

SECTION II: PROCUREMENT PROTOCOL AND PROCESS

A. Rules Governing Conduct of Competitive Procurement Process

1. Timeline/Key Events (Amended March 8, 2012 and April 4, 2012)

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| | February 22, 2012 |
| Exhibit I.K Procurement Lobby Offeror's Affirmation of Understanding & Agreement Due Date | See below* |
| Request for Data Necessary to Submit a Proposal Due Date (See Section III.G. of this RFP) | March 13, 2012 |
| Pre-Proposal Conference | March 14, 2012 |
| Questions Due Date | March 20, 2012, 5:00 p.m. ET |
| Optional Re-Priced Claims Test File Due Date | April 3, 2012 |
| Release Date of Official Responses to Questions | April 4, 2012 |
| Exhibit I.J Notice of Bidding Intention Due Date | April 18, 2012 |
| Proposals Due Date | May 8, 2012, 3:00 p.m. ET |
| Anticipated Contract Start Date | Upon OSC approval of the Agreement, with the Medicare Employer Group Waiver Plan (EGWP) requirements of the Agreement (DCS Agreement Only) to begin January 1, 2013 and claims adjudication for the Programs (DCS and NYSIF) to be fully implemented by January 1, 2014 |

* Prior to the Offeror's **initial** contact with the Department, the Offeror must complete and submit Exhibit I.K Procurement Lobbying Offeror's Affirmation of Understanding & Agreement to the Pharmacy Benefit Services Procurement Manager.

2. Procurement Lobbying Limitations

- a. Pursuant to State Finance Law sections 139-j and 139-k, this Procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the Procurement's "Restricted Period" (from the issuance of the RFP until the date of the Contract's final approval by the OSC) to other than designated staff of the Procuring Agencies and the Executive Branch of New York State government, unless the

contact falls within certain statutory exceptions (“permissible contacts”). For purposes of this §II.A.2 of the RFP, “Offeror” includes prospective Offerors prior to the due date for the submission of offers/bids (i.e., Proposals) in response to the RFP. Staff is required to obtain certain information from Offerors and others whenever there is a contact about the Procurement during the Restricted Period, and are required to make a determination of the Offeror’s responsibility that addresses the Offeror’s compliance with the statutes’ requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on, or be awarded a contract for four years from the date of the second non-responsibility finding. The Procuring Agencies’ Policy and associated procedures are included as **Exhibit I.L, “Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process”** to this RFP.

Further information about these requirements can be found at:

<http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

- b. In order to ensure public confidence and integrity in the procurement process, the Procuring Agencies will strictly control all communications between any Offeror and participants in the evaluation process, from the date the RFP is released until the Contracts are approved by OSC. “Offeror” means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Procuring Agencies or any other State governmental entity about a governmental procurement during that procurement’s restricted period, whether or not the caller has a financial interest in the outcome of the governmental procurement; provided, however, that a governmental agency or its employees that communicates with the Procuring Agencies regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. “Offeror” includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts, inquires, questions, filings and submission of Proposals in regard to the RFP must be directed, in writing, by mail, facsimile or e-mail, as applicable, solely to the Pharmacy Benefit Services Procurement Manager. An Offeror’s failure to comply with this requirement may result in the Offeror’s disqualification from this Procurement.

Pharmacy Benefit Services Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Fax: 518-402-2835
E-mail: 2014RxBenefitRFP@cs.state.ny.us

Additionally, prospective Offerors and Offerors are strictly prohibited from making any contacts or inquiries concerning the Procurement with any member, officer or employee of any NYS governmental entity other than the Procuring Agencies from the date the RFP is released until the Contracts are approved by OSC subject only to the specific exceptions listed below. Further, any Offeror shall not attempt to influence the Procurement in any manner that would result in a violation or an attempted violation of Public Officers Law sections 73(5) or 74.

- c. The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the Pharmacy Benefit Services Procurement Manager pursuant to section 139-k:
- (1) the submission of written Proposals in response to the RFP;
 - (2) the submission of written questions by a method set forth in RFP when all written questions and responses are to be distributed to all Offerors who have expressed an interest in the Procurement;
 - (3) participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in RFP;
 - (4) complaints by an Offeror regarding the failure of the Pharmacy Benefit Services Procurement Manager to respond to an Offeror's authorized contacts, when such complaints are made in writing to the Department's Office of the General Counsel, provided that any such written complaints shall become a part of the procurement record;

- (5) communications by a successful Offeror(s) who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the Contract after having been notified of tentative award;
 - (6) contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;
 - a. contacts by an Offeror in protests, appeals or other review proceedings (including the apparent successful Offeror and its representatives) before the Procuring Agencies seek a final administrative determination, or in a subsequent judicial proceeding; or
 - b. complaints of alleged improper conduct in the Procurement when such complaints are made to the NYS Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or
 - c. written protests, appeals or complaints to the NYS Comptroller's office during the process of contract approval, where the NYS Comptroller's approval is required provided that the NYS Comptroller shall make a record of such communications and any response thereto which shall be entered into the procurement record pursuant to State Finance Law Section 163; or
 - d. complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the NYS Comptroller's office; and
 - (7) communications between Offerors and governmental entities that solely address the determination of responsibility by a governmental entity of an Offeror.
- d.** It is mandatory that all prospective Offerors/Offerors complete Part 1 of **Exhibit I.K, "Procurement Lobbying Offeror's Affirmation of Understanding and Agreement"** affirming their understanding of, and agreement to, comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed

