November 29, 2006

REQUEST FOR PROPOSALS
TO PROVIDE CONSULTING SERVICES

ISSUED BY THE
COMMISSION ON GOVERNMENT FORECASTING AND ACCOUNTABILITY
Springfield, Illinois

Proposals due December 13, 2006
(No later than 4:30 p.m. CST)

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REQUEST FOR PROPOSALS (RFP)
TO PROVIDE CONSULTING SERVICES
TO THE COMMISSION ON GOVERNMENT FORECASTING AND ACCOUNTABILITY

Overview. The Commission on Government Forecasting and Accountability (the "CGFA") is seeking proposals to provide the CGFA with consulting services.

The CGFA, which is a bipartisan, joint legislative commission that provides the Illinois General Assembly with information on various topics, is seeking the proposals based on the recommendation of its Commission members. At the Commission's November 29, 2006 meeting, in responding to House Resolution 1497, the Commission recommended that the CGFA contract with an objective third party consultant to conduct a comprehensive evaluation of the Illinois Health Facilities Planning Act, including a review of the performance of the Illinois Health Facilities Planning Board, to determine if it is meeting the goals and objectives that were originally intended in the enactment of the law and the establishment of the Board. The analysis shall include a review of the law as it has been amended along with the Board policies and procedures that have been revised since that time, with special consideration for its affect on controlling unnecessary and excessive capital expenditures that may be contributing to health care inflation. The consultant shall, in consultation with the Commission, determine the criteria, standards, and procedures for this independent evaluation. The consultant must conduct an objective analysis of the impact of the "Certificate of Need" program since its inception 32 years ago.

Details of this RFP, including the scope of services sought and information requested from respondents, follows. The CGFA reserves the right to reject any and all proposals, waive any irregularities of proposals, request clarification or additional information from any respondents and enter into any agreement as it may determine. This RFP is not subject to the provisions of the Illinois Procurement Code. This RFP is available online at www.ilga.gov/commission/cgfa/cgfa_home.html Questions about this RFP may be directed to Dan Long, CGFA, (217) 782-5320 or dlong@ilga.gov.

Proposals Due. Proposals must be received no later than 4:30 p.m. (Central Standard Time) December 13, 2006. Eight copies, including one unbound copy, of each proposal shall be sent to the attention of Dan Long, Executive Director, Commission on Government Forecasting and Accountability, 703 Stratton Office Building, Springfield, Illinois 62706. If available, a copy of each proposal also may be submitted on a CD. Proposals shall address all information requested in this RFP and shall be limited to 25 pages including any appendices.

Please notify the CGFA of your intent to respond to this RFP at your earliest convenience, via email to Dan Long at dlong@ilga.gov.

Scope of Services and Contract Terms. As noted above, the CGFA is requesting proposals upon the recommendation of the Commission. The members of the Commission recommended that the CGFA hire an independent consultant to conduct a comprehensive evaluation of the Illinois Health Facilities Planning Act, including a

review of the performance of the Illinois Health Facilities Planning Board, to determine if it is meeting the goals and objectives that were originally intended in the enactment of the law and the establishment of the Board. The analysis shall include a review of the law as it has been amended along with the Board policies and procedures that have been revised since that time, with special consideration for its affect on controlling unnecessary and excessive capital expenditures that may be contributing to health care inflation. The consultant shall, in consultation with the Commission, determine the criteria, standards, and procedures for this independent evaluation. The consultant must conduct an objective analysis of the impact of the "Certificate of Need" program since its inception 32 years ago. The Commission asks that the consultant use any and all current and available data from CGFA and other sources to implement this study. Specifically, services to be provided to the CGFA by the consultant shall include, but are not limited to, the following:

- If requested, meet in person or via telephone with staff of the CGFA and legislative staffs as needed.

- The CGFA expects to select a consultant by December 22, 2006, and under the terms of the contract expects to require completion of the consultant's report by February 15, 2007, however, the completion date may be revised based on discussions with the selected vendor.

