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December 20, 2022

Via Electronic Mail

Mississippi Division of Medicaid

c/o Office of Procurement

Chief Procurement Officer (MSCANCHIP@medicaid.ms.gov)

Public Records Officer (RFI@medicaid.ms.gov)

Cody Smith (Cody.Smith@medicaid.ms.gov)

FEI.com, Inc. d/b/a/ FEI Systems

c/o John P. Sneed (jps@wisecarter.com)

Conduent State Healthcare, LLC

c/o Brunini, Grantham, Grower and Hewes, PLLC

Karen Howell (KHowell@brunini.com)

Re: Notice of and Reasons for Filing Petition for Protective Order¹

All:

Gainwell Technologies, LLC (“Gainwell”) received notice from the Mississippi Division of Medicaid (“DOM”) that Public Records Act Requests (“PRRs”) were submitted by Conduent State Healthcare and FEI Systems (collectively referred to herein as “Requesting Parties”) in connection with DOM’s Request for Proposal Number 20220401 (“RFP”).

After reviewing the PRRs and the notice received from DOM that identified responsive information to the Requesting Parties’ PRRs, Gainwell has determined that the information contains trade secrets, confidential and proprietary commercial information, and confidential and proprietary information that is protected by the Mississippi Public Records Act. *See* Miss. Code Ann. § 25-61-9(1). Examples of this information include, but are not limited to, the following:

- Confidential claims processing methods
- Confidential and proprietary information regarding trade secrets and proprietary technologies and processes
- Confidential market information

¹ Miss. Code Ann. § 25-61-9 (7) is not applicable to or required of Gainwell because it was unsuccessful in its bid and not awarded a contract by the Mississippi Division of Medicaid (“DOM”). Nonetheless, it is Gainwell’s understanding that DOM requests that all parties subject to a public records request provide this notice. However, by providing this notice, Gainwell specifically does not waive its right to subsequently argue that subsection (7) is inapplicable and this notice not required of Gainwell.

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- Confidential performance data
- Confidential metrics and data analytics
- Confidential personnel data
- Confidential information concerning clients
- Confidential work plans

This information is exempt from the Mississippi Public Records Act's presumption of accessibility and therefore may not be disclosed. *See* Miss. Code §§ 25-61-9(1), 79-23-1.

Accordingly, pursuant to Miss. Code Ann. § 25-61-9 (7), Gainwell hereby gives notice to the Requesting Parties and to DOM that Gainwell intends to seek a protective order from the Chancery Court of Hinds County, Mississippi to prevent the release of its information protected by the Mississippi Public Records Act.

Gainwell respectfully requests that DOM, upon receipt of this notice, immediately post it on the Mississippi procurement portal.

Best regards,


Timothy L. Sensing (MSB# 102575)
Waverly A. Harkins (MSB# 102380)
Katie B. Lyons (MSB# 105904)
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