Exhibit I.K must be submitted to the Pharmacy Benefit Services Procurement Manager **prior to a prospective Offeror making its initial contact with the Procuring Agencies** (e.g., attendance at the Pre-Proposal Conference, submission of a Notice of Bidding Intention Form (Exhibit I.J), submission of questions, etc. or concurrent with an Offeror's submission of its Proposal, whichever shall occur first). Offerors are advised that whenever any of the Offeror's officers, employees, agents or consultants contacts the Procuring Agencies, they should be prepared to provide their name, address, telephone number, place of principal employment, occupation, and whether they were retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Procuring Agencies in regards to this Procurement. To that end and to streamline the process, Offerors are requested to complete and submit Part 1 of **Exhibit I.K** entitled, "Designated Offeror Contact" for each officer, employee, agent or consultant authorized by the Offeror to appear before or contact the Procuring Agencies in regards to this Procurement before appearing or before or at the time such contact is initiated.

Additionally, at the time a Proposal is submitted to the Procuring Agencies, the Offeror is required to provide a completed "Offeror's Certification of Compliance Pursuant to State Finance Law §139-k" form. This certification is included as **Exhibit I.P** of this RFP.

3. Notice of Bidding Intention Form

Filing of this notice is **not** mandatory; however, to assist the Procuring Agencies in better managing the procurement process, prospective Offerors, whether they intend to submit a Proposal in response to this RFP or not, are requested to complete a "**Notice of Bidding Intention Form**" (**Exhibit I.J**) and submit it to the Pharmacy Benefit Services Procurement Manager by the Notice of Bidding Intention Deadline as set forth in Section II.A.1. The completed form may be submitted either in hardcopy, at the address provided in Section II.A.2.b. or electronically at: 2014RxBenefitRFP@cs.state.ny.us.

On the Notice of Bidding Intention Form, New York State certified Minority and Women-Owned Businesses (M/WBE) may request that their firm's contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this Procurement.

The listing will be publicly posted on the Procurement webpage at:

www.cs.ny.gov/2014RxBenefitRFP/index.cfm for reference by the bidding community. A firm requesting inclusion on this list should send a copy of its NYS M/WBE certification with its completed Notice of Bidding Intention Form. Nothing prohibits an M/WBE vendor from proposing as a prime contractor.

4. Pre-Proposal Conference

A Pre-Proposal Conference will be held on March 14, 2012 in Room 148 of the Alfred E. Smith Office Building, Albany, NY, at 10:00 a.m. Attendance is not mandatory, but is strongly encouraged for Offerors intending to submit a Proposal.

Each Offeror is requested to send no more than three (3) representatives to the Pre-Proposal Conference. If your organization plans to attend the Pre-Proposal Conference, please notify the Pharmacy Benefit Services Procurement Manager via facsimile or e-mail at the address noted in Section II.A.2.b. at least five (5) business days before the conference with the name and affiliation of each person attending. Please be advised that due to security requirements, all visitors must be registered in the Alfred E. Smith Building's Visitors' Management System in advance of the meeting date. On the date of the conference, visitors may be required to present photo identification. Prospective Offerors are advised to allow sufficient time to go through security.

5. Submission of Errors or Omissions in the RFP Document

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, prospective Offerors agree to be bound by its terms, including, but not limited to, this process by which a prospective Offeror may submit errors or omissions for consideration. In the event that a prospective Offeror believes there is an error or omission in the RFP, the prospective Offeror may raise such issue according to the following provisions:

a. Process for Submitting Assertions of Errors or Omissions in RFP Document

- (1) ***Time Frame***: Assertions of errors or omissions in the procurement process which are or should have been apparent prior to the Proposal Due Date must be received by the Procuring Agencies, in writing, five (5) business days after the Release Date of Official Responses to Questions specified in Section II.A.1.

- (2) **Content:** The submission alleging the error or omission must clearly and fully state the legal and/or factual grounds for the assertion and must include all relevant documentation.
- (3) **Format of Submission:** All submissions asserting an error or omission must be in writing and submitted to the Pharmacy Benefit Services Procurement Manager at the following address:

Pharmacy Benefit Services Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

The envelope or package must clearly and prominently display the following statement:

**"Submission of Errors or Omissions for the
Pharmacy Benefit Services for The Empire Plan, Excelsior Plan,
Student Employee Health Plan, and New York State Insurance Fund
Workers' Compensation Prescription Drug
Program
Request for Proposals # 2012RX-1"**

Any assertion of an error or omission which does not conform to the requirements set forth in this section shall be deemed waived by the prospective Offeror and the prospective Offeror shall have no further recourse.

b. The Review Process for Assertions of Errors or Omissions in RFP Document

The Procuring Agencies shall conduct the review process for submission of errors or omissions. The Commissioner may appoint a designee who will review the submission and make a recommendation to the Commissioner as to the disposition of the matter.