- Contract terms will include certifications by the consultant as required by Illinois state law, including but not limited to, certifications regarding compliance with non-discrimination requirements; anti-bribery, conflicts of interest, revolving-door prohibition and prohibitions against bid-rigging and bid-rotating. Payment under the contract will be subject to appropriation of funds by the Illinois General Assembly. The contract must include the consultant's agreement not to accept other clients or work during the term of the CGFA contract which, in the reasonable opinion of CGFA, may create a material conflict of interest with the work under the CGFA contract.

  Response to RFP. All responses to this RFP must respond to the following questions in full. Additional information may be included in responses within the page limits.

  1. **Identification and ownership of firm.** Briefly describe your firm or organization, including the types of work or services provided; identify the headquarters of the firm and its location and any additional offices and their locations, with the total number of staffers at each location. Identify by name the owners, including beneficial owners, of the firm. Briefly describe the background of principal owners or leaders of the firm.

  2. **Experience of Firm and Assigned Personnel.** Describe the work experience and background of the firm and key personnel who would be assigned to the CGFA contract (including the day-to-day contact person,

supervisor and staff, with estimates of the percentage of each person's total work time that would be devoted to the CGFA contract over the period of contract inception through completion of the report. Provide particular detail on experience related to federal mandatory health planning laws and "Certificate of Need" laws. State whether the firm and assigned personnel has had any experience relating to the State of Illinois Health Facilities Planning Board and Illinois Health Facilities Planning Act and describe any such experience in detail. Describe any experience relating to other states' "Certificate of Need" laws. State whether the firm and any assigned personnel has had prior experience with or is currently serving any governmental agency in the State of Illinois or any other private entity or organization with a substantial presence in the State of Illinois; and describe the nature and extent of such work.

3. **Potential Conflicts of Interest.** State whether the firm believes any of its prior or current work would present a potential conflict of interest with the CGFA contract, and if so, whether the firm agrees to terminate any current work which, in the reasonable opinion of the CGFA, would present a potential conflict of interest with the CGFA contract. (Note, see contract terms regarding conflict of interest above.)

4. **Investigations/Litigation.** Indicate whether the firm or any of its principal owners are currently involved or have been involved within the past five years in any criminal or regulatory investigation or material litigation. Briefly describe any such investigation or litigation and any resolution.

5. **References.** Provide at least three references familiar with the work of primary assigned personnel, including contact names and telephone numbers.

6. **Work Approach.** Describe any personal philosophy or beliefs on the role of federal mandatory health planning laws, "Certificate of Need" laws, the Illinois Health Facilities Planning Act or the Illinois Health Facilities Planning Board held by principal owners or leaders of the firm and primary assigned personnel. Describe the approach the firm would take to fulfilling the CGFA contract, including identification of any critical information or factors that should be considered in complying with the provisions detailed in the scope of work section of this RFP and in relation to the content included in House Resolution 1497 attached heretofore as Appendix A. Confirm that if selected, the firm would agree to meet the contract terms identified above.

7. **Fees.** Propose the fees you would charge if selected. Note, CGFA will not pay any separate charges for any expenses, including any travel, telephone or office or delivery charges. Fees may be proposed as a not-

to-exceed lump sum or on an hourly or other basis; but if on an hourly or other basis, the firm must propose a maximum charge that will not be exceeded.

Evaluation of Proposals. CGFA will evaluate proposals on a variety of factors, including but not limited to the experience of the firm and assigned personnel relating to federal mandatory health planning laws, certificate of need laws, the Illinois Health Facilities Planning Act and the Illinois Health Facilities Planning Board. CGFA may ask some respondents to travel at their own expense for oral interviews in Springfield, Illinois or to be available for oral interviews by teleconference. CGFA reserves the right to negotiate best and final fees and contract terms and may reject all proposals.

