AMENDED RFP - AUGUST 1, 2023

REQUEST FOR PROPOSALS

ENTITLED:

"Dental Plan Services"

RELEASE DATE:

May 16, 2023

PROPOSAL DUE DATE:

September 26, 2023

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the resultant Contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the Designated Contact as listed in Section 2.1(1) of this RFP and shall be in compliance with the Procurement Lobbying Law and the New York State Department of Civil Service "*Rules Governing Conduct of Competitive Procurement Process*" (refer to RFP, Section 2: Procurement Protocol and Process).

All inquiries, questions, filings, and submission of Proposals must be directed in writing to:

New York State Department of Civil Service
Attn: Office of Financial Administration, Floor 17
Agency Building 1, Empire State Plaza
Albany, New York 12239
DCSprocurement@cs.ny.gov

Timothy Hogues
Commissioner
New York State Department of Civil Service

Daniel Yanulavich
Director
Employee Benefits Division

TABLE OF CONTENTS

SECTION 1: INTRODUCTION

1.1 Purpose

The New York State Department of Civil Service (Department or DCS) has issued this Request for Proposal (RFP) to secure the services of a qualified organization to provide administrative services for the New York State Dental Plan (Dental Plan). The Dental Plan is currently insured by EmblemHealth, but it is the Department's intent to begin administering the program on a self-funded basis as a result of this procurement.

This RFP defines minimum contract requirements, details response requirements, and outlines the Department's process for evaluating responses and selecting a qualified organization (Offeror). Project Services are set forth in detail in Section 3. Capitalized terms used herein shall have the meanings specified in the *Glossary of Defined Terms* (Attachment 15) or in the body of this RFP.

The Department will only contract with a single Offeror, which will be the sole contact regarding all provisions of the Contract.

This RFP and other relevant information may be reviewed at:
https://www.cs.ny.gov/DentalPlanServicesRFP/

1.2 Period of Performance

The Contract will take effect and commence upon approval of the Contract by the New York State Office of the State Comptroller (OSC) (Effective Date). The term of the Contract shall include an Implementation Period of a minimum of 180 calendar days followed by an additional approximate 4.5 years of service which shall begin on the Full Dental Plan Services Start Date (Services Start Date) and end on December 31, 2028 (End Date).[Note: The "Full Dental Plan Start Date" is September 1, 2024, or 180 Days after OSC approves the Contract, whichever is later.]

In accordance with New York State policy and New York State Finance Law section 112(2), the resulting contract is deemed executory until it has been approved by the New York State Attorney General's Office (AG) and approved and filed by the New York State Office of the State Comptroller (OSC).

In the event a replacement contract has not been issued, any contract let and awarded here under by the Department may be extended unilaterally by the Department for an additional period of up to one year upon notice to the Contractor with the same terms and conditions as the original contract. Pricing during the extension period will be at the Contract rates existing on December 31, 2028. This extension would terminate should the replacement contract be issued in the interim.

1.3 Overview of the Dental Plan

The Dental Plan was established in 1971 to provide dental plan benefits to certain New York State employees and their Eligible Dependents. Specifically, New York State Employees represented by the Public Employees Federation (PEF), the New York State Correctional Officer and Police Benevolent Association (NYSCOPBA), the Police Benevolent Association of New York State (PBANYS), the New York State Troopers Police Benevolent Association (PBA), the Police Investigators Association (PIA), Council 82, and Management/Confidential employees are covered by the Dental Plan. In addition, Participating Employers (PEs) which include public authorities, public benefit corporations, and other quasi-public entities can participate in the Dental Plan.

In addition to the aforementioned groups, the Plan affords limited dental benefit to members of the Student Employee Health Plan (SEHP), including a program for discounted services from Network Providers. The SEHP was established in 1994 through collective bargaining. The SEHP became part of the Plan in 2002 to provide limited plan benefits to graduate student employees of the State University of New York and their eligible Dependents. SEHP is administered by the New York State Department of Civil Service, Employee Benefits Division. SEHP covers an average of 4,900 employees and their eligible covered Dependents bringing the total number of average covered lives to approximately 5,600.

The Dental Plan is sponsored by the Council on Employee Health Insurance. The Council is composed of the President of the Civil Service Commission, the Director of the Office of Employee Relations (OER), and the Director of the Division of the Budget (DOB). The DCS holds the Contract with the Plan Insurer. The Employee Benefits Division (EBD) of the Department of Civil Service is responsible for administration of the Plan which currently covers approximately 106,000 Enrollees, with approximately 234,000 covered individuals.

New York State Dental Insurance Plan regulations can be found in 4 CRR-NY 74. Most of the Dental Plan’s benefit design is the result of collective bargaining between the State and the various unions electing to participate in the Dental Plan. Benefits are administratively extended to non-represented State employees and employees of Participating Employers. Therefore, the benefit design is subject to change from time to time as the result of those negotiations, including variations in the Dental Plan design among the different bargaining units. The benefit design cannot deviate from that which has been collectively bargained. The majority of the active workforce currently insured under the Dental Plan is represented by various unions.

1.4 Offeror Eligibility

The Department requests Proposals only from qualified Offerors, as specified below.

1. The Offeror must, at time of Proposal submission and throughout the term of the

Contract, possess the legal capacity to enter into a Contract with the Department.

2. The Offeror, at time of Proposal submission and throughout the term of the Contract, must be authorized to conduct business in New York State, or, if the Offeror is not so authorized at time of Proposal Due Date (as specified in Section 1.5 of this RFP), then the Offeror must, at the time of Proposal Due Date, have filed an application for authority to do business in New York State with the New York State Secretary of State. Such application must be approved prior to Contract Award. (For details concerning this requirement, refer to: https://dos.ny.gov/form-corporation-or-business. To register with the Secretary of State, contact: https://www.dos.ny.gov/corps/index.html). The Offeror shall notify the Department immediately in the event that there is any change in the above corporate status.

3. The Offeror must represent and warrant that, at time of Proposal submission, it has completed, obtained, or performed all registrations, filings, approvals, Authorizations, consents, and examinations required by any governmental authority for the provision of the delivery of Project Services (as detailed in Section 3 of this RFP) and agree that it will, during the term of the Contract, comply with any requirements imposed upon it by law or regulation.

4. The Offeror must represent and warrant that, at time of Proposal submission, it possesses adequate staffing resources, financial resources, and organizational capacity to perform the type, magnitude, and quality of work specified in the RFP.

5. The selected Offeror must agree to contractual provisions to maintain and make available, as required by the State, a complete and accurate set of records for review by the State. Contractual provisions are set forth in the RFP and *Standard Clauses for New York State Contracts* (Appendix A), *Standard Clauses for All Department Contracts* (Appendix B), and *Information Security Requirements* (Appendix C). Such records shall include any and all financial records deemed necessary by the State to discharge its fiduciary responsibilities to Dental Plan participants and to ensure that public dollars are spent appropriately.

6. The Offeror must understand and indicate its agreement to comply with all specific duties and responsibilities set forth in Section 3.2. of this RFP, entitled “Implementation Plan,” including Section 3.2(1)(e) requiring the Offeror to propose a financial guarantee supporting its commitment to satisfy all implementation requirements.

7. As of the Proposal Due Date, the Offeror must have experience providing dental insurance for a minimum of 500,000 covered lives in its full book of business.

1.5 Timeline of Key Events

EVENT	DATE
RFP Release Date	May 16, 2023
Deadline for Submission of *Offeror Affirmation of Understanding and Agreement* (Attachment 1)	See below*
Pre-Proposal Conference	June 13, 2023
Deadline for Submission of Offeror Questions	June 27, 2023
Release Date of Official Responses to Offeror Questions	August 1, 2023
Proposal Due Date	September 26, 2023
Anticipated Technical Management Interviews	October 24, 2023
Anticipated Tentative Contract Award	November 21, 2023
Anticipated OSC Approval of Contract Award and Commencement of Implementation Period	On or about February 20, 2024, subject to required approvals
Anticipated Full Dental Plan Services Start Date (Services Start Date)	September 1, 2024, or 180 Days after OSC approves the Contract, whichever is later

*Prior to the Offeror's initial contact with the Department, the Offeror must complete and submit *Offeror Affirmation of Understanding and Agreement* (Attachment 1) to the Designated Contact identified in Section 2.1(1) of this RFP.

SECTION 2: PROCUREMENT PROTOCOL AND PROCESS

2.1 Rules Governing Conduct of Competitive Procurement Process

All inquiries, questions, filings, and submission of Proposals in regard to the RFP must be directed in writing to the Designated Contact listed below. Proposals may not be submitted by e-mail or facsimile. Any inquiries, questions, filings, or submission of Proposals that are submitted to any other contact or physical address shall not be considered as official, binding or as having been received by the Department.

1. **Designated Contact**

   In accordance with New York State Finance Law § 139-j(2)(a) (Procurement Lobbying Law (PLL)), the following individual is the Designated Contact for this Solicitation. All questions relating to this Solicitation must be addressed to the following Designated Contact:

   George Powers
   New York State Department of Civil Service
   Attn: Office of Financial Administration, Floor 17
   Agency Building 1, Empire State Plaza
   Albany, New York 12239
   DCSprocurement@cs.ny.gov

2. **Restrictions on Contacts Between Offerors and State Staff During the Procurement Process**

   a. Pursuant to New York State Finance Law sections 139-j and 139-k, this Procurement imposes certain restrictions on communications between the Department and an Offeror during the procurement process. An Offeror is restricted from making contacts from the earliest posting, on the Department's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article 4-C of the Economic Development Law, of written notice, advertisement or solicitation of a request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerors intending to result in a contract with the Department through final award and approval of the contract by the Department and, if applicable, the Office of the State Comptroller to other than the Designated Contact (unless it is a Contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a)). This time period is defined as the Restricted Period. The Designated Contact for this procurement is set forth in Section 2.1(1) of this RFP. Staff is required to obtain certain information from an Offeror whenever contacted about the procurement during the restricted period and is required to make a determination of the Offeror's responsibility that

addresses the Offeror's compliance with the statutory requirements. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Offeror is debarred from obtaining governmental Procurement Contracts. The Department's policy and procedures can be found in the *Procurement Lobbying Policy* (Attachment 2). Further information about these requirements can be found at: https://www.ogs.ny.gov/ACPL/.

b. The Department strictly controls communications between any Offeror and participants in the procurement process. "Offeror" means the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, who contacts the Department about a governmental procurement during the restricted period of such governmental procurement whether or not the caller has a financial interest in the outcome of the procurement; provided, however, that a governmental agency or its employees that communicate with the Department 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.

3. Pre-Proposal Conference

A Pre-Proposal Conference will be held approximately 28 calendar days after the RFP Release Date using a virtual platform. Attendance is not mandatory but is strongly encouraged for Offerors intending to submit a Proposal. If Offeror's organization plans to attend the Pre-Proposal Conference, please notify the Designated Contact identified in Section 2.1(1) of this RFP via e-mail at the address noted in Section 2.1(1) at least 24 hours before the conference with the name, email address, and affiliation of each person attending.

4. Submission of Errors or Omissions in this RFP Document

By participating in activities related to this RFP, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms, including, but not limited to, this process by which an Offeror may submit errors or omissions for consideration. If an Offeror believes there is an error or omission in this RFP, the Offeror may raise such issue as follows:

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

i. *Time Frame:* The Department must receive assertions of errors or omissions in the RFP process which are or should have been apparent prior to the Proposal Due Date, in writing, five

Business Days after the Release Date of First Official Responses to Questions specified in Section 1.5 of this RFP.

ii. *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.

iii. *Format of Submission:* All submissions asserting an error or omission must be in writing and submitted to the Designated Contact in hard copy at the address provided in Section 2 of this RFP.

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

"Submission of Errors or Omissions for the Dental Plan Services Request for Proposals"

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 Offeror and the Offeror shall have no further recourse.

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

The Department 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. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee 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 designee.

The Commissioner or designee shall review the matter, and the Commissioner shall issue a written decision within twenty 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 Department reserves the right to determine and act in the best interests of the State in resolving any assertion of error or omission in this

RFP document. The Department may elect to extend the Proposal Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who provided an email address on the submitted *Offeror Affirmation of Understanding and Agreement* form (Attachment 1). Notice of any extension will also be posted to: https://www.cs.ny.gov/DentalPlanServicesRFP/

5. Submission of Questions

Prospective Bidders will have an opportunity to submit written questions and requests for clarification regarding this RFP. Using the *Questions Templat*e (Attachment 4), a prospective Offeror may submit questions concerning the content of this RFP via email to the Designated Contact's address specified in Section 2 of this RFP. Only those questions received prior to the Questions Due Date specified in Section 1 of this RFP, will be accepted. After the Questions Due Date, the Department will provide an email notification of the posting of all questions and the Department's official answers to all those individuals who provided an email address on the submitted *Offeror Affirmation of Understanding and Agreement* (Attachment 1) and the *Questions Template* (Attachment 4). The questions and answers will also be posted to: https://www.cs.ny.gov/DentalPlanServicesRFP/

[**Note**: See Bid Deviations section below, specifically 7(b) with regard to submission of questions.]

6. Submission of Proposal

a. The Offeror's Proposal must be organized and separated into three separate sections: Administrative Proposal; Technical Proposal; and Financial Proposal. To facilitate the evaluation process, an Offeror must follow the submission requirements described below:

   i. One ORIGINAL hard copy and four hard copy versions of each of the three sections of the RFP, separated into Administrative, Technical and Financial sections.

   ii. Each ORIGINAL hard copy of each section must be marked "ORIGINAL," contain original signatures of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature. The remaining hard copies of each section may contain a copy of the official's signature on all forms submitted that require the Offeror's signature and should be numbered sequentially (i.e., Copy #1, Copy #2).

iii. A master electronic submission containing all of the ORIGINAL hard copy sections of the proposal must be provided on electronic media. Electronic media shall be included on unprotected Microsoft Windows formatted USB 2.0 or higher storage drive and must be clearly labeled by proposal section and identified as the master electronic submission. In situations where proposal content differs between the ORIGINAL bound hard copies and the master electronic submission, the master electronic submission is deemed controlling. The master electronic submission should be inserted in the Financial Proposal box.

iv. The Offeror must submit sixteen additional USB drives, eight of which each contain an electronic copy of the Administrative and Technical Proposal ONLY, and eight of which contain the Financial Proposal ONLY. The USB drives must conform to the technical specifications outlined in Section 2.1(6)(a)(iii) of this RFP. Each of the sixteen electronic copies should be labeled by section and uniquely designated with a number (e.g., "TECHNICAL & ADMINISTRATIVE COPY 1", "TECHNICAL & ADMINISTRATIVE COPY 2, etc."). The eight USB drives that contain the Financial Proposal should be packaged in the sealed box/envelope labeled Financial Proposal. The eight USB drives that contain the Administrative and Technical Proposals should be packaged in the sealed box/envelope labeled Administrative Proposal.

v. Each Proposal must include a table of contents.

vi. Each major section of the Proposal, including attachments, must be labeled with an index tab that completely identifies the title of the section, subsection or attachment as named in the table of contents.

vii. Each page of the Proposal, including attachments, must be dated, and numbered consecutively.

b. Proposals should be placed and packaged together, by section, in sealed boxes/envelopes (i.e., all Administrative Proposals in one box, all Technical Proposals in a second box, and all Financial Proposals in a third box). Each sealed box/envelope should contain a label on the outside, which contains the information below. Each sealed box/envelope should be submitted to the Designated Contact at the address provided in Section 2.1(1) of this RFP.