The Commissioner's designee may be an employee of the Procuring Agencies but, in any event, shall be someone who has not participated in the preparation of this RFP, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the prospective Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee, as the case may be, to

support its submission. The prospective Offeror may, but need not, be represented by

counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) business days after the close of the review process. If additional time for the issuance of the decision is necessary, the prospective Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

The Procuring Agencies reserve the right to determine and to act in the best interests of the State in resolving any assertion of error or omission in the RFP document. As a consequence of reviewing the assertion, the Procuring Agencies may elect to extend the Proposal Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who registered via mail, facsimile or e-mail. Notice of any extension will also be posted to: www.cs.ny.gov/2014RxBenefitRFP/index.cfm.

6. Submission of Questions

In the event a prospective Offeror has any substantive or procedural questions concerning the content of the RFP document, those questions can be submitted in the following manner to:

Pharmacy Benefit Services Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239
Fax: 518-402-2835
E-Mail: 2014RxBenefitRFP@cs.state.ny.us

Prospective Offerors may submit questions to the Pharmacy Benefit Services Procurement Manager, in writing, via e-mail, facsimile or mail. The Procuring Agencies strongly urges prospective Offerors to submit the questions via e-mail. Each question should cite the particular RFP section, page number and paragraph number to which it refers. All responses

will be considered unofficial until issued or confirmed in writing by the Procuring Agencies on the procurement website. Only those questions received prior to 5:00 p.m. Eastern Time (ET), on the Questions Due Date as shown in Section II.A.1. of this RFP, will be accepted.

To expedite its responses, the Procuring Agencies have provided a question template form which prospective Offerors are requested to use in submitting questions regarding the RFP (see RFP, [Exhibit I.R] "Question Template").

After the Questions Due Date, the Procuring Agencies will provide to all organizations who have registered, e-mail notification of the posting of all questions received and the Procuring Agencies' Official Responses to said questions. The aforementioned information will be posted to: www.cs.ny.gov/2014RxBenefitRFP/index.cfm and all registered potential Offerors will be notified of the posting to this site.

7. Submission of Proposal

a. Submission Requirements

The Offeror's Proposal must be organized and separated into three (3) separate parts: Administrative Proposal, Technical Proposal, and Cost Proposal. To facilitate the evaluation process, Offerors must submit Sixteen (16) separately bound hard copies (four (4) ORIGINALS and twelve (12) copies) and one (1) electronic copy (CD) **of each of the three (3) parts** of the Offeror's Proposal. Electronic submissions must be in Adobe Acrobat, as applicable. These forty eight (48) documents and three (3) CDs are collectively hereafter referred to as "Submissions."

Each ORIGINAL hard copy of each part must be marked "ORIGINAL," contain original signatures of an official(s) authorization to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature and should be numbered sequentially, i.e. Original #1, Original #2, Original #3, Original #4. The remaining twelve (12) hard copies of each part may contain a copy of the official's signature and should be numbered sequentially (e.g. Copy #1, Copy #2, etc). Please note that for each of the three (3) parts, hard copies of each marked "Original #1" will be deemed controlling by the Procuring Agencies when viewing the Proposal.

Proposals should be placed and packaged together, by part, in sealed boxes/envelopes. Each sealed box/envelope should contain a label on the outside of the container which contains the information below.

**New York State Department of Civil Service
Request for Proposals # 2012RX-1
“Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers’ Compensation Prescription Drug Programs”**

**OFFEROR NAME
OFFEROR ADDRESS**

Indicate content, as applicable
ADMINISTRATIVE, TECHNICAL or COST PROPOSAL

There must be no cost information included in the Offeror’s Administrative Proposal or Technical Proposal.

All Proposals must be mailed or hand-delivered to:

Pharmacy Benefit Services Procurement Manager
ATTN: Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

For those Offerors who plan to have the Proposal hand delivered to the above address, arrangements for acceptance of the package must be made in accordance with procurement security procedures. **To make such arrangements, the Procuring Agencies request that the Offeror notify the Pharmacy Benefit Services Procurement Manager forty-eight (48) hours prior to delivery. All Proposals must be received by 3:00 p.m. ET on the Proposal Due Date as set forth in Section II.A.1. of the RFP. No exceptions will be made for late submission or delays in delivery of the Proposal.** If the Proposal is delivered by mail or courier, the Procuring Agencies recommend that it be sent "return receipt requested," so the Offeror obtains proof of timely delivery.

All Proposals submitted become the property of the Procuring Agencies. Any proposal received after 3:00 p.m. ET on the Proposal Due Date will not be accepted by the Procuring Agencies and may be returned to the submitting entity at the Procuring Agencies' discretion.

The Procuring Agencies will accept amendments and/or additions to an Offeror's Proposal if the request is received by the Procuring Agencies **prior** to 3:00 p.m. ET on the Proposal Due Date. All amendments to an Offeror's Proposal must be submitted in writing, in accordance with the format set forth in Section II.A.7. of this RFP, and will be included as part of the Offeror's Proposal, if accepted by the Procuring Agencies as provided above.

