Worksheet 4 of the BPTs, which is focused on the projection period. Is the requirement for providing related party documentation that is described in section 13 of Appendix B only applicable and needed for the projection period?