New York State Department of Civil Service
Request for Proposals
"Dental Plan Services"

OFFEROR NAME
OFFEROR ADDRESS

Indicate content, as applicable
ADMINISTRATIVE, TECHNICAL, or FINANCIAL PROPOSAL
There must be no Financial/cost information included in the Offeror's Administrative Proposal or Technical Proposal, except for proposed performance guarantees.

c. All Proposals must be mailed or hand-delivered to the address provided in Section 2(1)(1) of this RFP. To make arrangements for hand-delivery, the Offeror must notify the Designated Contact twenty-four 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 1.5 of the RFP.

d. Any proposal received after 3:00 p.m. ET on the Proposal Due Date, as specified in Section 1.5, shall not be accepted by the Department, and may be returned to the submitting entity at the Department's discretion. All Proposals submitted become the property of the Department.

e. The Department will accept amendments and/or additions to an Offeror's Proposal if the amendment and/or addition is received by the Proposal Due Date. All amendments to an Offeror's Proposal must be submitted in accordance with the format set forth in Section 2.1(6) of this RFP and will be included as part of the Offeror's Proposal.

f. An Offeror is solely responsible for timely delivery of the Proposal to the Department prior to the Proposal Due Date stated in Section 1.5 of this RFP. Delays in United States mail deliveries or any other carrier, including couriers or agents of New York State, shall not excuse late bid submissions. If the Proposal is delivered by mail or courier, the Department recommends that it be sent "Returned Receipt Requested", so the Offeror obtains proof of timely delivery. No phone, facsimile or e-mail submission of Proposals will be accepted for this RFP. In addition, it is the sole responsibility of the Offeror to verify that all elements of the Proposal submission are complete, correct and without error.

7. Bid Deviations

a. The Department will not entertain bid deviations to *Standard Clauses for New York State Contracts* (Appendix A). The Department will also not entertain material and substantive bid deviations to the solicitation to the

Standard Clauses for All Department Contracts (Appendix B), and the *Information Security Requirements* (Appendix C). New York State law precludes awarding a contract based on material deviation(s) from the specifications, terms, and/or conditions set forth in the solicitation. Therefore, Proposals containing a bid deviation (including additional, inconsistent, conflicting, or alternative terms) that are a material and substantive change from the specifications, terms, and conditions set forth in the solicitation may render the Proposal non-responsive and may result in rejection of the Proposal.

b. If an Offeror has an issue or concern regarding provisions in the solicitation and is considering submission of a proposal containing a bid deviation, the Offeror is strongly advised to raise such issues and/or concerns during the question-and-answer period so that the Department may give due consideration to the issue prior to the submission of Proposals. Failure to use the question-and-answer period and instead submitting a Proposal containing a bid deviation could render the entire Proposal non-responsive and rejected in its entirety.

c. In general, a material and substantive bid deviation is one that would (i) impair the interests of New York State, (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 solicitation, 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) or financial responsibility from the Offeror to New York State would be considered material.

d. Unless specifically required by the solicitation to be submitted as part of an Offeror's proposal, an Offeror is further advised that its 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 are not considered as having been submitted with or intended to be incorporated as part of the official offer contained in the Proposal. Rather, such material shall be deemed by the Department to have been included by Offeror for informational or promotional purposes only. If such materials are requested by the solicitation, an Offeror must ensure that the materials are properly referenced.

e. To submit a non-material bid deviation, an Offeror must complete and submit the proposed deviation(s) using the *Non-Material Deviations Template* (Attachment 8), as part of the Administrative Proposal. Any non-material deviations proposed by an Offeror must be submitted on the

Non-Material Deviations Template (Attachment 8), not an alternative document. If a non-material bid deviation does not meet these requirements, it shall not be considered by the State and shall be rejected.

f. An Offeror who does not submit the *Non-Material Deviations Template* (Attachment 8), as part of the Administrative Proposal is presumed to have no bid deviations.

8. Notification of Tentative Contract Award

A tentative award letter will be sent to the selected Offeror indicating a tentative award subject to successful contract negotiations. The remaining Offerors will be notified of the tentative award and the possibility that failed negotiations could result in an alternative award.

9. Debriefing

Unsuccessful Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made. Debriefings are subject to the *NYS Department of Civil Service Debriefing Guidelines* (Attachment 5). An unsuccessful Offeror's written request for a debriefing shall be submitted to the Designated Contact at the address provided in Section 2.1(1) of this RFP.

10. Submission of a Protest

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms including, but not limited to, the process by which an Offeror may submit a protest of a non-responsive determination or the selection award for consideration. In the event the Offeror elects to submit a protest of a non-responsive determination, the Offeror agrees it shall not be permitted to also submit a protest on the selection decision. In the event that an Offeror decides to submit a protest, the Offeror may raise such issue according to the following provisions.

a. Process for Submitting a Protest of a Non-Responsive Determination or a Selection Decision

i. Time Frame: Any protest must be received no later than 5:00 p.m. ET on the tenth Business Day after an Offeror's receipt of written notification by the Department of a non-responsive determination or tentative award; or if a debriefing has been requested by the interested party, within five business days of the debriefing (whichever is later).

ii. Content: The protest must fully state the legal and factual grounds for the protest and must include all relevant documentation.

iii. Format of Submission: The protest must be in writing and submitted to the Designated Contact at the address provided in Section 2.1(1) of this RFP.

iv. A protest of either a non-responsive determination or a selection decision must have one of the following statements clearly and prominently displayed on the envelope or package:

"Submission of Non-Responsive Determination Protest for Request for Proposals "Dental Plan Services"

OR

"Submission of Tentative Award Protest for Request for Proposals "Dental Plan Services"

v. 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. Review of Submitted Protests

i. The Department 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 Department but, in any event, shall be someone who has not participated in the preparation of this RFP, the evaluation of Proposal, the determination of non-responsiveness, 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 the Commissioner's designee, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. The Department shall be represented by counsel at such meeting. Any issues concerning the way the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee.

ii. The Commissioner, or the Commissioner's designee, shall review the matter, and shall issue a written decision within twenty Business Days after the close of the review process. If additional time is necessary for the issuance of the decision, the Offeror shall be advised 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 Department's final determination in the matter.

iii. If an Offeror protests the selection decision or a non-responsive determination, the Department shall continue contract negotiations regarding the terms and conditions of the contract with the selected Offeror.

11. Department of Civil Service Reservation of Rights

In addition to any rights articulated elsewhere in this RFP, the Department reserves the right to:

a. Make or not make an award under the RFP, either in whole or in part;

b. Prior to the bid opening, amend the RFP. If the Department elects to amend any part of this RFP, such amendments will also be posted to: https://www.cs.ny.gov/DentalPlanServicesRFP/;

c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent RFP amendments;

d. Withdraw this RFP, at any time, in whole or in part, prior to OSC approval of award of the contract;

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 this RFP;

g. Require clarification at any time during the Procurement process and/or require correction of apparent errors for the purpose of assuring a full and complete 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;

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 the Department's 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;

n. Use the Proposal and the Department's 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 Department's 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 this RFP in the best interests of the Department;

p. Utilize any and all ideas submitted in the Proposal(s) received except to the extent such information/ideas are protected under the New York State Freedom of Information Law, Article 6 of the Public Officers Law as critical infrastructure information or trade secrets;

q. If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful, the Department may invite the Offeror with the next highest Total Combined Score to enter into negotiations for purposes of executing a contract. Prior to negotiating with the Offeror with the next highest Total Combined Score, the Department will notify the Offeror originally selected and provide the date when negotiations shall cease should an agreement not be reached. Scores will not be recalculated for any remaining Offerors should contract negotiations between the Department and the selected Offeror be unsuccessful because of material differences in key provision(s);

r. Unless otherwise specified in this RFP, every offer is firm and non-revocable for a minimum period of 365 days from the Proposal Due Date as set forth in the RFP; and

s. Any Offeror whose Proposal might become eligible for a tentative award may be asked to extend the time for which its Proposal shall remain valid if the original award is withdrawn.

12. Disclaimers

The Department is not liable for any cost incurred by any Offeror prior to approval of the contract by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any Procurement-related activities. Further, the Department shall not be liable for any costs incurred prior to the Implementation Period performing activities set forth in Section 3 of this RFP. The Department has taken care in preparing the data accompanying this RFP (hard copy attachments, website attachments, and sample document attachments). However, the Department does not warrant the accuracy of the data. The numbers or statistics which appear in hardcopy attachments, website attachments, and sample document attachments referenced throughout this RFP 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 Proposal at their own discretion.

2.2 Compliance with Applicable Laws, Rules and Regulations, and Executive Orders

This Procurement is subject to the New York State competitive bidding laws and also governed by, at a minimum, the legal authorities referenced below. An Offeror must fully comply with the provisions set forth in this section of the RFP, as well as the provisions of the *Standard Clauses for New York State Contracts* (Appendix A), the *Standard Clauses for All Department Contracts* (Appendix B) and *Information Security Requirements* (Appendix C), which will become a part of the resulting contract. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions and whose proposal contains the submission required hereunder.

1. Disclosure of Proposal Contents – Freedom of Information Law (FOIL)

a. NOTICE TO OFFEROR AND ITS LEGAL COUNSEL

All materials submitted by an Offeror in response to this RFP shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. Offerors may anticipate that Proposals will be evaluated by staff and consultants

retained by the Department and may also be evaluated by staff of other New York State agencies interested in the provision of the subject services including, but not limited to, OER and DOB, unless otherwise expressly indicated in this RFP. The Department has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to this RFP.

The Department shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this solicitation that are exempt from disclosure under FOIL. Information constituting trade secrets or critical infrastructure information for purposes of FOIL must be clearly marked and identified as such by the Offeror upon submission. To request that materials be protected from FOIL disclosure, the Offeror must follow the procedures below regarding FOIL. If an Offeror believes that any information in its Proposal or supplemental submission(s) constitutes proprietary and/or trade secret or critical infrastructure information and desires that such information not be disclosed 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 a *Freedom of Information Law Request for Redaction Chart* (Attachment 11). 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 *Freedom of Information Law Request for Redaction Chart* (Attachment 11) contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific, or summary assertions that material is proprietary, or trade-secret are inadequate and will not result in protection from FOIL disclosure.

The completed *Freedom of Information Law Request for Redaction Chart* (Attachment 11) must be submitted to the Department at the time of its Proposal submission; it should be included with the Requested Redactions (USB storage drive and Hard Copy) described below. It should not be included in the Offeror's 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 Department by checking the applicable box on *Freedom of Information Law Request for Redaction Chart* (Attachment 11) and submitting it to the Department at the time of its Proposal submission, but separately from its Proposal. If a completed *Freedom of Information Law Request for Redaction Chart* (Attachment 11) form is not submitted, the Department 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 are not considered part of the Offeror's Proposal and shall not be reviewed as a part of the Procurement's evaluation process.

Acceptance of the identified information by the Department does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the Department.

b. Requested Redactions (USB Storage Drive and Hard Copy):

At the time of Proposal submission, the Offeror is required to identify the portions of its Proposal that it is requesting to be redacted in the event that its Proposal is the subject of a FOIL request as follows.

The Offeror must provide an electronic copy of the Administrative Proposal, the Technical Proposal, and the Financial Proposal on a separate USB storage drive of the type outlined in RFP Section 2, which reflect the Offeror's requested redactions. Additionally, the Offeror must provide a separately bound hardcopy of each of the three Proposal documents with redactions marked, but not applied, that are included on the USB storage drives. The electronic documents must be prepared in PDF format. Each specific portion of the Proposal documents requested to be protected from FOIL disclosure must be identified using either:

i. The Adobe "Mark for Redaction" function; do not use the "Apply Redactions" function; or

ii. By highlighting such portions in yellow.

The resulting documents must show the Offeror's requested redactions as outlined, while the content remains visible. This will allow the Department to either apply or remove requested redactions when responding to FOIL requests. The documents included on the USB storage drives and in hard copy must be complete Proposals, including all Attachments. No section may be omitted from the USB storage drive or hard copy even if the entire section is requested to be redacted; such sections should be marked for redaction, not removed. For forms, attachments, and charts, please mark for redaction only those cells/fields/entries that meet the criteria for protection from FOIL, not the entire page. Do not request redaction of Department-supplied materials or information.

During the Proposal evaluation process, the Department may request additional information through clarifying letters. Any requested redactions for additional written material provided by the Offeror in response to the

Department's requests also must be submitted following the instructions, above.

2. 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 State employees. Failure to comply with these provisions may result in disqualification from the Procurement process, termination, suspension or cancelation of the Contract and criminal proceedings as may be required by law. An Offeror 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 *New York State Required Certifications* (Attachment 7), in the Offeror's Administrative Proposal.

3. New York State Required Certifications

An Offeror is required to submit the signed *New York State Required Certifications* (Attachment 7) with its Administrative Proposal. This attachment sets forth the Offeror's required certification on the following:

a. MacBride Fair Employment Principles;

b. Non-Collusive Bidding;

c. Executive Order No. 177 regarding discrimination and harassment;

d. Sexual Harassment Prevention;

e. Public Officer Law Requirements and Conflict of Interest Disclosure; and

f. Executive Order No. 16 regarding business operations in Russia.

4. New York Subcontractors and Suppliers

An Offeror is required to complete *New York State Subcontractors and Suppliers* (Attachment 12). New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and the nation. In recognition of their economic activity and leadership in doing business in New York State, an Offeror for this RFP is strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés, or

other supporting roles. *New York State Subcontractors and Suppliers* (Attachment 12) must be submitted with the Offeror's Technical Proposal.

SECTION 3: PROJECT SERVICES

The Department is seeking to secure the services of a qualified organization to administer the New York State Dental Plan (Dental Plan).

For the purpose of submitting a Proposal, an Offeror must provide:

- A comprehensive Participating Provider Network to allow adequate access for Dental Plan Enrollees;
- Administration services including claims processing, reporting, plan materials that clearly explain the Member's benefits specific to each bargaining unit and group, maintenance of an accurate, complete, and up-to-date enrollment file, based on information provided by the Department; and
- Quality customer service to Dental Plan Enrollees and Providers, including a nationwide toll-free telephone number to service Dental Plan Enrollees and Providers.

3.1 Account Team

The Offeror must provide a knowledgeable, experienced account leader and team dedicated solely to the Dental Plan who have the responsibility and authority to command the appropriate resources necessary to implement and deliver Project Services (hereinafter "Account Team").

1. Duties and Responsibilities

a. The Offeror's assigned Account Team must be comprised of qualified and experienced individuals who are acceptable to the Department and who will ensure that the operational, clinical, and financial resources are in place to operate the Dental Plan in an efficient manner.

b. The Offeror must ensure that there is a process in place for the Account Team to gain immediate access to appropriate corporate resources and senior management to meet all Dental Plan requirements and to address any issues that may arise during the performance of the Contract.

c. The Offeror must ensure that the proposed Account Team is experienced, accessible, and sufficiently staffed to provide responses within one Business Day to administrative concerns and inquiries posed by the Department, members of the Council on Employee Health Insurance, or union representatives regarding member-specific claims issues for the duration of the Contract to the satisfaction of the Department.

d. The Offeror's assigned Account Team must immediately notify the Department of actual or anticipated events impacting Dental Plan costs and/or delivery of services to Enrollees such as, but not limited to, legislation, litigation, and operational issues.

e. The Offeror's assigned Account Team must ensure that the Dental Plan is in compliance with all legislative and statutory requirements. In instances in which the Offeror is unable to comply with any legislative or statutory requirements, the Department must be notified in writing immediately and the Offeror must work with the Department to take the appropriate remedial action to come into compliance as soon as practicable.