Offerors are cautioned to verify the content of their Proposal before submission. Except for material received from an Offeror in response to a request by the Procuring Agencies, the Procuring Agencies will not accept amendments or additions to a Proposal if such material is received after 3:00 p.m. ET on the Proposal Due Date. Offerors are encouraged to submit the Proposal Submission Checklist (**Exhibit I.A**) to facilitate verification of Proposal contents. An Offeror's request to withdraw a Proposal after the Proposal Due Date may be considered at the sole discretion of the Procuring Agencies.

b. Formatting Requirements

The Administrative Proposal, Technical Proposal, and Cost Proposal each should comply with the following formatting requirements (Failure to comply with the formatting requirements herein below may, but will not necessarily, result in the Proposal being deemed non-responsive and may, but will not necessarily, result in rejection of the Proposal):

- (1) ***Binding of Proposal:*** The Administrative, Technical, and Cost Proposals must be separately bound. The official name of the organization(s) and "Pharmacy Benefit Services for The Empire Plan Prescription Drug Program, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers' Compensation Prescription Drug Programs" must appear on the outside front cover of each copy of the Offeror's Administrative, Technical, and Cost Proposal. If the Proposals are

submitted in loose-leaf binders, the official name(s) of the organization(s) and “Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers’ Compensation Prescription Drug Programs” also must appear on the spine of the binders;

- (2) **Table of Contents:** Each Proposal must include a table of contents;
- (3) **Index Tabs:** Each major Section of the Proposal and each Exhibit must be labeled with an index tab that completely identifies the title of the Section or Exhibit as named in the table of contents;
- (4) **Pagination:** Each page of the Proposal, including Exhibits, must be labeled on the upper right with the Section title and Section reference, page number, and date. Pages within each Section and Exhibit must be numbered consecutively;
- (5) **Proposal Updates/Corrections:** Each Offeror must submit its Proposal so that any update pages required by the Procuring Agencies can be easily incorporated into the Proposal. Should it be necessary for an Offeror to submit additional information in support of its Proposal, it must be submitted in accordance with the following: upon written notification by the Offeror and agreement by the Procuring Agencies, new or replacement pages may be placed in the Proposal. All new or replacement pages will show the date of the revision and indicate the portion of the page being changed. This latter requirement will be fulfilled by drawing vertical lines down both margins of all affected passages. All new/ replacement pages will be noted by the Procuring Agencies on the errata sheet to be placed at the front of the Proposal copy; and,
- (6) **Required Content of Proposals:** The Proposal shall consist of three parts: 1) the Administrative Proposal, which must respond to the requirements set forth in Section III of this RFP; 2) the Technical Proposal, which must respond to the requirements set forth in Section IV of this RFP; and 3) the Cost Proposal, which must respond to the requirements set forth in Section V of this RFP.

c. Material Deviations

New York State Law prohibits NYS from awarding a contract based upon material deviations from the specifications, terms, and conditions set forth in the RFP.

Consequently, each Offeror's Proposal must conform to the specifications, terms, and conditions set forth in this RFP and prospective Offerors are strongly advised to raise issues and/or concerns relating to this procurement during the question and answer phase rather than taking exceptions within their Proposals. Material deviations from the specifications, terms, and conditions set forth in the RFP may render the Proposal non-responsive and may result in rejection of the Proposal.

In general, a material deviation is one that would (1) impair the interests of NYS, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original RFP, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a Proposal. For example, a deviation that would substantially shift liability (risk) from the Offeror to NYS or substantially shift financial responsibility from the Offeror to NYS would be considered material.

Offerors are advised that Offeror's standard, pre-printed material (including but not limited to: product literature, order forms, manufacturer's license agreements, standard contracts or other pre-printed documents), which are physically attached or summarily referenced in the Offeror's Proposal, unless specifically required by the RFP to be submitted as part of the Offeror's Proposal, will not be considered as having been submitted with or intended to be incorporated as part of the official offer contained in the Proposal, but rather will be deemed by the State to have been included by Offeror for informational or promotional purposes only.

d. Proposed Alternatives or Enhancements

The Offeror's Proposal must adhere to the programmatic duties and responsibilities as described in the RFP. If the Offeror wishes to also submit an alternative approach to

addressing any duties and responsibilities of the RFP, it may do so, but any suggested modification, enhancement, and/or alternative approach must be presented in a separately bound and sealed submission marked “Alternatives.” The information contained in this volume **will not be evaluated** during the procurement process. The only reference to any proposed “Alternatives” permitted in the Offeror’s Technical or Cost Proposals is “(Alternative Proposed).” Any indication beyond this citation is strictly prohibited. Evaluation of all Proposals and the selection of the Successful Offeror shall be based only upon the Offeror’s proposal regarding the duties and responsibilities set forth in the RFP, and shall not be based upon any such supplemental material.

8. Notification of Award

A proposed award notification letter will be sent to the selected Offeror indicating a conditional award subject to successful contract negotiations. The remaining Offerors will be notified of the conditional award and the possibility that failed negotiations could result in an alternative award. No public discussion or news releases relating to this RFP, the associated procurement process, including but not limited to the bid solicitation, proposal evaluation and award and contract negotiation processes or the Agreement shall be made by any Offeror or their agent without the prior written approval of the Procuring Agencies.