Appendix A

HOUSE RESOLUTION 1497

WHEREAS, Hospital construction is booming, according to the USA Today news report (January 3, 2006) that the United States is "in the middle of the biggest hospital-construction boom" in more than 50 years, a trend that likely will increase use of "high-tech medicine and add fuel to rising health care costs"; the report indicated that the hospital industry has spent almost $100 billion in inflation-adjusted dollars in the past 5 years on new facilities, a 47% increase from the previous 5 years, with spending likely to reach a record $23.7 billion in 2005, according to the Census Bureau; and

WHEREAS, State and federal authorities have historically expressed alarm about spiraling health care costs and implemented various strategies to contain those costs, including "Certificate of Need" programs aimed at controlling excessive capital expenditures by health care corporations that contribute to higher health facility operating costs; and

WHEREAS, Concerns about health care inflation caused New York to enact the first "Certificate of Need" law in 1966 in response to health insurers' and business leaders' concerns about an excessive number of hospital beds contributing to increasing costs; and

WHEREAS, Rising health care costs also prompted the United States Congress to enact the Comprehensive Health Planning Act in 1966, which required the establishment of local and state health planning agencies; states that already had planning agencies were required to expand the scope and authority of these agencies; and

WHEREAS, Federal authorities began to recognize that the major infusion of federal funds into the existing health care system and payment methodologies of the Medicaid and Medicare repealed the federal mandatory health planning law; since that time, 14 states repealed their laws; 36 states and the District of Columbia still have "Certificate of Need" laws; and

WHEREAS, Proponents argue that "Certificate of Need" laws regulate surplus capacity in health care facilities so that there is less duplication of services and lower operating costs; the higher cost of excess capacity is passed on to insurance companies and patients in the form of higher prices; by regulating the supply, surplus will be avoided; and

WHEREAS, Opponents argue that the law has not controlled costs, improved quality, or increased access to health care; it may block access to health care choices and to modernized health care facilities; opponents also claim that "Certificate of Need" laws constitute over-regulation and are harmful to the economy, and that health care should be subject to the same market forces that determine the quality, availability, and price of other goods and services; and

WHEREAS, The Federal Trade Commission (FTC) and the Department of Justice (July 2004) reported: (a) that "Certificate of Need" programs pose serious competitive concerns that generally outweigh their benefits; (b) that there is considerable evidence that they can actually drive up prices by fostering anticompetitive barriers to entry; (c) that this process has the effect of shielding incumbent health care providers from new entrants, which can increase health care costs, as supply is depressed below competitive levels; (d) that these programs can retard entry of firms that could provide higher quality services; and (e) that these programs have been ineffective in controlling costs because they do not put a stop to "supposedly unnecessary expenditures" and merely "redirect any such expenditures into other areas"; and

WHEREAS, The American Health Planning Association refuted the FTC criticism of "Certificate of Need" programs, claiming that there is little analytical or factual basis for the criticism or for the recommendation to eliminate them; little evidence is presented to demonstrate that market forces have had, or are likely to have, the positive effects in the health care system; the argument that planning and "Certificate of Need" regulation result in higher costs and prices, inferior quality, reduced access, less innovation, and lower operating efficiency, though repeatedly made, is not supported by demonstrated facts; "Certificate of Need" regulation, with related community-based planning, is one of the few tools that policymakers, health system officials, and ordinary citizens have available for use in trying to compensate for known weaknesses and deficiencies in the existing health care system; these decision-making processes provide a unique forum where all interested parties, and ordinary citizens, can express their views and state their needs; this oversight identifies critical quality, cost, and access concerns that are important to consumers; and