3.2 Implementation Plan

The Offeror must deliver an overall Implementation Plan. The Implementation Period shall be a minimum 180 calendar days prior to the Dental Services Start Date. The Offeror must designate an Implementation Team composed of individuals who have completed an implementation for at least one large client. At least two account team members on the team should have experience with an implementation for one large client. A large client is considered any employer with at least 50,000 covered lives. All implementation activities must be completed by the Service Start Date so that Project Services can commence on the Service Start Date.

1. Duties and Responsibilities

a. The Offeror must provide, subject to Department final approval, an Implementation Plan that results in the implementation of all Project Services by the required timeframes, indicating estimated timeframes for individual task completion, testing dates and objectives. The Implementation Plan must include key activities such as training of call center staff, website development, network development, transition of benefits, eligibility feeds and testing claims processing. The Implementation Plan should provide deadlines for these activities and identify who will be responsible for completion of these activities from the Offeror's team. The Implementation Plan must also identify and describe areas where complications may be expected and what steps Offerors will take to ensure timely completion.

b. The Offeror must provide an Implementation Plan, no later than 10 business days after the Contract Effective Date, which will allow the Department to review the Offeror's readiness in the areas outlined in Section 5.3.1.

c. By the Services Start Date, the Offeror must have the following in place:

   i. A contracted Participating Provider Network that meets the access standard set forth in this RFP; and

   ii. The ability to accurately process all Dental Plan claims, as submitted.

d. Thirty (30) calendar days prior to the Services Start Date, the Offeror must have the following in place:

   i. A fully operational, dedicated Call Center available for the use of Members and health benefits administrators as detailed in Section 3.4(1)(b). Members, for purposes of this RFP, are defined as all policyholders and their dependents; and

   ii. A fully functioning, customized Dental Plan website available, as described in Section 3.5 of this RFP.

e. Implementation Guarantee: The Offeror must guarantee that all of the tasks identified in the Department approved Implementation Plan will be in place on or before the Services Start Date following completion of the Implementation Period, with the exception of opening the dedicated Call Center and completing work on the customized website. The dedicated Call Center must be opened at least thirty (30) calendar days prior to the Services Start Date. The customized website must be live and operational at least thirty (30) calendar days prior to the Services Start Date. This guarantee is not subject to the limitation of liability provisions of the Contract.

3.3 Participating Provider Network

The selected Offeror must have a comprehensive Participating Provider Network in place to allow adequate access for Dental Plan Enrollees to network providers. The network access standards apply to all Dental Plan Enrollees, regardless of what state they reside in. The Offeror must provide our Enrollees their top tier network.

1. Duties and Responsibilities

a. The selected Offeror must maintain a credentialed and contracted Participating Provider Network that, throughout the term of the Contract, meets or exceeds the Department's Minimum Access Standards as follows:

Provider Type	Urban	Suburban	Rural
General Dentist	98% of enrollees will have at least two providers within five miles	98% of enrollees will have at least two providers within ten miles	95% of enrollees will have at least two providers within twenty miles
Pedodontist	91% of enrollees will have at least one provider within five miles	95% of enrollees will have at least one provider within fifteen miles	70% of enrollees will have at least one provider within twenty-five miles
Orthodontist			65% of enrollees will have at least one provider within twenty-five miles
Periodontist			50% of enrollees will have at least one provider within twenty-five miles
Oral Surgeon			90% of enrollees will have at least one provider within twenty-five miles
Endodontist			80% of enrollees will have at least one provider within twenty-five miles

b. In developing its proposed Dental Plan Provider Network, the Offeror is expected to use its best efforts to substantially maintain the composition of Network Providers included in the Dental Plan's current Provider Network. Current providers include General Dentist, Pedodontist, Orthodontist, Periodontist, Oral Surgeon, and Endodontist. The Offeror may propose additional types of providers. The Offeror shall monitor the network monthly to ascertain if their Provider practices are open or closed to new patients. If the practice is open to new patients, the wait time to see a provider must be actively monitored. Provider availability must be taken into account in relation to Member accessibility.

c. The Offeror must develop communication materials which accurately describe the Dental Plan benefit to eligible populations.

d. The Offeror shall offer participation in its Provider Network to any Provider who meets the Offeror's credentialing criteria if the Provider is a high-volume provider or upon the Department's request where such inclusion is deemed necessary by the Department to meet the needs of the Members, even if not otherwise necessary to meet the minimum access guarantees.

e. The Offeror must ensure that all Providers are credentialed and meet the licensing and quality standards required by the state in which they operate before they provide any Project Services.

f. The Offeror must have an effective process by which to confirm Providers continuing compliance with licensing and credentialing standards.

g. The Offeror must provide a quarterly network update outlining Provider recruitment and retention efforts by County.

3.4 Customer Service

The Plan requires that the Offeror provide quality customer service to Members as described herein. The Offeror must maintain a nationwide toll-free telephone number to service Members and Providers. Through this toll-free telephone number, Members and Providers must have access to representatives who respond to questions and inquiries regarding Dental Plan benefits, eligibility and claims status, and any complaints regarding the Project Services. The average number of calls received per month in 2022 by the Dental Plan was approximately 7,109. Detailed call center statistics can be found in *Call Center Statistics* (Attachment 18). The Offeror is required to agree to customer service performance guarantees that reflect strong commitments to quality customer service.

1. Duties and Responsibilities

The Offeror will be responsible for all customer support and services including, but not limited to:

a. Providing Members access to information for all Dental benefits and services, through the nationwide toll-free telephone number, from 8:00 a.m. through 5:00 p.m. ET, Monday through Friday, except on legal holidays observed by the State.

b. Maintaining a fully operational dedicated Call Center providing all aspects of customer support and clinical services as set forth in the RFP. The dedicated Call Center must be open and operational a minimum of thirty (30) calendar days prior to the Services Start Date to assist Members with questions concerning transition from the current Dental Plan. The Call Center line shall have the additional capability to transfer calls internally to the appropriate areas of the Dental Plan. The Call Center shall be staffed

by trained customer service representatives (CSRs) available during the required customer service hours of operation.

i. The Offeror must maintain a dedicated Call Center staffed by fully trained CSRs and supervisors.

ii. CSRs must be trained and capable of responding to a wide range of questions, complaints, and inquiries, including but not limited to: Dental Plan benefits; status of pre-determination requests; eligibility and claim status.

iii. The Offeror must provide access to a teletypewriter (TTY) number for callers utilizing a TTY device because of a hearing or speech disability. The TTY number must provide the same level of access to the Call Center as the non-TTY number.

iv. In accordance with federal and State law, the Offeror must provide access to a translation line or interpretation service to Members who do not read, speak, write, or understand English as their primary language in order to remove potential barriers to accessing services.

v. CSRs must use an integrated system to log and track all Member calls. The system must track the total number of calls entering the Nationwide toll-free telephone number and the date, time, duration, and reason for all calls. The system must create a record of the Member contacting the call center, the call type, and all customer service actions and resolutions.

vi. The Offeror must maintain designated backup customer service staff with Dental Plan specific training to handle any overflow when the dedicated customer service center is unable to meet the Offeror's proposed customer service performance guarantees. This backup system would also be utilized in the event the primary customer service center becomes unavailable.

vii. The Offeror must establish a process through which Providers can verify eligibility of Members during Call Center hours.

c. Call Center Telephone Guarantees: The Offeror must provide guarantees for the following four measures of service. These guarantees do not include the time period during Implementation when the call center must be open thirty (30) days prior to the Services Start Date.

i. Call Center Response Time Guarantee: The Dental Plan's service level standard requires that, at a minimum, 90% of incoming calls to the Offeror's telephone line will be answered by a CSR within thirty

seconds. Response time is defined as the time it takes incoming calls to the Offeror's telephone line to be answered by a customer service representative. The call center telephone response time shall be reported to the Department on a weekly basis for the first month of the Contract, and then reported monthly and calculated quarterly for the remainder of the Contract.

ii. Availability Guarantee: The Dental Plan's service level standard requires that the Offeror's telephone line will be operational and available to Members and Providers equal to or better than 99.5% of the Offeror's required up-time from 8:00 am through 5:00 pm, Monday through Friday ET, except on legal holidays observed by the State. The telephone line availability shall be reported monthly and calculated quarterly.

iii. Telephone Abandonment Rate Guarantee: The Dental Plan's service level standard requires that the percentage of incoming calls to the Offeror's telephone line in which the caller disconnects prior to the call being answered by a CSR will not exceed 3%. The telephone abandonment rate shall be reported weekly for the first month after the Services Start Date, and then reported monthly and calculated quarterly for the remainder of the Contract.

iv. Telephone Blockage Rate Guarantee: The Dental Plan's service level standard requires that not more than 0% of incoming calls to the Offeror's telephone line will be blocked by a busy signal. The telephone blockage rate shall be reported weekly for the first month after the Services Start Date, and then reported monthly and calculated quarterly for the remainder of the Contract.

3.5 Member Communication Support

The Department regularly provides information regarding Dental Plan benefits to Members through publications, the Department's website, media, and attendance at various meetings. The successful Offeror will be required to assist the Department with the creation, review and presentation of Dental Plan Services materials that will enhance a Member's understanding of the Dental Plan benefits.

1. Duties and Responsibilities

a. All Member communications developed by the Offeror are subject to the Department's review and prior written approval, including but not limited to any regular standardized direct communication with Members or their Dentists in connection with Member utilization or the processing of Member claims, either through mail, e-mail, fax, or telephone. The

Department in its sole discretion reserves the right to require any change it deems necessary.

b. The Offeror will be responsible for providing Member communication services to the Department including, but not limited to:

    i. Designing and producing all necessary claim forms, Full-Time Student Attestation forms, benefit booklets, and other printed materials in sufficient quantities to promote and operate the Dental Plan;

    ii. Designing and producing a Dental Plan Summary of Benefits Booklet. The Dental Plan Summary of Benefits Booklet means the booklet that describes the Dental Plan benefits applicable to each Member's employee group or union and summarizes Dental Plan provisions, including eligibility criteria.

    iii. Developing language describing the Dental Plan for inclusion in the NYSHIP General Information Book and any other form of communication, subject to the Department's review and approval;

    iv. Retaining no proprietary or literary rights with respect to communication material developed or distributed solely for the Dental Plan and executing any assignment found necessary to release proprietary or literary rights to such communication material;

    v. Timely, as determined by the Department, reviewing, and commenting on proposed communication material developed by the Department;

    vi. Assisting with Summaries of Benefits Coverage (SBC) for the Student Employee Health Plan, whose medical and dental coverage is consolidated with coverage information from other Program administrators for the Empire Plan;

    vii. Distributing Dental Plan materials to Members; including but not limited to annual mailings of summary plan documents. An Offeror shall have the ability to send member communication materials through both U.S. mail and email;

    viii. Providing the Department's Fulfillment Center with Dental Plan publications and ensure sufficient quantity on hand to meet the immediate needs of HBAs to supply each newly eligible employee throughout the term of the Contract and provide replacement copies when requested. Fulfillment Center means

the Department's distribution center for publications supplied to Enrollees of New York State Agencies and PEs; and

ix. Accounting and paying for all development, production and mailing costs incurred to disseminate Dental Plan communications materials to Enrollees and Department Fulfillment Center (excluding cost to ship publications from Department Fulfillment Center to HBAs and Enrollees).

c. The Offeror must develop appropriate customized forms and letters for the Dental Plan, including but not limited to Member claim forms, full-time student attestation form, Explanation of Benefits, certification letters and appeal letters. The Department reserves the right to review and approve all communications and forms prior to distribution.

d. Distributing Dental Plan Summary of Benefit Booklets to Health Benefit Administrators (HBAs) in quantities equal to three percent of their agency's Enrollee count by bargaining unit for 2022 which can be found in *Covered Lives by Bargaining Unit or Other Group* (Attachment 26). HBA means an agency representative, primarily located in agency human resource office, who provides information on health and dental benefits to agency staff.

e. Upon the Department's request, on an "as needed" basis, the Offeror agrees to provide Contractor staff to participate in health fairs, select conferences, benefit design information sessions and Union events in New York State and elsewhere in the United States. The Offeror agrees that the costs associated with these services, including all fees associated with travel, meals and lodging to attend the events, are included in the Offeror's Administrative Fee.

f. The Offeror must provide full-time student attestation forms to Members two months prior to turning age 19 to request verification of eligibility to continue benefits beyond age 18, as well as two months prior to the termination of their current full-time student certification. Additional services related to full-time student determinations occur in Section 3.7 Enrollment Management.

g. Designing and producing a Participating Provider directory and making the directory accessible on the Offeror's dedicated Dental Plan website. The directory shall be updated daily to ensure Members have access to the most up-to-date information. The Offeror must ensure the directory contains the most up-to-date information regarding network Providers.

h. The selected Offeror is required to provide Member Plan Benefit information through a link on the Department's website. Content accessible through this link shall be strictly limited to information that

pertains to the Dental Plan. No other links or content are permitted on the Offeror's Plan Benefits website without the written approval of the Department. The Department shall be notified of all regularly scheduled maintenance or material modifications to the site no later than one Business Day prior to such maintenance being performed. Information provided through this link shall include, but not be limited to:

i. Plan Benefits;

ii. Eligibility;

iii. Cost-sharing information;

iv. Year-to-date deductibles, annual maximums, as well as lifetime maximums;

v. Claim status and submission information;

vi. Explanation of Benefits Statements; and

vii. Access to Dental Plan Provider Directory.

i. The fully functioning website, approved and accepted by the Department, must be available a minimum of thirty (30) calendar days prior to the Services Start Date including a secure dedicated link from the Department's website providing Members online access to the Offeror's website meeting all the requirements as set forth in this RFP. The Offeror's website must conform to the New York State website style provided by the Department of Civil Service and meet all NYS Web Accessibility requirements (See Appendix B for NYS Web Accessibility requirements).

j. The Offeror's website must include a web-based user interface compatible with:

i. Google Chrome current version for Windows'

ii. Mozilla Firefox current version;

iii. Safari current version; and

iv. Microsoft Edge current version

k. The Offeror's websites must be mobile friendly, fully functional, and display correctly on devices including, but not limited to:

i. Smartphones;

ii. iPhones;

iii. iPads;

iv. Tablets; and

v. Laptops

3.6 Reporting Services

The Offeror must provide the Department with regular, periodic reports that are designed to document that Member, network, and account management service levels are being maintained and that all claims are being paid in accordance with the Contract requirements. The Offeror may on occasion be requested by the Department to provide ad-hoc reporting and analysis within twenty-four hours of a request.

In order to fulfill its obligations to Members and ensure Contract compliance, the Offeror must provide accurate claims Data information on a claim processing cycle basis as well as summary reports concerning the Dental Plan and its administration.