9. Debriefing

As stated in RFP, §II.A.8 above, proposed award notification letters will be sent to the selected and non-selected Offerors. At that time, Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made, dependent upon the nature of the Debriefing, i.e., pre-award or post-award. Debriefings are subject to the Procuring Agencies’ Debriefing Guidelines which are set forth in Exhibit I.H. entitled, “NYS Department of Civil Service Debriefing Guidelines.” An unsuccessful Offeror’s written request for a debriefing shall be submitted to:

Pharmacy Benefit Services Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239
Fax: 518-402-2835
E-Mail: 2014RxBenefitRFP@cs.state.ny.us

10. Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, all Offerors agree to be bound by its terms including, but not limited to, the process by which an Offeror may submit protests of the selection award for consideration. In the event that an Offeror decides to protest the selection decision, the Offeror may raise such issue according to the following provisions.

a. Process for Submitting Post Award Protests of the Selection Decision

- (1) ***Time Frame:*** Any protest of the selection decision must be received no later than ten (10) business days after an Offeror's receipt of written notification by the Department of a conditional award.
- (2) ***Content:*** The submission of the protest must clearly and fully state the legal and/or factual grounds for the protest and must include all relevant documentation.
- (3) ***Format of Submission:*** All submissions of protest must be in writing and submitted to the Pharmacy Benefit Services Procurement Manager at the following address:

Pharmacy Benefit Services Procurement Manager
ATTN: Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

A protest of the selection decision must have the following statement clearly and prominently displayed on the envelope or package:

**“Submission of Selection Protest for the Pharmacy Benefit Services for
The Empire Plan, Excelsior Plan, Student Employee Health Plan, and
New York State Insurance Fund Workers’ Compensation Prescription Drug Programs”**

Any assertion of protest which does not conform to the requirements set forth in this section shall be deemed waived by the Offeror, and the Offeror shall have no further recourse.

b. The Review Process for Submission of Protests

The Procuring Agencies shall conduct the review process of submitted protests. The Department's Commissioner may appoint a designee to review the submission and to make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Procuring Agencies but, in any event, shall be someone who has not participated in the preparation of this RFP, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the Commissioner or her designee, as the case may be, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) business days after the close of the review process. If additional time for the issuance of the decision is necessary, the Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the Procuring Agencies' final determination in the matter.

In the event that an Offeror protests the selection decision, the Procuring Agencies shall continue working with the selected Offeror pending the outcome of the protest. Any Offeror whose Proposal might become eligible for a conditional award in the event that the intended selection is disqualified may be asked to extend the time for which their Proposal shall remain valid.

The Procuring Agencies reserve the right to determine and to act in the best interests of the State in resolving any post award selection protest.

11. Procuring Agencies Reservation of Rights (Amended April 4, 2012)

In addition to any rights articulated elsewhere in this RFP, the Procuring Agencies reserve the right to, as applicable:

- a. Make or not make a single joint award under the RFP, either in whole or in part. In addition, NYSIF further reserves the sole right not to make an award under the RFP, in whole or in part, however, a decision by NYSIF to not make an award in whole or in part, shall not preclude the Department from making an award for those components of the RFP applicable to the Department, in whole or in part. If NYSIF chooses not to make an award in whole under the RFP, but the Department does choose to make an award, in whole or in part, then the NYSIF Program shall be deemed to be withdrawn from the RFP and Offerors Proposals will be scored accordingly as provided for in the Procurement's detailed evaluation criteria;
- b. Prior to the bid opening, amend the RFP. If the Procuring Agencies elect to amend any part of the RFP, notification of the amendment will be provided to all organizations who submitted a Notice of Bidding Intention Form (**Exhibit I.J**) via e-mail, facsimile or mail. Any amendments will also be posted to: www.cs.ny.gov/PharmacyBenefitRFP/index.cfm.
- c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent RFP amendments;
- d. Withdraw the RFP, at any time, in whole or in part, at the Procuring Agencies' sole discretion. The Department and NYSIF separately reserve the right to withdraw their respective components from the RFP, in whole or in part. Should the Department, at any time, choose to withdraw its respective components from the RFP, in whole, NYSIF's components will be deemed to be withdrawn in whole. A determination by NYSIF to withdraw its respective components, in part or in whole, regardless of when that decision is made, shall have no effect or impact on the Department or the Department's decision to withdraw or not withdraw the Department's respective components of the RFP;
- e. Waive any requirements that are not material;
- f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any of the mandatory requirements of the RFP;
- g. Require clarification at any time during the Procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete

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- understanding of an Offeror's Proposal and/or to determine an Offeror's compliance with the requirements of this RFP;
- h. Reject any or all Proposals received in response to this RFP, at its sole discretion;
 - i. Change any of the scheduled dates stated in this RFP;
 - j. Seek clarifications and revisions of Proposals;
 - k. Establish programmatic and legal requirements to meet either or both of the Procuring Agencies' needs, and to modify, correct, and/or clarify such requirements at any time during the Procurement, provided that any such modifications would not materially benefit or disadvantage any particular Offeror;
 - l. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the Offerors;
 - m. For the purposes of ensuring completeness and comparability of the Proposals, analyze submissions and make adjustments or normalize submissions in the Proposal(s), including the Offeror's technical assumptions, and underlying calculations and assumptions used to support the Offeror's computation of costs, or to apply such other methods it deems necessary to make level comparisons across Proposals (e.g., if prior to completion of the Business Model Assessment, NYSIF were to determine it was in NYSIF's best interests not to make a contract award);
 - n. Use the Proposal, information obtained through any site visits, management interviews, and the Procuring Agencies' own investigation of an Offeror's qualifications, experience, ability or financial standing, and any other material or information submitted by the Offeror in response to the Procuring Agencies' request for clarifying information, if any, in the course of evaluation and selection under this RFP;
 - o. Negotiate with the successful Offeror within the scope of the RFP in the best interests of the Department and NYSIF, or the Department or NYSIF, as applicable; and
 - p. Utilize any and all ideas submitted in the Proposal(s) received.