WHEREAS, The Illinois Health Facilities Planning Act (20 ILCS 3960/) became effective in 1974; it created a 13-member Health Facilities Planning Board to review the necessity of capital expenditures for the establishment or modification of health facilities and the procurement of medical equipment; entities subject to the Illinois Health Facilities Planning Act include licensed and state-operated hospitals, long-term care facilities, dialysis centers, ambulatory surgery centers, and alternative health care delivery models; facilities operated by the federal government are exempt; under current law, transactions requiring a permit include any construction or modification by or on behalf of a health care facility exceeding the expenditure minimum ($7,167,063) for projects that result in a substantial increase in a facility's bed capacity, for projects that result in a substantial change in the scope or functional operation of a facility, and for projects that establish or discontinue a facility or category of service; in addition, the acquisition of major medical equipment (valued at more than $6,573,026) or health and fitness centers (valued at more than $3,267,766) requires a permit or exemption; and

WHEREAS, Proposals to repeal Illinois' law have not been enacted, but there has been a substantial reorganization of the Board; proponents have successfully argued that, although the Board has not historically denied many projects, the review process requires applicants to more carefully develop and scale their projects to established criteria and standards of need; many existing hospitals and the communities they serve have generally

supported the "Certificate of Need" law, because elimination could jeopardize their economic vitality by a radical proliferation or expansion of unnecessary facilities; and

WHEREAS, The 93rd General Assembly restructured the Board; Senate Bill 1332 (P.A. 93-0041) was enacted after extensive debate about the history and performance of the Board and in response to proposals for its complete elimination; the new law replaced the 13-member board with an entirely new 9-member board appointed by the Governor with no requirements that they represent particular interests; the law also changed various operating policies and procedures of the Board and established a "Sunset" (repeal date) of July 1, 2008; and

WHEREAS, A major scandal involving conflicts of interest and criminal indictments of a Board member for "influence peddling, kickbacks, and other corrupt actions" by parties involved in applications subject to review prompted the Governor and General Assembly to reduce the size and makeup of the Board and to impose more strict membership requirements; to prevent conflicts-of-interest, the law now provides that no person can be appointed, or continue to serve as a member of the Board, who is, or whose spouse, parent, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility; provisions were also added restricting ex parte communications by board members and staff to protect against influence peddling; the 93rd General Assembly enacted House Bill 7307 (P.A. 93-889) to restructure the Health Facilities Planning Board again; the membership was reduced to 5 members and all members were completely replaced; the status of the entire "certificate-of-need" law was also going to be subject to reconsideration under a new "Sunset" date of July 1, 2006; this date was set to allow more time for evaluation of the Board's operations, to provide an opportunity for the Board to implement major rule changes intended to streamline and clarify the existing review process, and to develop and report meaningful data regarding its performance and effectiveness; and

WHEREAS, The 94th General Assembly subsequently enacted Senate Bill 2436 (P.A. 94-983) that extended the "Sunset" date once again to April 1, 2007, so that the status of the Board and the "Certificate of Need" program can be subject to further, and more intensive, evaluation, given the acceleration of health facility capital expenditures, the national trends of such health care regulation, continuing concerns about increasing health care costs, the need for more effective cost containment, and the controversial history of Illinois' current system; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Illinois Commission on Government Forecasting and Accountability shall conduct a comprehensive evaluation of the Illinois Health Facilities Planning Act, including a review of the performance of the Illinois Health Facilities Planning Board, to determine if it is meeting the goals and objectives that were originally intended in the enactment of the law and the establishment of the Board, and as the law has been amended and the Board policies and procedures revised since that time, with special consideration for its affect on controlling unnecessary and excessive capital expenditures that may be

contributing to health care inflation; the Commission shall determine the criteria, standards, and procedures for this independent evaluation; the Commission must conduct an objective analysis of the impact of the "Certificate of Need" program since its inception 32 years ago; and be it further

RESOLVED, That the Commission issue a report to the General Assembly of its findings by February 15, 2007, together with any recommendations for change to the Illinois Health Facilities Planning Act and the structure, function, policies, and procedures of the Illinois Health Facilities Planning Board.