All electronic files must be in a format acceptable to the Department. The Department will initially review and approve the proposed file format during the Implementation Period, but this file format may be adjusted during the term of the Contract at the discretion of the Department. Upon receipt by the Department, all electronic files are first validated for compliance with the agreed-upon format. Files that fail to adhere to this structure are rejected in their entirety and must be re-submitted.

1. Duties and Responsibilities

a. The Offeror must be responsible for reporting services including, but not limited to:

a. Developing and delivering accurate and timely management, financial, and utilization reports as specified in *Program Reporting* (Attachment 17). These reports will be delivered to the Department no later than their respective due dates and are required by the Department for its use in the review, management, monitoring, and analysis of the Dental Plan. The exact format (paper and/or electronic Microsoft Access, Excel, Word), frequency, and due dates for such reports will be specified by the Department;

b. Ensuring that all financial reports including claim reports are

generated from amounts billed to the Dental Plan and reconciled to amounts reported in quarterly and annual financial experience reports;

c. Reporting of all performance guarantees as specified within the Contract and for any occurrence when a performance guarantee is not met, Contractor will provide a root cause analysis and detail corrective action; and

d. Providing ad hoc reports and other Data analysis at no additional fee to the Department. The exact format, frequency, and due dates for such reports shall be specified by the Department. Any ad hoc report generated for the Department must be reflective of the Dental Plan's actual claims experience and Member population. Information required in the ad hoc reports may include, but is not limited to:

    i. Forecasting and trend analysis Data;

    ii. Utilization Data;

    iii. Utilization review savings;

    iv. Benefit design modeling analysis;

    v. Reports segregating claims experience for specific populations including Department assigned Benefit Programs (see Attachment 19 *Benefit Programs)* ; and

    vi. Reports to monitor Contract compliance.

e. Assisting and supporting the Department with all aspects of the premium rate development including, but not limited to:

    i. Providing a team of qualified and experienced individuals who are acceptable to the Department and who will assist and support the Department in developing premium rates.

    ii. Working with the Department and its contracted actuarial consultant through the annual premium renewal process to further document and explain any premium rate recommendation.

3.7 Enrollment Management

The Department currently utilizes a web-based enrollment system for the administration of employee benefits known as the New York Benefits Eligibility and Accounting System (NYBEAS). NYBEAS is the source of eligibility information for all Dental Plan, Members. Enrollment information is outlined in *Enrollment by Month* (Attachment 24), *Total Dental Enrollment by Age* (Attachment 25) and *Covered Lives by Bargaining Unit or Other Group* (Attachment 26). Additionally, the Offeror will be required to receive and process full-time student attestation forms for qualifying dependents from ages 19 to 25 (qualifying military service and disability status may extend eligibility beyond this age range) and provide the Department with a file noting eligibility status as a result of their review. Eligibility determinations will be applied to the NYS Vision Plan as well, which shares the same dependent eligibility requirements.

1. Duties and Responsibilities Amended

a. The selected Offeror must maintain accurate, complete, and up-to-date enrollment files, based on information provided by the Department. In the case of a conflict in the enrollment files, the Department-provided enrollment system information will control. However, in the case of full-time students, the Offeror's enrollment system will control since they will be performing full-time student verification. Offerors will be required to send enrollment changes based on full-time student verification to the Department on a weekly basis. These enrollment files shall be used by the Offeror to process claims, provide customer service, and produce management reports and Data files. The Offeror must provide enrollment management services including but not limited to:

i. Performing an initial enrollment load to commence upon receipt of the enrollment file from the Department during the Implementation Period. The file must be EDI Benefit Enrollment and Maintenance Transaction set 834 (ANSI x.12 834 standard) and be either 834 (4010x095A1) or 834 (005010x220), fixed-length ASCII text file, or a custom file format as determined by the Department;

ii. Testing to determine if the initial enrollment file and daily enrollment transaction loaded correctly and that the enrollment system interfaces with the claims processing system to accurately adjudicate claims. The selected Offeror shall submit enrollment test files to the Department for auditing, provide the Department with secure online access required to ensure accurate loading of the Dental Plan Services enrollment Data, and promptly correct any identified issues to the satisfaction of the Department;

iii. Developing and maintaining an enrollment system capable of receiving, reading, interpreting, and storing secure enrollment transactions (Monday through Friday) and having all transactions loaded to the claims processing system within twenty-four hours of the release of a retrievable file by the Department. The Offeror shall, on a daily basis, manually review and load any transactions which did not process correctly from the daily ANSI x.12 834 standard 005010x220 file by reviewing the correct enrollment date maintained in the NYBEAS. The Offeror shall immediately notify the Department of each transaction that did not process correctly and any delay in loading enrollment transactions. In the event the Offeror experiences a delay due to the quality of the Data supplied by the Department, the Offeror shall immediately load all records received (that meet the quality standards for loading) within twenty-four hours of their release, as required. The Department will release enrollment changes to the Offeror in an electronic format daily (Monday through Friday). On occasion, the Department will release more than one enrollment file within a twenty-four-hour period. The Offeror must be capable of loading all enrollment files within the twenty-four-hour performance standard. The format of these transactions will be in an EDI Benefit Enrollment and Maintenance transaction set, utilizing an ANSI x.12 834 standard 005010x220 transaction set in the format specified by the Department. The latest transaction format is contained in *NYBEAS Enrollment Record Layout - Transaction Set Header* (Attachment 20). The Offeror must also have the capability to receive alternate identification numbers and any special update files from the Department containing eligibility additions and deletions, including emergency updates if required;

iv. Ensuring the security of all enrollment information, as well as the security of a HIPAA compliant computer system, in order to protect the confidentiality of Data contained in the enrollment file. Any transfers of enrollment Data within the Offeror's system or to external parties must be completed via a secured process, compliant with the information security requirements set forth in *Information Security Requirements* (Appendix C);

v. Providing a back-up system or have a process in place where, if enrollment information is unavailable, Members can obtain services without interruption;

vi. Cooperating fully with the Department or third parties on behalf of the Department on any Department or State initiatives to use

new technologies, processes, and methods to improve the efficiencies of maintaining enrollment Data including any enrollment file conformance testing requested during the Contract;

vii. Maintaining a read-only connection to the Department provided enrollment system for the purpose of providing the Offeror's staff with access to current Dental Plan Services enrollment information. Offeror's staff must be available to access enrollment information through the Department-provided enrollment system, Monday through Friday, from 8:00 a.m. to 5:00 p.m. ET, except for holidays observed by the State as indicated on the Department's website;

viii. Meeting the administrative requirements for National Medical Support Order (NMSO). For eligibility requirements for NMSO see the General Information Book for Actives at https:// www.cs.ny.gov/employee-benefits/nyship/shared/publications/ general-information-book/2021/ny-gib-2021.pdf, for PEs at https://www.cs.ny.gov/employee-benefits/nyship/shared/ publications/general-information-book/2022/pe-gib-2022.pdf, or for SEHP at https://www.cs.ny.gov/employee-benefits/nyship/ shared/publications/general-information-book/2021/sehp-gib-2021.pdf. A child covered by NMSO or the child's custodial parent, legal guardian, or the provider of services to the child, or a New York State agency to the extent assigned the child's rights, may file claims and the Offeror must make payment for covered benefits or reimbursement directly to such party. The Offeror will be required to store this information in its system(s) so that any claim payments or any other plan communication distributed by the Offeror, including access to information on the Offeror's Plan Benefits website would go to the person designated in the NMSO;

ix. Sharing Data with entities to be determined by New York State including, but not limited to, health benefits administrators for New York State agencies and PEs;

x. Agreeing to the State defined eligibility periods as they relate to waiting periods and duration of coverage as a member (See General Information Books referenced in Section 3.7.1.a.viii above for additional information on State-defined eligibility periods);

xi. Administering insurance coverage for any employee and their Eligible Dependents whom the Department determines is eligible for coverage(file layout information for dependent reinstatements and terminations can be found in Attachment 32);

xii. Providing the State with online access to their enrollment information in real-time;

xiv. Using the Department's enrollment and accounting system as the controlling system for Member enrollment and demographic information;

xv. Updating enrollment and eligibility information on a daily basis solely based on the EDI 834 transaction file sent from the Department to the Offeror for the plan population;

xvi. Developing a process to distribute, accept, and review full-time student attestation forms to determine eligibility for dental and vision benefits beyond age 18. The Offeror will utilize enrollment information shared on the EDI 834 transaction file to determine who is turning 19 and subject to verification. Using the results of this verification process, the Offeror must send enrollment changes on a weekly basis to the Department in a readable file of the Department's specification noting the dependents determined as eligible. Agreeing to complete a full reconciliation between the Department's enrollment system and the Offeror's eligibility system monthly (file layout information can be found within Attachment 33, Outbound File Layouts);

xvii. Maintaining a dedicated team to manually review enrollment and eligibility transactions that do not upload to the Offeror's system and report transactions that did not process in a format acceptable to the Department within one Business Day of discovery; and

~~xviii. Reporting address changes made to the Offeror to the Department via a file. The Department will update its system as appropriate and report these changes on the 834 transaction file.~~

b. Enrollment Management Guarantee: The Offeror must guarantee 100% of all Dental Plan Services enrollment records that meet the quality standard for loading, will be loaded into the Offeror's enrollment system within twenty-four hours of release by the Department.

3.8 Direct-Pay Enrollment Option

When enrollees retire or are no longer eligible for the NYS Dental Plan, they can continue coverage under COBRA for up to 36 months or choose a Direct-Pay Dental Plan with the current Contractor.

1. Duties and Responsibilities

a. The Offeror must provide a Direct-Pay enrollment option to Plan retirees and enrollees that are no longer eligible for the NYS Dental Plan. Premium would be paid directly to the Offeror by the retiree or enrollee.

3.9 Claims Processing

The Offeror is required to process all claims submitted under the Dental Plan.

1. Duties and Responsibilities

a. The Offeror must provide all aspects of claims processing. Such responsibility shall include but not be limited to:

i. Maintaining a claims processing center located in the Continental United States staffed by fully trained claims processors and supervisors.

ii. Verifying that the Dental Plan's benefit design has been loaded into the system appropriately to adjudicate and calculate cost-sharing and other edits correctly.

iii. Developing and maintaining claim payment procedures, guidelines, and system edits (i.e., control measures to prevent unauthorized payments) that guarantee the accuracy of claim payments for covered expenses only, utilizing all edits as approved by the Department. The Offeror's system must ensure that payments are made only for authorized services;

iv. Maintaining claims histories for twenty-four months online and archiving older claim histories for a minimum of six years and the balance of the Calendar year in which the claims were made with procedures to retrieve and load claim records easily (All Contract provisions related to the protection and security of the Data will survive termination of the Contract. This requirement does not limit the Contractor's obligations pursuant to Appendix A to establish and maintain Records).

v. Reversing all attributes of claim records processed in error;

vi. Agreeing that all claims data is the sole property of the State. Upon the request of the Department, the Offeror shall share appropriate claims data with other New York State Plan carriers and consultants for various programs (e.g., Other Clinical

Management Programs) and the Department's Decision Support System (DSS) vendor at no additional cost. The Offeror cannot share, release, or make the claims data available to third parties, in any manner, without the prior written consent of the Department;

vii. Maintaining a backup system and disaster recovery plan for processing claims, compliant with the information security requirements set forth in Appendix C, *Information Security Requirements*, if the primary claims payment system fails or is not available or accessible;

viii. Analyzing and monitoring claim submissions to promptly identify errors, fraud, and/or abuse and reporting to the State, and appropriate authorities. Such information shall be provided in a timely fashion in accordance with a State-approved process.

ix. The Dental Plan shall be charged only for accurate (i.e., the correct dollar amount) claims payments for covered expenses. The Offeror will credit the Dental Plan the amount of any overpayments that Offeror agrees resulted from Offeror's (including subcontractors) error or fraud in the performance of Project Services. In cases of overpayments resulting from errors only found to be the responsibility of the State, or as a result of fraud and abuse by Members and/or Providers, the Offeror shall use reasonable efforts to recover any overpayments and credit 100% of any recoveries to the Dental Plan.

x. Providing Members with hardcopy Explanation of Benefits (EOBs) in accordance with New York State Insurance Law §3234 and §3235. At a minimum, EOBs will include the following information:

1) Type of Service;

2) Enrollee's name;

3) Provider of service;

4) Date of service;

5) Amount billed;

6) Amount plan paid;

7) Amount Enrollee owes;

8) Deductible, Annual Maximum and Lifetime Maximum responsibility;

9) Information about the appeal process, including external appeal; and

10) Telephone number to call if Member has questions about claims.

xi. When the Plan is secondary to any other plan, reducing payment under the Dental Plan so that the total of all payments or benefits payable under the Dental Plan and the other plan is not more than the reasonable and customary charge for services received;

xii. Providing the Department direct, secure access to the Offeror's claims system through any online web-based reporting tools, to authorized Department representatives;

xiii. Submitting a file including all processed claims to the Department's DSS vendor no later than twelve calendar days following the end of each calendar month, including the month following Contract terminates; and

xiv. Integrating appeal decisions into the claims processing system.

b. Claims Processing Guarantees: The Offeror must provide for the following two Plan service level standards:

i. Claims Payment Accuracy Guarantee: The Dental Plan's service level standard requires that claims payment accuracy is achieved for a minimum of 98% of all claims processed and paid each Calendar year on an annual basis. Claims payment accuracy shall be measured by dividing the number of claims paid correctly by the total number of claims reviewed. Results shall be determined based on a periodic audit conducted by the Department using statistical estimate techniques at the 95% confidence level with precision of +/- 3%.

ii. Claims Processing Guarantee – Twenty-Four (24) Calendar Days Turnaround Time: The Dental Plan's service level standard requires that a minimum of 99.5% of submitted claims that require no additional information in order to be properly adjudicated that are received by the Offeror are processed

within twenty-four (24) Calendar Days from the date the claim is received electronically or in the Offeror's designated post office box to the date of Claim Adjudication. Claim Adjudication is defined as when the Offeror has processed the claim and the claim has been finalized for payment or denial.

3.10 Plan Audit and Fraud Protection

The selected Offeror must have a strong audit presence throughout its organization. Throughout the term of the Contract, the selected Offeror shall provide fraud and abuse detection and prevention services at least at the same level and using the same tools, software, and techniques as used for its other dental insurance plans that are regulated by the New York State Department of Financial Services (DFS). If the Offeror has no such dental insurance plans, the selected Offeror shall provide fraud and abuse detection and prevention services at least at the same level and using the same tools, software, and techniques as used for its dental insurance plans that are regulated by the insurance department of another state. The Offeror is responsible for the recovery of benefit payments resulting from fraud and/or abuse to the extent possible as determined by the Department.