12. Limitation of Liability

The Procuring Agencies are not liable for any cost incurred by any Offeror prior to approval of the Agreement by OSC. Additionally, no cost will be incurred by the Procuring Agencies for any prospective Offeror or Offeror's participation in any procurement related activities.

The Procuring Agencies have taken care in preparing the data accompanying this RFP (hard copy Exhibits, website Exhibits, and sample document exhibits). However, the Procuring Agencies do not warrant the accuracy of the data; the numbers or statistics which appear in hardcopy Exhibits, website Exhibits, and sample document exhibits referenced throughout this RFP which are for informational purposes only and should not be used or viewed by prospective Offerors as guarantees or representations of any levels of past or future performance or participation. Accordingly, prospective Offerors should rely upon and use such numbers or statistics in preparing their Proposals at their own discretion.

B. Compliance With Applicable Rules, Laws, Regulations & Executive Orders

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and it is governed by, at a minimum, the legal authorities referenced below. All Offerors must fully comply with the provisions and set forth in this Section II.B. of the RFP. The Procuring Agencies will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions whose Proposal contains the Statements, Formal Certifications, and Exhibits submissions required hereunder.

1. Public Officers Law

All Offerors and Offerors' employees and agents must be aware of and comply with the requirements of the New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former NYS employees. In signing its Proposal, each Offeror guarantees knowledge and full compliance with such provisions for purposes of this RFP and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification

from the procurement process, termination, suspension or cancellation of the Agreement and criminal proceedings as may be required by law. Per RFP §III.C, Offerors must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations, by submitting a completed **Exhibit I.M** in the Offeror's Administrative Proposal.

2. Omnibus Procurement Act of 1994 and its 2000 Amendment

Offerors are hereby notified that, if their principal place of business is located in a foreign or domestic jurisdiction that penalizes New York State vendors, and if the goods or services they offer would be produced or performed substantially outside New York State, the Omnibus Procurement Act of 1994 and its 2000 amendments require that they be denied contracts which they otherwise could obtain.

The list of jurisdictions subject to this provision is set forth in Article 21 of Appendix A.

3. Contractor Requirements and Procedures for Business Participation Opportunities for NYS Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities ("EEO") for Minority Group Members and Women

New York State Law:

Pursuant to New York State Executive Law Article 15-A, the Procuring Agencies recognize their obligation under the law to promote opportunities for the maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of the Procuring Agencies' contracts. By submitting a Proposal in response to this procurement, the Offeror agrees to comply with the provisions of the RFP, including but not limited to Appendix D, entitled "Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures" and the requirements set forth herein.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" (the

“Disparity Study”). The Disparity Study can be accessed at:

http://www.esd.ny.gov/MWBE/Data/NERA_NYS_Disparity_Study_Final_NEW.pdf

The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the Procuring Agencies establish goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs:

DCS - For purposes of this Procurement, the Department hereby establishes an overall goal of 20% for MWBE participation as relates only to the administrative cost component of the overall cost of the Contract.

NYSIF - For purposes of this Procurement, the NYSIF hereby establishes an overall goal of 20% for MWBE participation as relates only to the administrative cost component of the overall cost of the Contract. The Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that the Procuring Agencies may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.nylovesmwbe.ny.gov/cf/search.cfm>.

For guidance on how the Procuring Agencies will determine the Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Offeror/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Procuring Agencies may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a Proposal, the Offeror/Contractor agrees to submit the following documents and information as evidence of compliance with the foregoing:

- a. Offerors are required to submit a MWBE Utilization Plan - Form MWBE-100 (RFP, Exhibit I.O. (A) (B)) setting forth the Offeror's proposed plan to utilize MBEs and WBEs as subcontractors and suppliers under the Contract and a Certification of Good Faith Efforts - Form MWBE-104 (RFP, Exhibit I.Q. (A) (B)) with their Proposal. Any modifications or changes to the MWBE Utilization Plan after contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted separately to DCS and/or NYSIF as applicable.
- b. The Procuring Agencies will review the submitted MWBE Utilization Plan and advise the Offeror of the Procuring Agencies' acceptance or issue a notice of deficiency prior to contract award.
- c. If a notice of deficiency is issued, the Offeror agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Pharmacy Benefit Services Procurement Manager, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Procuring Agencies to be inadequate, the Procuring Agencies shall notify the Offeror and direct the Offeror to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form MWBE-101 entitled "Request for Waiver Form" available at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>. Failure to

file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

d. The Procuring Agencies may disqualify an Offeror as being non-responsive under the following circumstances:

- (1) If an Offeror fails to submit a MWBE Utilization Plan;
- (2) If an Offeror fails to submit a written remedy to a notice of deficiency;
- (3) If an Offeror fails to submit a request for waiver, if applicable; or
- (4) If the Procuring Agencies determine that the Offeror has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to contract award may be made at any time during the term of the Contract to DCS and/or NYSIF as applicable, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit separate Contractor's Quarterly M/WBE Contractor Compliance Reports - Form MWBE-103 to the DCS and NYSIF respective Contract Managers, as applicable, at the address set forth in the Agreements, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract. Form MWBE-103 is available at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>