1. Duties and Responsibilities

a. The Offeror must conduct routine and targeted audits of Providers. On-site audits must also be conducted upon request by the Department and/or OSC, or when information is received by the Offeror that indicates a pattern of conduct by a Provider that is not consistent with the Dental Plan benefit design and objectives. Any modifications to the proposed audit program must receive written prior approval by the State.

b. The Offeror must utilize payment integrity algorithms and software to monitor waste, fraud, and abuse in the Dental Plan at no extra cost to the Department.

c. The Offeror must inform the Department in writing of any allegation or other indication of potential fraud and/or abuse identified within seven Business Days of receipt of such allegations or identification of such potential fraud and/or abuse. The Department must be fully informed of all fraud and/or abuse investigations impacting the Plan upon commencement, regardless of whether the individual fraud and/or abuse investigation has a material financial impact to the State.

d. The Offeror shall cooperate with all Department and/or OSC audits whether conducted by State staff or by a third party on the Department's or OSC's behalf. Cooperation shall be consistent with the requirements of *Standard Clauses for New York State Contracts* (Appendix A), *Standard Clauses for*

All Department Contracts (Appendix B), and *Information Security Requirements* (Appendix C), including the provision of access to protected health information and all other confidential information when required for audit purposes as determined by the Department and/or OSC as appropriate. The Offeror must respond to all State (including OSC) audit requests for information and/or clarification within fifteen Business Days. The Offeror must perform timely reviews and respond within a period specified by the Department to preliminary findings submitted by the Department or the OSC audit unit in accordance with the contractual requirements. Use of statistical sampling of claims and extrapolation of findings resulting from such samples shall be acceptable techniques for identifying claims errors. The selected Offeror shall facilitate audits, including on-site audits, as requested by the Department or OSC.

e. The Offeror shall remit to the Department 100% of audit findings that are agreed by the Offeror to be the result of Offeror (including subcontractors) error or Offeror (including subcontractors) fraud in the performance of Project Services within thirty days of the issuance of the final audit report including the response from the Offeror. Additionally, the Offeror shall remit 100% of any other Provider and Member audit recoveries to the Department as applicable within thirty days of receipt. Remittances shall be credited to the subsequent Administrative Fee invoice.

f. The Offeror must agree that audit activity may include, but not necessarily be limited to, the following activities:

    i. Review of the selected Offeror's activities and records relating to the documentation of its performance under the Contract in areas such as determination of Enrollee or Dependent eligibility and application of various Department program administrative features (e.g., dependent survivor benefits, and reasonable adjudication of disabled dependent status);

    ii. Comparison of the information in the selected Offeror's enrollment file to that on the enrollment reports issued to the selected Offeror by the Department; and

    iii. Assessment of the selected Offeror's information, utilization, and demographic systems to the extent necessary to verify accuracy of Data on the reports provided to the Department in accordance with Section 3.6 of this RFP.

g. The selected Offeror shall maintain and make available documentary evidence necessary to perform the reviews. Documentation maintained and made available by the Offeror may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation, pertinent contracts, key subcontracts,

provider agreements, and correspondence.

h. The selected Offeror shall make available for audit all Data in its computerized files that is relevant to and subject to the Contract. Such Data may, at the Department's discretion, be submitted to the Department in machine-readable format, or the Data may be extracted by the Department, or by the Offeror under the direction of the Department.

i. The selected Offeror shall, at the Department's request, and in a time period specified by the Department, search its files, retrieve information and records, and provide to the auditors such documentary evidence as they require. The Offeror shall make sufficient resources available for the efficient performance of audit procedures.

j. The selected Offeror shall comment on the contents of any audit report prepared by the Department and transmit such comments in writing to the Department within thirty Calendar days of receiving any audit report. The response will specifically address each audit recommendation. If the Offeror agrees with the recommendation, the response will include a work plan and timetable to implement the recommendation. If the Offeror disagrees with an audit recommendation, the response will give all details and reasons for such disagreement. Resolution of any disagreement as to the resolution of an audit recommendation shall be subject to the Dispute Resolution provision set forth in *Standard Clauses for All Department Contracts* (Appendix B).

k. If the selected Offeror has an independent audit performed of the records relating to this Contract, a certified copy of the audit report shall be provided to the Department within ten Business Days after receipt of such audit report by the Offeror.

3.11 Appeals Process

Members and Providers are permitted to appeal denied services on the basis of medical necessity, experimental or investigational, or if an out-of-network treatment. The Offeror is required to provide an internal and external formal written appeals process to address these appeals. For detailed information regarding the current NYS Dental Plan's appeal process, please see the following certificate (appeal rights apply equally to all eligible groups):
https://www.cs.ny.gov/employee-benefits/nyship/group/1/10/3/dental/index.cfm?page=8

1. Duties and Responsibilities

a. The Offeror must establish a formal written appeals resolution procedure which includes the responsibility for notifying Members of their rights to appeal and the steps necessary for filing an appeal.

b. The Offeror must establish an expedited appeals resolution procedure to be followed if a Member or someone on behalf of a Member requests an urgent appeal review, where a delay in treatment could significantly increase risk to health, the ability to regain maximum function, or cause severe pain. Such appeals, by New York State Law, will be decided within no more than 72 hours upon receipt of the appeal.

c. The Offeror's internal and external appeals processes must be consistent with New York State Insurance Law and DFS model language: https://www.dfs.ny.gov/apps_and_licensing/health_insurers/standalone_dental_model_language .

d. The Offeror must respond to all external appeals on behalf of the Department as requested by DFS through a process that provides an opportunity for Members to appeal when denied coverage on the basis that a service is not medically necessary or is an experimental, investigational service, or out-of-network treatment.

3.12 Pre-Determination of Benefits

Pre-determination of benefits is the process in which the Offeror reviews the treatment and estimates the benefits for Covered Services before the services are rendered. Offerors are required to develop a Pre-Determination of Benefits Procedure for services received from a Participating Provider or a Non-Participating provider. A Pre-determination of Benefits is recommended for any non-emergency dental surgery, prosthetic, or orthodontic procedure. A Treatment Plan describing the proposed course of treatment and the estimated costs should be submitted to the Offeror before the course of treatment is begun.

1. Duties and Responsibilities

a. The Offeror must have the capacity to pre-determine Plan required services.

b. The Offeror must provide an adequate staff of utilization review coordinators trained to perform a pre-determination of services.

c. The Offeror must follow-up in writing once a determination is made. This notice will be mailed to the Member and transmitted to the Provider within twenty-four (24) hours from the time of the determination.

3.13 Transition and Termination of Contract

To ensure that the transition to a successor entity provides Members with uninterrupted access to Dental Plan benefits and associated customer services, the Contractor is required to provide Contractor-related obligations and deliverables (Transition Services) to the Dental Plan until the final Plan Claim (as defined in Section 6.1 of this RFP) incurred during the Contract term is submitted to the Department for payment. The Department anticipates that certain claims incurred during the Contract term will not have been settled before the end date (Open Claims). Transition Services are organized into two phases: Phase One and Phase Two. Phase One consists of those Transition Services that are provided prior to the Contract termination or expiration (End Date). Phase Two consists of those Transition Services that are required after the End Date until the Contractor invoices the Department for the final Plan Claim incurred during the Contract term and payment submitted by the Department. Collectively, Phase One and Phase Two comprise the Transition Period. The obligations and responsibilities of the Offeror with regard to this Section, Transition and Termination of Contract, shall survive termination of the Contract and will remain in effect until all Open Claims have been settled to the satisfaction of the Department.

1. Duties and Responsibilities

The transition process shall be governed as follows:

a. Length of Transition Period:

i. Phase One - Phase One of the Transition Period shall commence six months prior to the Contract End Date or immediately if the Contract is terminated pursuant to Appendix B section 31 (Termination). Phase One is concluded on the Contract End Date or termination date provided pursuant to Appendix B section 31.

ii. Phase Two - Phase Two of the Transition Period will commence on the first day after the Contract End Date or termination date provided pursuant to Appendix B section 31 and will continue until all claims incurred as of the End Date or termination date provided pursuant to Appendix B section 31 have been settled (i.e., closed and payment submitted by Department to the Contractor).

iii. The Department reserves the right to amend the length of Phase One or Two Transition Period upon thirty days prior written notice to the Contractor.

b. No Interruption in Service:

i. At all times during Phase One of the Transition Period and unless directed otherwise in writing by the Department, the Contractor shall continue all contractual obligations set forth in the Contract in addition to those set forth in the section. The Contractor shall be required to meet its contractual obligations notwithstanding the issuance of a termination notice by the State.

ii. During Phase Two of the Transition Period, the Contractor shall continue all activities necessary to complete the processing and settlement of all Open Claims as set forth below.

c. Transition Plan

i. Within thirty calendar days of receipt of a notice of termination of the Contract or six months prior to the expiration of the Contract, whichever event occurs first, the Contractor shall provide to the Department a detailed written plan for transition (Transition Plan) for review and approval. The Transition Plan shall outline the Contractor's plan to transition the tasks, milestones and deliverables associated with the Project Services to the Department, a third party or the successor entity. The Transition Plan shall detail the Phase One and Phase Two activities. Contractor agrees to amend the Transition Plan to include all other information deemed reasonable and necessary by the Department. There will be no additional charge to the Department for the development or implementation of the Transition Plan.

ii. Within fifteen Business Days from receipt of the Contractor's proposed Transition Plan, the Department shall either approve the Transition Plan or notify the Contractor, in writing, of the changes required to the Transition Plan to make it acceptable to the Department.

iii. Within fifteen Business Days from the Offeror's receipt of the required changes, the Contractor shall incorporate said changes into the Transition Plan and submit such revised Transition Plan to the Department for approval.

iv. The Transition Plan, at a minimum, shall describe the tasks, timeframes, milestones, and deliverables by Phase associated with:

1) Transitioning of the Dental Plan Project Services' data. All such data transfers must be approved by the Department

and provided in a format acceptable to the Department. This requirement includes, but is not limited to, providing a minimum of one year of historical Member claim data. Members' claim data shall consist of:

(a) Providers' names, types, addresses, zip codes, telephone numbers and tax identification numbers;

(b) Detailed coordination of benefits (COB) data;

(c) High-volume Provider data;

(d) Report formats;

(e) Pre-certification/prior Authorization approved-through dates; and

(f) Any other data the successor entity may need.

2) The transitioning of the Dental Plan data shall at a minimum include:

(a) Providing a test file to the Department or a successor entity at least 22 weeks in advance of the End Date or within four weeks after notice of Termination is provided by the Department, to allow the Department, a third party or successor entity to address any formatting issues. Offeror will cooperate and coordinate with the Department, a third party or successor entity to address any issues in the test file.

(b) Providing one or more pre-production files at least twelve weeks prior to the End Date. The file will contain the above-described Members' claim data or additional data elements as specified by the Department. Contractor will cooperate and coordinate with the Department, a third party or successor entity to address any issues in the data files.

(c) Providing a production file six weeks prior to the successor entity's Implementation Date. The Department will notify the Contractor of the successor entity's Implementation Date.

(d) Providing a second production file to the successor entity by the close of business three days prior to the End Date.

3) Transferring of information necessary to ensure continuity of a Member's on-going treatment or future treatment.

4) Incorporating a written plan for Knowledge Transfer. A Knowledge Transfer (KT) plan shall be developed by the Contractor for approval by the Department as part of the Transition Plan. This KT Plan will be incorporated into the overall Transition Plan's methods and timeframes and will outline mechanisms for transferring knowledge of Contractor's personnel to Department employees, a third party or the successor entity. As part of the KT, Contractor shall document relevant processes, procedures, methods, tools, and techniques of its personnel with special skills or responsibilities performed during the Contract.

5) A description of how the Contractor will implement the Transition Services for Phase One and Phase Two. Such description shall address how the Contractor will perform the tasks and services set forth below in Section 4 Administrative Proposal.

d. Transition Services

i. "Transition Services" shall be deemed to include Offeror's responsibility for performing all tasks and services outlined in the Contract, and for transferring in a planned manner as specified in the approved Transition Plan all tasks and services to the State, a third party or successor entity. It is expressly agreed between the Parties that the level of service during Phase One of the Transition Period shall be maintained in accordance with all the terms and conditions of the Contract.

ii. During Phase One and Phase Two, the Department shall continue to have access to key personnel of the Contractor's dedicated Account Team, maintain access to online systems and receipt of data/reports and other information regarding the Dental Plan as necessary to ensure Members are provided with uninterrupted access to benefits and associated customer services.

iii. Phase One of the Transition Services shall include:

1) All Project Services associated with processing of claims incurred on or before the Contract End Date. This obligation includes but is not limited to:

    (a) Paying claims, including but not limited to out-of-network claims, COB claims, and In-network claims. “In-network” refers to Providers that are part of the plan's network of Providers with which the Contractor has negotiated a discount;

    (b) Reimbursing late-filed claims if warranted

    (c) Retaining NYBEAS access; and

    (d) Continuing to provide updates on pending litigation and settlements that the Offeror or the New York State Attorney General’s Office has/may file on behalf of the Dental Plan.

2) Providing the Department access to any online claims processing data and history and online reporting systems until the Contractor invoices the Department for the final Program Claim incurred during the Contract term and payment submitted by the Department unless the Department notifies the Offeror that access may be ended at an earlier date;

3) Completing all reports required under Section 3.6 of this RFP;

4) Providing sufficient staff resources to address State audit requests and reports in a timely manner;

5) Agreeing to fully cooperate with all Department and/or OSC audits consistent with the requirements of the Contract;

6) Performing timely reviews and responses to audit findings submitted by the Department and the OSC in accordance with the requirements set forth in the Contract;

7) Remitting reimbursement due to the Department upon final audit determination consistent with the process specified in the Contract;

8) Receiving and applying enrollment updates and verifying enrollment;

9) Keeping dedicated telephone lines open with adequate available staffing to provide customer service at the levels required in the Contract and adjust phone scripts, and transfer calls to the successor entity's lines during the Transition Period;

10) Developing a strategy for addressing those Members in care with Providers that are not in the successor entity's network; and

11) Notifying Members currently in care with a Network Provider, per New York State guidelines, of their rights to continue to receive a network level of benefits if their Provider is not in the Offeror's network. In addition, for the first year of the Contract, the Contractor will commit to sending Provider disruption letters based on information received from the incumbent.

iv. Phase Two of the Transition Services shall include, but are not limited to, the following activities:

1) Process all Open Claims to final settlement;

(a) Paying claims, including but not limited to out-of-network claims, COB claims, and In-network claims. "In-network" refers to Providers that are part of a Dental Plan's network with which the Contractor has negotiated a discount;

(b) Reimbursing late-filed claims if warranted;

(c) Retaining NYBEAS access; and

(d) Continuing to provide updates on pending litigation and settlements that the Offeror or the New York State Attorney General's Office has/may file on behalf of the Plan.

2) Continuing to provide the Department access to any online claims processing data and history and online reporting systems until the Contractor invoices the Department for the Final Program Claim incurred during the Contract term and payment submitted by the Department, unless the Department notifies the Offeror that access may be ended at an earlier date;

3) Completing of all reports required under Section 3.6 of this RFP;

4) Providing sufficient staff resources to address State audit requests and reports in a timely manner;

5) Agreeing to fully cooperate with all Department and/or OSC audits consistent with the requirements set forth in the Contract;

6) Performing timely reviews and responses to audit findings submitted by the Department and OSC's audit unit in accordance with the requirements set forth in the Contract;

7) Remitting reimbursement due the Plan upon final audit determination consistent with the process specified in the Contract;

8) Receiving and applying enrollment updates;

9) Keeping dedicated telephone lines open for a minimum of six months (unless otherwise agreed to in writing by the Department and Contractor), with adequate available staffing to provide customer service at the same levels provided prior to the End Date, adjusting phone scripts;

10) Transferring calls to the successor Contractor's lines during this period; and

11) Providing sufficient staffing to ensure Members continue to receive appropriate customer service and clinical management service after the End Date.

e. Compensation for Transition Services

i. Phase One:

No additional compensation outside the monthly Administrative Fee will be paid to the Contractor for the performance of the Phase One Transition Services. As indicated below in subsection (c), the Department shall retain the final monthly Administrative Fees payment from the Contractor until completion of all Transition Plan requirements.

ii. Phase Two:

1) Offeror will receive no Administrative Fees but will be reimbursed for all claims settled (i.e., closed) per section 6.1.

2) Reimbursement for claims will be made on a monthly basis upon the Department's receipt of an accurate invoice.

f. Department Responsibilities for Transition

The Department shall assume responsibility for the project management activities for the Transition. The Department shall appoint a project manager to be responsible for coordinating Transition activities, maintaining the transition task schedule, and approving transition deliverables. Weekly project review meetings shall be held with representatives of the Offeror, Department, and the third party or the successor entity. The Department shall also ensure that all Departmental and third-party resources (e.g., technical, administrative) deemed necessary by the Transition Plan are available to carry out tasks and functions defined in the Transition Plan and in accordance with the defined timelines specified in the Transition Plan.

g. Cooperation

Offeror shall cooperate with the Department to facilitate a smooth and orderly transition. Periodic project review meetings shall be held with representatives of the Contractor, the Department, and the successor entity.

h. Transition and Termination Guarantee: The Offeror must guarantee that the Offeror will complete the Transition Plan requirements in the time frames stated above to the satisfaction of the Department.

SECTION 4: ADMINISTRATIVE PROPOSAL

This section of the RFP sets forth the requirements for the Offeror's Administrative Proposal. The Department will consider for evaluation and selection purposes only those Proposals the Department determines to be in compliance with the requirements set forth in this section of the RFP. Any Offeror which fails to satisfy any of these requirements shall be eliminated from further consideration.

The Offeror's *Administrative Proposal* must respond to all of the following items as set forth below in the order and format specified and using the forms set forth in this RFP. Additional details pertaining to the required forms are found in Section 2 of this RFP.

4.1 Formal Offer Letter

The Offeror must submit a formal offer in the form of the *Formal Offer Letter* (Attachment 3). The formal offer must be signed and executed by an individual with the capacity and legal authority to bind the Offeror in its offer to the State. The copy of the Offeror's Administrative Proposal marked "ORIGINAL" requires a letter with an original signature; the remaining copies of the Offeror's Administrative Proposal may contain photocopies of the signature. Except as otherwise permitted under section 2.1(6), Bid Deviations, the Offeror must accept the terms and conditions as set forth in this RFP, *Standard Clauses for New York State Contracts* (Appendix A), *Standard Clauses for All Department Contracts* (Appendix B), *Information Security Requirements* (Appendix C) and *Glossary of Defined Terms* (Attachment 15), and agree to enter into a Contractual Agreement with the Department containing, at a minimum, the terms and conditions identified in this RFP and appendices as cited herein. If an Offeror proposes to include the services of a Subcontractor(s) or Affiliate(s), the Offeror must be required to assume responsibility for those services as "Prime Contractor." The Department will consider the Prime Contractor solely responsible for Contractual matters.

4.2 Offeror Attestation Form

The Offeror must complete and submit an executed copy of the *Offeror Attestations Form* (Attachment 13) attesting that it meets or exceeds the criteria for eligibility to bid as set forth in Section 1 of this RFP. A person legally authorized to represent the Offeror must execute this certification.

4.3 Subcontractors or Affiliates

The Offeror must complete the *Subcontractors or Affiliates* form (Attachment 9) to identify all Subcontractors or Affiliates with whom the Offeror subcontracts to provide Project Services. For purposes of reporting in the *Subcontractors or Affiliates* form (Attachment 9), Subcontractors include:

1. All vendors who will provide $100,000 or more in Project Services over the term of the Contract that results from this RFP; or

2. Any vendor who will provide Project Services in an amount lower than the $100,000 threshold, and who is a part of the Offeror's Account Team (described in section 3.1, Account Team).

For each Subcontractor identified, the Offeror must complete and submit the *Subcontractors or Affiliates* form (Attachment 9) and indicate whether or not, as of the date of the Offeror's Proposal, a subcontract has been executed between the Offeror and the Subcontractor for services to be provided by such subcontractor relating to the RFP. On the *Subcontractors or Affiliates* form (Attachment 9), the Offeror must:

1. Mark the applicable box if the Offeror will not be subcontracting with any Subcontractor(s) or Affiliate(s) to provide Project Services.

2. Indicate whether or not, as of the date of the Offeror's Proposal, a subcontract (or shared services agreement) has been executed between the Offeror and the Subcontractor or Affiliate for services to be provided by the Subcontractor or Affiliate relating to this RFP.

3. Provide a brief description of the services to be provided by the Subcontractor or Affiliate.

4. Provide a description of any current relationships with such Subcontractor or Affiliate and the clients/projects that the Offeror and Subcontractor or Affiliate are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the project.

4.4 New York State Standard Vendor Responsibility Questionnaire

The Offeror must complete and submit an executed copy of the New York State Vendor Responsibility Questionnaire. A person legally authorized to represent the Offeror must execute the questionnaire. The questionnaire must be completed by all Subcontractors as defined above.

The Department recommends each Offeror file the required Questionnaire online via the New York State VendRep System. To use the VendRep System, please refer to: https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system.

By submitting a Proposal, the Offeror agrees to fully and accurately complete the Questionnaire. The Offeror acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Offeror is responsible, and that the State will rely on the Offeror's responses to the Questionnaire when making its

responsibility determination. The Offeror agrees that if it is found by the State that the Offeror's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

4.5 New York State Tax Law Section 5-a

Tax Law § 5-a requires certain Offerors awarded state Contracts for commodities, services and technology valued at more than $100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Offeror's sales delivered into NYS is in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any Affiliates and subcontractors whose sales delivered into NYS exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

An Offeror is required to file the completed and notarized Form ST-220-CA with the Department certifying that the Offeror filed the ST-220-TD with DTF. If the forms are not completed and returned with bid submission, the Offeror should complete and return the certification forms within five Business Days from the date of request. Failure to make either of these filings may render an Offeror non-responsive and non-responsible. The Offeror must take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Offeror certification forms and instructions are provided below.

1. Form ST-220-TD must be filed with and returned directly to DTF and can be found at: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Offeror, its Affiliate(s), or its subcontractor(s), a new Form ST-220-TD must be filed with DTF.

2. Form ST-220-CA must be submitted to the Department. This form provides the required certification that the Offeror filed the ST-220-TD with DTF. This form can be found at: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

4.6 Insurance Requirements

Prior to the start of work the Offeror shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this

RFP, policies of insurance as required by this section, written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Section should be licensed or authorized by DFS to issue insurance in the State of New York. The Department may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

While acceptance of insurance documentation shall not be unreasonably withheld, conditioned, or delayed, acceptance and/or approval by the Department does not, and shall not be construed to, relieve an Offeror of any obligations, responsibilities or liabilities under this RFP or any Contract resulting from this RFP. The Offeror shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the term of any Contract resulting from this RFP.

1. General Conditions

a. All policies of insurance required by this Solicitation or any Contract resulting from this RFP shall comply with the following requirements:

i. Coverage Types and Policy Limits. The types of coverage and policy limits required from the selected Offeror are specified in Section 4.6(2) of this RFP.

ii. Policy Forms. Except as may be otherwise specifically provided herein or agreed to in any Contract resulting from this RFP, all policies of insurance shall be written on an occurrence basis.

iii. Certificates of Insurance/Notices. The selected Offeror shall provide the Department with a Certificate or Certificates of Insurance, in a form satisfactory to the Department, as detailed below, and pursuant to the timelines set forth in Section 4.6(1)(m) of this RFP. Certificates should reference the Solicitation or award number and shall name the New York State Department of Civil Service, Agency Building 1, Empire State Plaza, Albany, NY 12239, as the certificate holder.

iv. Document Submissions. An Offeror shall deliver to the Department evidence of the insurance required by this RFP and

any Contract resulting from this RFP upon notification of tentative award.

b. Certificates of Insurance shall:

    i. Be in the form acceptable to the Department and in accordance with the New York State Insurance Law (e.g., an ACORD certificate);

    ii. Disclose any deductible, self-insured retention, aggregate limit, or any exclusion to the policy that materially changes the coverage required by this Solicitation or any Contract resulting from this Solicitation;

    iii. Be signed by an authorized representative of the insurance carrier of the referenced insurance carriers; and

    iv. Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement as applicable: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

c. Only original documents (Certificates of Insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted. The Department generally requires an Offeror to submit only certificates of insurance and additional insured endorsements, although the Department reserves the right to request other proof of insurance. An Offeror should refrain from submitting entire insurance policies, unless specifically requested by the Department. If an entire insurance policy is submitted but not requested, the Department shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by the Department does not constitute proof of compliance with the insurance requirements and does not discharge an Offeror from submitting the requested insurance documentation.

d. Primary Coverage: All liability insurance (excluding Professional Liability insurance) policies where the Department is required to be included as an additional insured, shall provide that the required coverage shall be primary and non-contributory to other insurance available to the Department and their officers, agents, and employees. Any other insurance maintained by the Department and their officers, agents, and employees shall be in excess of and shall not contribute with the Offeror’s insurance.

e. Breach for Lack of Proof of Coverage: The failure to comply with the requirements of this RFP at any time during the term of any Contract resulting from this Solicitation shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the Department and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation, at law or in equity.

f. Self-Insured Retention/Deductibles: Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above $100,000.00 are subject to approval from the Department. Such approval shall not be unreasonably withheld, conditioned or delayed. An Offeror shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Offeror is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

g. Subcontractors: Prior to the commencement of any work by a Subcontractor, the Offeror shall require such Subcontractor to procure policies of insurance as required by this section and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement (ISO coverage form CG 20 38 04 13), or the equivalent, evidencing such coverage shall be provided to the Offeror prior to the commencement of any work by a subcontractor and pursuant to the timelines set forth in Section 4.6(1)(m) of this RFP, as applicable, and shall be provided to the Department upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required to pursuant to this section had the subcontractor obtained such insurance policies.

h. Waiver of Subrogation: For all liability policies (with the exception of Professional Liability Insurance and Cyber Liability Insurance) and the workers' compensation insurance required below, the Offeror shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against the Department and their officers, agents, and employees, or, if such waiver is unobtainable:

i. An express agreement that such policy shall not be invalidated if the Offeror waives or has waived before the casualty, the right of recovery against the Department and their officers, agents, and employees; or

ii. Any other form of permission for the release of the Department or any entity authorized by law or regulation to use any Contract resulting from this Solicitation and their officers, agents, and employees.

A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

i. Additional Insured: The Offeror shall cause to be included in each of the liability policies required below (excluding Professional Liability Insurance) coverage for on-going work and operations naming as additional insureds (via ISO coverage forms CG 20 10 04 13 or 20 38 04 13 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage) the Department and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to the Department pursuant to the timelines set forth in Section 4.6(1)(m) of this RFP. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Offerors who are self-insured, the Offeror shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Offeror would have been required to pursuant to this RFP had the Contractor obtained such insurance policies.

j. Excess/Umbrella Liability Policies: Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage, and limits of insurance), including proof that the excess/umbrella insurance follows form, must be provided upon request. Unrelated underlying policies included in the schedule that are not required to meet the insurance requirements may be redacted from the Schedule.

k. Notice of Cancellation or Non-Renewal: Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five Business Days of receipt of any notice of cancellation or nonrenewal of insurance, the Offeror shall provide the Department with a copy of any such notice

received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.

l. Policy Renewal/Expiration: Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered to the Department. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Solicitation and any Contract resulting from this Solicitation, or proof thereof is not provided to the Department, the Offeror shall immediately cease work. The Offeror shall not resume work until authorized to do so by the Department.

m. Deadlines for Providing Insurance Documents after Renewal or Upon Request: As set forth herein, certain insurance documents must be provided to the Department contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Offeror shall provide the applicable insurance document to the Department as soon as possible but in no event later than the following time periods:

    i. For certificates of insurance: 5 Business Days from request or renewal, whichever is later;

    ii. For information on self-insurance or self-retention programs: 15 Calendar Days from request or renewal, whichever is later;

    iii. For other requested documentation evidencing coverage: 15 Calendar Days from request or renewal, whichever is later;

    iv. For additional insured and waiver of subrogation endorsements: 30 Calendar Days from request or renewal, whichever is later; and

    v. For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 Business Days from request or renewal, whichever is later.

    Notwithstanding the foregoing, if the Offeror shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to the Department, the Department shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 Calendar Days.

2. Specific Coverage and Limits

a. Commercial General Liability: Commercial General Liability Insurance, (CGL) shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, broad form property damage, personal & advertising injury, cross liability coverage, and liability assumed in a contract (including the tort liability of another assumed in a contract). Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as stated in Section V, Number 9, Item f in the Insurance Services Offices (ISO) Commercial General Liability (CGL) policy) so as to limit coverage against Claims that arise out of the work, or that remove or modify the "insured contract" exception to the employers' liability exclusion, or that do not cover the Additional Insured for Claims involving injury to employees of the Named Insured or subcontractors, are not acceptable. Policy shall include bodily injury, property damage, and broad form contractual liability coverage. The limits under such policy shall not be less than the following:

   i. Each Occurrence – $1,000,000

   ii. General Aggregate – $2,000,000

   iii. Personal Advertising Injury – $1,000,000

   Coverage shall include, but not be limited to, the following:

   i. Premises liability;

   ii. Independent contractors/subcontractors;

   iii. Blanket contractual liability, including tort liability of another assumed in a contract;

   iv. Defense and/or indemnification obligations, including obligations assumed under any Contract resulting from this Solicitation; and

   v. Cross liability for additional insureds.

b. Business Automobile Liability Insurance: The Offeror shall maintain Business Automobile Liability Insurance in the amount of at least $1,000,000 each accident, covering liability arising out of automobiles used in connection with performance under any Contract resulting from

this RFP, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

c. Professional Errors and Omissions Insurance: The Offeror shall maintain Professional Errors and Omissions (Professional Liability) in the amount of at least $5,000,000 each occurrence, for claims arising out of but not limited to delay or failure in diagnosing a disease or condition and alleged wrongful acts, including breach of contract, bad faith, and negligence. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this Contract.

   If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than three years from the time work under this Contract is completed. Written proof of this extended reporting period must be provided to the Department prior to the policy's expiration or cancellation.

d. Data Breach/Cyber Liability Insurance: An Offeror is required to maintain during the term of any Contract and as otherwise required herein, Data Breach and Privacy/Cyber Liability Insurance in the amount of at least $5,000,000 each claim, including coverage for failure to protect confidential information and failure of the security of the Offeror's computer systems or the Department systems due to the actions of the Offeror which results in unauthorized access to the Department or their data. Coverage may be satisfied through alternative insurance policies. Said insurance shall provide coverage for damages arising from, but not limited to the following:

   i. Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information;

   ii. Personally, identifiable nonpublic information (e.g., medical, financial, or personal in nature in electronic or non-electronic form);

   iii. Privacy notification costs;

   iv. Regulatory defense and penalties;

   v. Website media liability; and

vi. Cybertheft of customer's property, including but not limited to money and securities.