Equal Employment Opportunity Requirements:

By submission of a Proposal in response to this procurement, the Offeror/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements

thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Offeror/Contractor further agrees to submit with its Proposal an EEO Staffing Plan – Form EEO-100 (RFP, Exhibit I.G(A) and (B)) identifying the anticipated work force to be utilized on the project and if awarded the contract, will, upon request, submit to DCS and/or NYSIF, as applicable, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and any subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

Per RFP §III.C, executed copies of:

Exhibit I.G(A) and (B) entitled “EEO Staffing Plan (form EEO-100),”

Exhibit I.Q (A) and (B) entitled, “Certification of Good Faith Efforts (form MWBE-104)”;

Exhibit I.O(A) and (B) entitled, “MWBE Utilization Plan (form MWBE-100)”

must be submitted as part of the Offeror's Administrative Proposal.

4. **Americans with Disabilities Act**

The Contractor will be required to assure its compliance with the Americans with Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement shall be accessible under Title II of the Americans with Disabilities Act, and as otherwise may be required under the Americans with Disabilities Act by submitting a completed Compliance with Americans with Disabilities Act form (**Exhibit I.N**) in the Offeror's Administrative Proposal.

5. **MacBride Fair Employment Principles Act & Non-Collusive Bidding Certification**

In accordance with Chapter 807 of the Laws of 1992, Offerors must certify whether they or any individual or legal entity in which the Offeror holds a ten percent (10%) or greater ownership interest, or any individual or legal entity that holds a ten percent (10%) or greater ownership in the Offeror have business operations in Northern Ireland. If an Offeror does have business operations in Northern Ireland, they must certify that they are taking lawful steps in good faith to conduct such business operations in accordance with the MacBride Fair Employment Opportunity Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such principles.

The Procuring Agencies also requires that Offerors certify that prices in their Proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition with any other Offeror or competitor. In addition, that unless required by law, the prices quoted in the Offeror's Proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly, indirectly, to any other Offeror or to any competitor. Offerors must also certify that no attempt has been made or will be made by the Offeror to induce any person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition. An executed copy of the combined MacBride Act statement form and Non-Collusive Bidding Certification (**Exhibit I.D**) is required to be submitted in the Offeror's Administrative Proposal.

6. **Vendor Responsibility Requirements – State Finance Law §163**

New York State Finance Law §163 requires contracts for services and commodities be awarded on the basis of lowest price or best value “to a responsive and responsible Offeror.” Furthermore, §163(9)f requires the Procuring Agencies to make a determination of responsibility of the proposed contractor prior to making an award.

To assist the Procuring Agencies in evaluating the responsibility of Offerors, a completed “**New York State Standard Vendor Responsibility Questionnaire**” must be submitted in the Offeror’s Administrative Proposal. A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Contractor is proposing the use of Key Subcontractors (i.e., part of the Offeror’s proposed Project Team), the Offeror must submit a completed “New York State Standard Vendor Responsibility Questionnaire” for each Key Subcontractor completed by a person legally authorized to represent the Key Subcontractor.

The Procuring Agencies recommend that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System; however, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at:

http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at: <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller’s Help Desk at 866-370-4672 or 518-408-4672 or by email at: ciohelpdesk@osc.state.ny.us

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Office of the State Comptroller’s Help Desk for a copy of the paper form. The paper form is also included in the RFP as **Exhibit I.I “New York State Standard Vendor Responsibility Questionnaire.”**

7. Tax Law Section 5-a Certification Regarding Sales and Compensating Use Taxes

Section 5-a of the New York Tax Law requires that any contract valued at more than \$100,000 entered into by a NYS agency shall not be valid, effective, or binding against the agency unless the Contractor certifies to the Tax Department that it is registered to collect New York State and local sales and compensating use taxes, if the Contractor made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, the Contractor must certify to the Tax Department that each affiliate and Key Subcontractor of such Contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the purpose of this requirement, “affiliate” means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The Contractor also must certify to the procuring state entity that it filed the certification with the Tax Department and that the certification is correct and complete. Accordingly, in the event the value of the Agreement exceeds \$100,000, the Contractor must file a properly completed Form ST-220-CA (**Exhibit I.E**) with the Procuring Agencies and a properly completed Form ST-220-TD (**Exhibit I.F**) with the Department of Taxation & Finance before the Contract may take effect. In addition, after the Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Procuring Agencies if the Agreement’s term is renewed. Further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

Submission of these forms (ST-220-CA and ST-220-TD) is not required at time of Proposal submission; however, the selected Offeror will be required to complete and submit these forms as a condition of contract award. These forms may also be found at:

www.tax.ny.gov/forms/sales_cur_forms.htm

8. Disclosure of Proposal Contents – Freedom Of Information Law (“FOIL”)**NOTICE TO OFFEROR’S LEGAL COUNSEL**

All materials submitted by an Offeror in response to this RFP shall become the property of the Procuring Agencies and may be returned to the Offeror at the sole discretion of the Procuring Agencies. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Procuring Agencies. Offerors may anticipate that Proposals will be evaluated by staff and consultants retained by the Procuring Agencies and may also be evaluated by staff of other NYS agencies interested in the provision of the subject services including, but not limited to, the Division of the Budget, unless otherwise expressly indicated in this RFP. The Procuring Agencies has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to this RFP.

To request that materials be protected from FOIL disclosure, the Offeror must follow the procedures below regarding the New York State Freedom of Information Law (FOIL). If an Offeror believes that any information in its Proposal or supplemental submission(s) constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing **Exhibit I.C “Freedom of Information Law – Request for Redaction Chart.”** The Offeror must complete the form specifically identifying by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of Exhibit I.C contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific, summary allegations that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

Note: Offerors are advised that Exhibit I.C, as a part of the Offeror’s Proposal, is subject to disclosure under FOIL. Offerors should also highlight any parts of Exhibit I.C which the Offeror wishes to protect from FOIL disclosure.

Per RFP, §III.C, the completed **Exhibit I.C** must be submitted in the Offeror's Administrative Proposal. If the Offeror chooses not to assert that any Proposal material and/or supplemental submission should be protected from FOIL disclosure, the Offeror should so advise the Procuring Agencies by checking the applicable box on **Exhibit I.C** and including the completed form in the Offeror's Administrative Proposal or with the supplemental submission, as applicable. If a completed **Exhibit I.C** form is not contained in the Offeror's Proposal or enclosed with a supplemental submission, the Procuring Agencies will assume that the Offeror chooses not to assert that any proposal material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation process.

Requested Redactions CD and Hard Copy:

In addition, at the time of Proposal submission the Offeror is requested to submit both a separately bound hardcopy and an electronic copy (on CD in Adobe Acrobat format) of the complete Proposal noting each the specific item requested to be protected from FOIL disclosure by highlighting in yellow (the Procuring Agencies' preference), each item in a manner such that the material remains visible. The electronic copy should contain no more than three pdf files; one for each part of the Proposal (Administrative Proposal, Technical Proposal, and Cost Proposal). No security should be applied to the Adobe Acrobat files. Both the hardcopy and CD should be clearly labeled "Pharmacy Benefits Services - Requested Redactions" and dated.

The Offeror must also submit an additional electronic copy (on CD in Adobe Acrobat format) with the requested redactions electronically highlighted in black ("blacked out") for, at the Procuring Agencies' sole discretion, posting to the procurement website upon completion of the procurement process. The electronic copy should contain no more than three pdf files; one for each part of the Proposal (Administrative Proposal, Technical Proposal, and Cost Proposal). This additional CD should be clearly labeled "Pharmacy Benefits Services – Redacted Version of Proposal" and dated. (Note: Offerors are advised that a copy of the redacted Agreement with the Procuring Agencies may also be posted to the website at that time.)

If, after the Proposal Due Date, if the Offeror makes any supplemental submission(s) during the procurement process that it wishes to protect from FOIL disclosure, the Offeror should submit such supplemental submission(s) with a completed **Exhibit I.C** in hardcopy and on CD in Adobe Acrobat format noting each specific item requested to be protected from FOIL disclosure by highlighting in yellow (the Procuring Agencies' preference), each item, in a manner such that the material remains visible. No security should be applied to the Adobe Acrobat file. The hardcopy should be separately bound, if applicable and both the hardcopy and CD clearly labeled "Pharmacy Benefits Services - Supplemental Submission #x - Requested Redactions" and dated. Each supplemental submission should be sequentially numbered (e.g., Supplemental Submission #1 - Requested Redactions ..., Supplemental Submission #2 - Requested Redactions, etc.).

The Offeror should also submit an additional electronic copy (on CD in Adobe Acrobat format with the requested redactions electronically highlighted in black ("blacked out") for, at the Procuring Agencies' sole discretion, posting to the procurement website upon completion of the procurement process. This additional CD should be clearly labeled "Pharmacy Benefits Services – Supplemental Submission #x - Redacted Supplemental Submission #x" and dated. Each supplemental submission should be sequentially numbered (e.g., Supplemental Submission #1 - Redacted Supplemental Submission ..., Supplemental Submission #2 - Redacted Supplemental Submission, etc.)

In the event any material is requested pursuant to FOIL, the Procuring Agencies will address each party's interests fully in accordance with the procedures required by Article 6 of the Public Officers Law.

9. Compliance with New York State Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Procuring Agencies shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the Procuring Agencies, the selected Offeror and Key Subcontractor(s), if any, will be required to verify for the Procuring Agencies, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise

in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in **Exhibit I.W** – Compliance with NYS Workers’ Compensation Law. Any questions relating to either workers’ compensation or disability benefits coverage should be directed to the State of New York Workers’ Compensation Board, Bureau of Compliance at 518-486-6307. You may also find useful information at their website: <http://www.wcb.state.ny.us>.

Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Submission of the insurance verification information is **not** required at the time of submission; however, the Procuring Agencies would prefer the Offeror submit this insurance verification information with the Administrative Section, if possible.

To the extent that the Offeror is proposing the use of Key Subcontractors (i.e., part of the Offeror’s proposed Project Team), the Offeror must verify for the Procuring Agencies, on forms authorized by the New York State Workers’ Compensation Board, the fact that the Key Subcontractors” are properly insured or are otherwise in compliance with the insurance provisions of the WCL.