If the policy is written on a claims-made basis, Contractor must submit to the Department an Endorsement providing proof that the policy provides the option to purchase an Extended Reporting Period ("tail coverage") providing coverage for no less than one year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

e. Workers' Compensation Insurance: To comply with coverage provisions of Workers Compensation Law (WCL) Section 57, businesses must be legally exempt from obtaining workers' compensation insurance coverage; or obtain such coverage from insurance carriers; or be a Board-approved self-insured employer or participate in an authorized group self-insurance plan. An Offeror must provide one of the following forms:

i. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.businessexpress.ny.gov); or

ii. Form C-105.2 (9/15), Certificate of Workers' Compensation Insurance, sent to the Department by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to the Department upon request from the Contractor; or

iii. Form SI-12, Certificate of Workers' Compensation Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office, or

iv. Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator.

f. Disability Benefits Insurance: To comply with coverage provisions of WCL Section 220(8), regarding disability benefits, businesses must be legally exempt from obtaining disability benefits insurance coverage; or obtain such coverage from insurance carriers; or be a Board-approved self-insured employer. An Offeror must provide one of the following forms:

i. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.businessexpress.ny.gov); or

ii. Form DB-120.1, Certificate of Disability Benefits Insurance, sent to the Department by the Contractor's insurance carrier upon request; or

iii. Form DB-155, Certificate of Disability Benefits Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office.

SECTION 5: TECHNICAL PROPOSAL REQUIREMENTS

The purpose of Section 5 of the RFP is to set forth the submissions required as part of the Offeror bid proposal. The Offeror's Technical Proposal must contain responses to all required submissions from the Offeror in the format requested. Each Offeror may submit only one Technical Proposal. Each Offeror's Technical Proposal will be evaluated based on the responses to the required submissions contained in Section 5 of this RFP. An Offeror must not include any cost information in the Technical Proposal, including attachments. Specific savings estimates (dollars or percentages) must not be quoted in the Technical Proposal or in any attachments submitted with the Technical Proposal.

5.1 Executive Summary

1. In an Executive Summary, the Offeror must describe its capacity and proposed approach to administering the Dental Plan, which covers over 234,000 lives and incurs claims costs of over $70 million annually. The Offeror must have the ability, experience, reliability, and integrity to fulfill the requirements of this RFP. As such, the Executive Summary must include:

    a. A description of the Offeror's understanding of the requirements presented in the RFP and how the Offeror can assist the Department in accomplishing its objectives;

    b. A statement explaining the Offeror's experience managing the dental plans of other state or local government employers, including at least one large client. A large client is considered any employer with at least 50,000 covered lives. In determining covered lives, the Offeror should count all lives (i.e., an employee, a spouse, and two eligible dependents counts as four covered lives). The Offeror should include details on how its experience qualifies them to undertake the functions and activities as required by this RFP.

5.2 Account Team

The Offeror must complete the *Biographical Sketch Form* (Attachment 14) for all key personnel including Subcontractor key staff, if any, of the proposed Account Team. Where individuals are not named, include qualifications of the individuals that will fill the positions. The Offeror must provide:

1. The name and address of the Offeror's main and branch offices, and the name of the senior officer(s) who will be responsible for this account.

2. An organizational and staffing plan that includes the roles and responsibilities of key personnel involved in administering the Dental Plan, their planned level of

effort, their anticipated duration of involvement, and their daily level of availability. An organizational chart must be included in the proposal which identifies the Offeror's staff and staff from any Subcontractor, including their name and title, to be used in delivering the Project Services.

3. A description on how the Account Team interfaces with senior management and ultimate decision-makers within Offeror's organization; and how the Account Team will interact with other departments such as the call center, quality assurance, reporting, and network management within Offeror's organization.

4. An explanation of how the Offeror's Account Team will be prepared to administer the operational and clinical aspects of the Dental Plan.

5. A description of how the Offeror proposes to ensure that responses to administrative concerns and inquiries posed by the Department, members of the Council on Employee Health Insurance, or union representatives regarding member-specific claims issues for the duration of the Contract, will be provided within one Business Day.

6. A description of the protocols that will be put into place to ensure the Department will be kept updated on actual or anticipated events impacting costs and/or delivery of services to Enrollees, including a representative scenario.

7. A description of the corporate resources that will be available to the Account Team to ensure compliance with all legislative and statutory requirements.

5.3 Preliminary Implementation Plan

The Offeror must provide as part of its proposal a preliminary Implementation Plan in narrative, diagram, and timeline formats, designed to meet the implementation requirements by the specified completion dates.

1. The preliminary Implementation Plan must include estimated timeframes for individual task completion, testing dates and objectives, and areas where complications may be expected. It must include key activities such as:

    a. Training of call center staff;

    b. Website development;

    c. Network development;

    d. Transition of benefits; and

    e. Testing of eligibility files and claims processing.

2. Implementation Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that all of the Implementation requirements listed in Section 3.3 will be in place on or before the Services Start Date following completion of the Implementation Period, with the exception of opening the Dedicated Call Center and completing work on the customized website. The Dedicated Call Center must be opened at least 30 calendar days prior to the Services Start Date. The customized website must be live and operational at least 30 calendar days prior to the Services Start Date. This guarantee is not subject to the limitation of liability provisions of the Contract.

   Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each Calendar day or part thereof, that all Implementation requirements are not met. The forfeited amount (Standard Credit Amount) is $1,500 a day for each Calendar day the guarantee is not met. However, an Offeror may propose higher amounts.

5.4 Participating Provider Network

At least thirty calendar days prior to the Services Start Date, and throughout the term of the Contract, the Offeror must possess a Participating Provider network that meets or exceeds the accessibility standards set forth in Section 3.3 of this RFP. To demonstrate satisfaction of this requirement, the Offeror must submit all information required below based on the Geo-Coded Census file provided by the Department in *Enrollment by ZIP Code & Geo Access Network Report File* (Attachment 21).

An Offeror will need to obtain sensitive information from the Department. Upon receipt of a completed, notarized *Confidentiality and Non-Disclosure Agreement* (Attachment 16), the Department shall provide the Offeror with *Enrollment by ZIP Code and Geo Access Network Report File* (Attachment 21), containing the NYBEAS enrollment file that will ensure that all Offerors perform their analyses consistently. This confidentiality and non-disclosure agreement governs through the solicitation process.

The Offeror may execute custom Dental Provider contracts contingent on award of a Contract or utilize existing agreements that can be made applicable to the Plan or a combination thereof. All Dental Providers in the network must be credentialed by the Offeror. The Offeror must agree to provide documentation, including unredacted Dental Provider contracts, to the Department upon request to demonstrate satisfaction of this requirement. No Enrollee may be excluded from the Offeror's Geo network analysis, even if no Dental Provider is located within the pre-defined access standards.

1. To fulfill the requirements of this Section and Section 3.3 of the RFP, the Offeror must:

   a. Submit their proposed Dental Provider network using the *Offeror's Proposed Provider Network Files* form (Attachment 22). An Offeror is required to submit

its proposed Dental Provider network in two separate files: one for General Dentistry; and one for Specialists.

b. Perform a GeoAccess analysis based on the Access Standards as referenced in Section 3.3 of this RFP. The Offeror should submit the complete Geo network reports in a searchable PDF and the GeoAccess Accessibility Summaries in copies in both searchable PDFs and hard copies. These analyses should include every ZIP Code that is in the demographic file; even ZIP Codes with no access should be included. The Offeror should use Estimated Driving Distance from the employee's home ZIP Code for calculating distance. The most current version of Quest Analytics software must be used to create these reports. See *Offeror's Participating Provider Quest Analytics Report* (Attachment 31) for instructions.

c. Submit the *Offeror's Proposed Provider Network Summary Worksheet* (Attachment 27), which indicates fulfillment of Urban, Suburban, and Rural network Access requirements as outlined in 3.3 of this RFP.

d. Carefully read the instructions in *Comparison of Current Dental Plan Network to Offeror's Proposed Network* (Attachment 29) and complete the Attachment. To do this, identify whether each of the Plan's current Network Providers (from Attachment 30 *Utilized Provider Files*) will or will not participate in the Offeror's proposed Provider network. Please submit a match and match criteria for every provider listed in Attachment 30.

e. Describe how the Offeror monitors whether network Dental Providers are accepting new patients into their practices, including how the Offeror's proposed access standards consider Dental Provider availability.

f. Describe the Offeror's process for verifying accuracy of all provider demographic data; including how often the Offeror outreaches to providers, the methods of outreach, and when the updated information is then available on the online provider directory.

g. Detail those areas, if any, within New York State and outside of New York State where the Offeror's network does not meet or exceed the access guarantees as detailed in Section 3.3 of this RFP.

h. Outline a plan to address areas within the proposed network that don't have any, or have a limited number of, licensed providers or network providers.

2. Dental Provider Network Guarantees: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following program service level standards:

a. Network Access Urban Areas Guarantee: The Offeror's network cannot provide less than the required network Access-Urban requirements as outlined in Section 3.3 .

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a single forfeiture amount for each quarter in which urban Enrollees do not have Dental Provider access that meets the network Access-Urban Areas requirements as outlined in Section 3.3. The amount quoted by the Offeror shall be applied only once per quarter for General Dentistry and for each of the individual Specialist types if the Offeror fails to maintain required access in Urban Areas. The quoted access standard is not an overall aggregate of Dental Provider access in Urban Areas (i.e., there is one standard for General Dentists and a standard for each of the individual Specialty types as outlined in Section 3.3). The forfeited amount (Standard Credit Amount) is $15,000.00 for any Dental Provider type, calculated quarterly. An Offeror may propose a higher amount.

b. Network Access Suburban Areas Guarantee: The Offeror's network cannot provide less than the required network Access-Suburban requirements as outlined in Section 3.3 .

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a single forfeiture amount for each quarter in which suburban Enrollees do not have Dental Provider access that meets any network Access-Suburban Areas requirements as outlined in Section 3.3. The amount quoted by the Offeror shall be applied only once per quarter for General Dentistry and for each individual Specialist types if the Offeror fails to maintain required access for any Dental Provider type in Suburban Areas. The quoted access standard is not an overall aggregate of Dental Provider access in Suburban Areas (i.e., there is one standard for General Dentists and a standard for each of the individual Specialty types as outlined in Section 3.3). The forfeited amount (Standard Credit Amount) is $15,000.00 for any Dental Provider type, calculated quarterly. An Offeror may propose a higher amount.

c. Network Access Rural Areas Guarantee: The Offeror's network cannot provide less than the required network Access-Rural requirements as outlined in Section 3.3 .

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a single forfeiture amount for each quarter in which rural Enrollees do not have Dental Provider access that meets any network Access-Rural Areas requirements as outlined in Section 3.3. The amount quoted by the Offeror shall be applied only once per quarter for General Dentistry and for each Specialty type if the Offeror fails to maintain required access for any Dental Provider type in Rural Areas. The quoted access standard is not an overall aggregate of Dental Provider access in

Rural Areas (i.e., there is one standard for General Dentists and a standard for each of the individual Specialty types as outlined in Section 3.3). The forfeited amount (Standard Credit Amount) is $15,000.00 for any Dental Provider type, calculated quarterly. An Offeror may propose a higher amount.

5.5 Customer Service

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized to meet the Customer Service requirements specified in Section 3.4 of this RFP, including the following:

    a. Summarize how Offeror will comply with federal and State law to assist Members who need translation services.

    b. Summarize how Offeror will track calls for reporting and change phone prompts and voice recordings as needed, without an additional charge to the State.

    c. Indicate the hours the Call Center will be available to members and staffed with CSRs in compliance with Section 3.4.

    d. Describe the Call Center technology that will be utilized for the Dental Plan, and a description of customizable options, if any, Offeror proposes for the Dental Plan.

    e. Provide a narrative on the Call Center which describes the information and resources that will be available to CSRs to assist them in addressing and resolving inquiries; the internal controls and reviews that will be performed to ensure quality service is being provided to Members; including outlining if there is a Quality Assurance team of representatives to monitor and develop the CSR staff; the first call resolution rate for the proposed call center; Offeror's company-wide average staff and turnover rate for call center employees; the proposed staffing levels; and how Offeror will ensure adequate staffing during call volume peaks. Explain the logic used to arrive at the proposed staffing levels, including the ratio of management to CSR staff.

    f. Describe the back-up systems for Offeror's primary telephone system which would be used in the event the primary telephone system fails, is unavailable or at maximum capacity. If a backup system is activated, explain how and in what order calls from Members will be handled. Confirm whether backup staff will have Dental Plan specific training. Indicate the number of times a backup system has been utilized over the past two years. Confirm

that calls will be handled exclusively by Offeror's Call Center and that the backup call center would only be used in case of system failure or call overflow.

g. Define how frequently Offeror conducts customer satisfaction surveys for large clients as defined above. Include whether the Offeror conducts a customer satisfaction survey or if surveys are performed by an independent third party. Please provide a sample of a survey Offeror used for a large client and advise of the typical response rate for a large client.

h. Detailed information about the physical location(s) where call center and customer service work shall be performed. [**Note:** In accordance with New York State Labor Law section 773, the head of each State agency is required to use reasonable best efforts to ensure that all state-business-related contracts for call centers and customer service work be performed by contractors, agents, or subcontractors entirely within the State of New York.]

2. Call Center Telephone Guarantees: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following four plan service level standards:

   a. Call Center Response Time Guarantee: 90% of incoming calls to the Offeror's telephone line must be answered by a CSR within thirty seconds.

      Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each quarter in which the number of phone calls answered within thirty seconds falls below 90% of all incoming calls. The forfeited amount (Standard Credit Amount) is $15,000.00 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose higher amounts.

   b. Availability Guarantee: The Offeror's telephone line must be operational and available to Members and Providers equal to or better than 99.5% percent of the Offeror's required up-time from 8:00 am through 5:00 p.m. ET, Monday through Friday, except on legal holidays observed by the State.

      Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each quarter in which the Offeror's telephone line is not operational and available to Members and Providers 99.5% percent of the time. The forfeited amount (Standard Credit Amount) is $15,000.00 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose higher amounts.

   c. Telephone Abandonment Rate Guarantee: No more than 3% of callers to

the Offeror's telephone line will disconnect a call prior to the call being answered by a CSR.

Utilizing the *Performance Guarantees form* (Attachment 6), the Offeror must propose a forfeiture amount (Standard Credit Amount) for each quarter in which more than 3% of callers disconnect a call prior to the call being answered by a CSR. The forfeited amount (Standard Credit Amount) is $15,000.00 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose higher amounts.

d. Telephone Blockage Rate Guarantee: No more than 0% of incoming calls to the Offeror's telephone line shall be blocked by a busy signal.

   Utilizing the *Performance Guarantees form* (Attachment 6), the Offeror must propose a forfeiture amount (Standard Credit Amount) for each quarter in which more than 0% of incoming calls to the Offeror's telephone line are blocked by a busy signal. The forfeited amount (Standard Credit Amount) is $15,000.00 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose higher amounts.

5.6 Member Communication Support

The Offeror must provide a narrative describing in detail the proposed processes that will be utilized to develop Member communications specified in Section 3.5 of this RFP, including the following:

1. Describe the role of the Offeror's legal department as it relates to the preparation of Communication materials and ensuring that materials accurately reflect any benefit changes required by law or regulation.

2. Provide two examples of recent (within the last three years) communications the Offeror has developed and distributed on behalf of other clients.

3. Describe the Offeror's approach to developing appropriate customized forms, letters, and SBCs for the Dental Plan Services, incorporating the Department's feedback.

4. Provide information about how the Offeror has worked with other large clients to produce customized communications. A large client is defined as an entity with over 50,000 or more covered lives.

5. Describe the resources that will be available to the Department to support the Department's development of various Enrollee communications and the ability to provide input into such communications process quickly.

6. Confirm the commitment to work with the Department to develop appropriate customized forms and letters for the Programs. Provide examples of how the Offeror has worked with other large clients to produce customized communications.

7. Describe how dependents will be notified of their upcoming ineligibility for dental services due to age and the requirement of providing a full-time student attestation form to maintain eligibility. Please provide examples of the proposed attestation form.

8. Confirm that staff will be available to attend Health Benefit Fairs, select conferences, and benefit design information sessions, in New York State and elsewhere in the United States. Describe the experience and qualifications of staff that will be attending these events.

9. Describe how the online directory will be available to Members 24 hours a day, 7 days a week, 365 days a year and the anticipated protocol for updating the site for regular maintenance; the amount of time it will take Offeror to add or remove Dental Providers from the directory upon joining or leaving the network; and what controls will be in place to ensure the listed information is accurate and up to date.

10. Detail the Offeror's experience in working with large clients (defined above) who have required customized websites or web portals for benefits information. Offerors who can provide links to those customized websites for the Department's review will be scored more favorably.

11. Complete a second *Biographical Sketch Form* (Attachment 14), for all staff proposed for involvement in the Member Communication Support process.

5.7 Reporting Services

The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in the Reporting Services as specified in Section 3.6 of this RFP, including the following:

1. The Offeror must submit examples of the financial and utilization reports that have been listed without a specified format in the reporting requirements above as well as any other reports that the Offeror is proposing to produce for the Department to be able to analyze and manage the Dental Plan. Provide an overview of the reporting capabilities with the value it is believed the reporting capabilities will bring to the Dental Plan, including:

    a. How reports will be provided in the specified format (paper and/or electronic Microsoft Access, Excel, Word), as determined by the Department;

b. Confirm that the ability and willingness to provide ad hoc Reports and other Data analysis. Provide examples of ad hoc reporting that have been performed for other large clients.

2. Reporting Services Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that all Dental Plan management reports and claim files listed in *Program Reporting* (Attachment 17) will be accurate and delivered to the Department no later than their respective due dates. The Offeror shall propose the forfeiture of a specific dollar amount of the Offeror's Administrative Fee for failure to meet this guarantee.

   Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount (Standard Credit Amount) for each Calendar day the Department has not received the Dental Plan management report and claims file by their respective due date. The forfeited amount (Standard Credit Amount) for each management report or claim file that is not received by its respective due date is $100 per calendar day per report. However, an Offeror may propose a higher amount.

5.8 Enrollment Management

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized to manage enrollment Data as specified in Section 3.7 of this RFP, including the following:

   a. Offeror's testing plan to ensure that the initial enrollment load and daily enrollment transition files for the Plan are accurately updated to Offeror's system and that such files interface correctly with Offeror's claims system. The testing plan must include:

      i. The quality controls that are performed before the initial and ongoing enrollment transactions are loaded into the claims adjudication system.

      ii. How the Offeror's system identifies transactions that will not load into Offeror's enrollment system. How exceptions are identified that will cause enrollment transactions to fail to load into Offeror's enrollment system. What steps are taken to resolve the exceptions, and the turnaround time for the exception records to be added to Offeror's enrollment file.

      iii. How the Offeror will ensure that enrollment and eligibility transactions that do not load into the Offeror's system will be

manually reviewed and reported back to the Department within one Business Day.

b. Offeror's capabilities for retrieving and maintaining enrollment information within twenty-four hours of its release by the Department as well as:

   i. How Offeror's enrollment system maintains a history of enrollment transactions and how long enrollment history is kept online. As part of this requirement, identify any limits in the Offeror's enrollment system to the number of historical transactions that can be kept online;

   ii. How Offeror's enrollment system handles retroactive changes and corrections to enrollment Data, and how retroactive enrollment changes adjust previously paid claims;

   iii. How Offeror's enrollment system captures the information necessary to produce the reports entitled "Claims and Credits Paid by Agency" and "Quarterly Participating Employer Claims" required in the Reporting Section of this RFP; and

   iv. How Dependents are linked to the Enrollee in the Offeror's enrollment system and claims processing system, including a description on how Offeror's enrollment and claims processing system can administer a social security number, Employee identification number, and an alternate identification number assigned by the Department; and any special requirements to accommodate these three identification numbers.

c. How Offeror's enrollment system and claims processing systems are HIPAA compliant.

d. Describe how Offeror will administer full-time student verification on behalf of the Department, make eligibility determinations as a result of this review, and provide the Department, in a file of its specification, eligibility determinations that can be loaded into NYBEAS. Please also outline any past experience in administering eligibility determinations for full-time students.

2. Enrollment Management Guarantee: The Offeror must guarantee 100% of all Dental Plan Services enrollment records that meet the quality standard for loading, will be loaded into the Offeror's enrollment system within twenty-four hours of release by the Department.

   Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each twenty-four-hour period or part thereof in which enrollment records that meet the quality standards for loading are not

loaded in the Offeror's enrollment system after such enrollment records have been released by the Department. The forfeited amount (Standard Credit Amount) is $1,000.00 for each twenty-four-hour period or part thereof in which this guarantee is not met. However, an Offeror may propose higher amounts.

5.9 Direct-Pay Enrollment Option

The Offeror must confirm there will be a Direct-Pay Dental Plan for our retirees or enrollees who become no longer eligible for the NYS Dental Plan.

5.10 Claims Processing

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in claims processing as specified in Section 3.9 of this RFP, including the following:

    a. Describe how any changes to the Offeror's benefit design would be monitored, verified, and tested, to guarantee that changes to other client benefit plans do not impact the Dental Plan.

    b. Describe how Offeror's claims processing system collects overpayments from Offeror's Dental Plan.

    c. Describe how the Offeror will analyze and monitor claim submissions to promptly identify errors, fraud, and abuse, and report such information in a timely fashion to the State in accordance with a State-approved process. Confirm the Dental Plan shall be charged only for accurate (i.e., the correct dollar amount) claims payments of covered expenses.

    d. Describe the process by which Department Staff will be provided access to the Offeror's claims system and any online and web-based reporting tools necessary to fulfill the requirements of the Contract.

2. Claims Processing Guarantees: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following two plan service level standards:

    a. Claims Payment Accuracy Guarantee: Claims payment accuracy must be achieved for a minimum of 98% of all claims processed and paid each calendar year.

    Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each year in which 98% of claims payment accuracy is not achieved as determined based on an annual audit conducted by the Department. The forfeited amount (Standard

Credit Amount) is $60,000.00 for each year this guarantee is not met. However, an Offeror may propose higher amounts.

b. Claims Processing Guarantee – Twenty-Four (24) Calendar Days Turnaround Time: No less than 99.5% of submitted claims received by the Offeror that require no additional information in order to be correctly processed shall be processed within twenty-four (24) calendar days from the date the claim is received electronically or in the Offeror's designated post office box to the date of Claim Adjudication.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each quarter in which less than 99.5% of claims that require no additional information in order to be correctly processed, are not processed within twenty four calendar days from either the date the claim is received electronically or in the Offeror's designated post office box to the date the payment is transmitted to the Provider or mailed to the Member as calculated on a quarterly basis. The forfeited amount (Standard Credit Amount) is $15,000.00 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose higher amounts.

5.11 Plan Audit and Fraud Protection

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in plan audit and fraud protection as specified in Section 3.10 of this RFP, including the following:

    a. Describe the audit program Offeror would conduct for the Dental Plan including a description of the criteria Offeror uses to select Providers to audit and a description of the policy that Offeror follows when an audit detects possible fraudulent activity by a Provider.

    b. Provide examples of how Offeror's payment integrity algorithms and software have prevented or detected major cases of fraud, waste, and abuse for other large clients.

    c. Describe the corrective action, monitoring, and recovery efforts that take place when Offeror finds that a Provider is billing incorrectly or otherwise acting against the interests of Offeror's clients. Please indicate whether Offeror has a fraud and abuse unit within Offeror's organization and describe its role. In the extreme case of potentially illegal activity, identify procedures that the Offeror has in place to address illegal or criminal activities by a Provider or Facility and confirm Offeror will pursue litigation on the Department's behalf when necessary.

5.12 Appeals Process

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in the appeal process as specified in Section 3.11 of this RFP, including the following:

    a. Describe in detail how the Offeror proposes to notify Members of their right to appeal and the steps to file an appeal. Specify the process and turnaround time for appeals and their conformance to state regulations.

    b. Please provide for the Offeror's book of business the final determinations of internal and external appeal for plan years 2021 and 2022 .

5.13 Pre-Determination of Benefits

Pre-determination of benefits as specified in Section 3.12 of this RFP. Describe the process and procedure the Offeror proposes to use for making predeterminations of benefits including what information will be required of the Member and how this information can be submitted (i.e., facsimile, telephone, electronically).

5.14 Transition and Termination of Contract

The Offeror must provide a narrative describing in detail:

1. The process and level of customer service and clinical management that Offeror will provide in Phase One and Phase Two of the Transition Services, as specified in Section 3.13 of this RFP.

2. Transition and Termination Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee all Transition Plan requirements outlined in Section 3.13 of this RFP will be completed in the required time frames to the satisfaction of the Department.

    Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount (Standard Credit Amount) for each day or part thereof that the Transition Plan requirements are not met. The forfeited amount (Standard Credit Amount) is $1,000.00 for each day this guarantee is not met. However, an Offeror may propose higher amounts.

SECTION 6: FINANCIAL PROPOSAL

Section 6 of the RFP sets forth the requirements for the Offeror's Financial Proposal submission and the cost structure required by the Department for Offerors to use in developing their submission. The Offeror's Financial Proposal must respond to all the following mandatory sections as set forth below, in the formats as specified.

The sole compensation for the Contractor under the Contract will be payments based on the provisions set forth in this Section of the RFP. During the term of the Contract, amounts paid for which it is subsequently determined that the Contractor was not entitled, if any, must be refunded to the Department. Submission of an invoice and payment thereof shall not preclude the Department from recovery or offset of payment in any case where Project Services as delivered are found to deviate from the terms and conditions of the Contract.

Evaluation of Financial Proposals will be performed in accordance with Section 7.3 of the RFP.

By submitting a proposal the Offeror consents and grants permission to the Department to provide or share their Financial Proposal or portions thereof with any Department contracted third-party for the sole purpose of assisting the Department in the evaluation and analysis of the Offerors Financial Proposal.

The Financial Proposal must consist of a completed *Discount Analysis Workbook* (Attachment 35) and an *Administrative Fee Form* (Attachment 10).

The Offeror must submit a completed *Discount Analysis Workbook* (Attachment 35). The *Discount Analysis Workbook* requires Offerors to provide the average submitted charges and average allowed amounts for a list of dental procedure codes by a list of three-digit zip codes. More detailed instructions are provided in Attachment 35. The Department is seeking the broadest network access possible for its enrollees. Therefore, Attachment 35 should reflect discounts for the Offerors' broadest networks.

The Offerors' discounts will be applied against a projection of network provider charges over the contract term. Network provider charges will be projected by utilizing historical claims data trended forward for each of the five years of the resulting Contract. The projections for In-network provider charges will be based on Offerors responses to the *Utilized Provider Files* (Attachment 30).

The Department will project out-of-network costs on Offerors responses to the *Utilized Provider Files* (Attachment 30). For non-network providers the projections will be calculated by multiplying projected non-network utilization by a pre-determined average allowed amount based on the *Out-of-Network Reimbursement Schedule* (Attachment 34).

6.1 Dental Plan Claims

Throughout the term of the Contract, the Offeror will be paid on a monthly basis for Dental Plan claims, including Participating Provider and Non-Network claims. Participating Provider claims will be reimbursed based on the Offeror's negotiated reimbursement rates with providers. The Non-Network claims are to be processed, for reimbursement to Enrollees and payment by the Department, based on the rates set forth in the *Out-of-Network Reimbursement Schedule* (Attachment 34).

This Agreement is not subject to Article XI-A of NYS Finance Law. The Contractor agrees that Program Services provided under the Agreement shall continue in full force and effect for a minimum of at least thirty (30) calendar days beyond the payment due date. If after the thirty-fifth (35) calendar day, after receipt of an accurate invoice and claims data file, the Contractor has not yet received payment from the State for said invoice, the Contractor may proceed under the Dispute Resolution provision in Appendix B and the Agreement shall remain in full force and effect until such final decision is made, unless the Parties can come to a mutual agreement, in which case, the Agreement shall also remain in full force and effect.

6.2 Administrative Fees

1. The Offeror must submit a completed *Administrative Fee Form* (Attachment 10) which must include the Offeror's proposed per Enrollee per month fee for Administrative Fees charged to the Dental Plan. An Offeror's quoted Administrative Fee must include all direct and indirect costs, overhead, travel expenses, fees, and profit.

2. The Offeror will be bound by its quoted Administrative Fee, as proposed in the Offeror's Financial Proposal for the entire term of the Contract, unless amended in writing.

3. Each month, the Offeror shall calculate the total Administrative Fee payable to the Offeror by multiplying the per Enrollee per month fee by the average number Enrollees in force for the assessed month as reported by the Offeror. The average number Enrollees for the assessed month reported by the Offeror shall be based on the enrollment files and enrollment updates the Department transmits to the Offeror as set forth in Section 3.7 of this RFP.

4. The Department reserves the right to adjust the Administrative Fee charged by the Offeror based on a reconciliation of the Enrollee counts reported from the Department's NYBEAS by the Enrollee counts utilized by the Offeror to calculate the monthly Administrative Fee. The reconciliation will be performed by the Department on an annual basis using the average Enrollee count for the respective Dental Plan Services Program Year. However, the Department may perform additional reconciliations throughout a given year if the average monthly Enrollee counts utilized by the Offeror differ significantly from the Department's Enrollee counts, as reflected in NYBEAS. In addition, the Administrative Fee due shall be adjusted on an annual basis based on penalties due to the Department

or payments due from the Offeror in accordance with the *Performance Guarantees* form (Attachment 6).

6.3 Assessments

Assessments are defined as surcharges or taxes charged by federal, state, and local government entities based on claims or membership. The State will be responsible for all such Assessments.

SECTION 7: EVALUATION AND SELECTION CRITERIA

The Department seeks to contract with a single Offeror to provide and administer Dental benefits. To this end, the Department intends to select the responsive and responsible Offeror whose Proposal offers the "Best Value" to the State, as defined in Section 7.5 of this RFP.

[**Note**: Access to technical proposals will be made available to representatives of NYS employee unions for review. Representatives of NYS employee unions may participate in Management Interviews and Site visits, if applicable. Members of the Council are welcome to attend Management Interviews as observers, but questions being asked are limited to those from the evaluation team. As noted above, the Department may provide or share the Offerors Financial Proposal or portions thereof with any Department contracted third-party for the sole purpose of assisting the Department in the evaluation and analysis of the Offerors Financial Proposal.]

7.1 Administrative Proposal Evaluation

Proposals determined by the Department to satisfy the submission requirements set forth in Section 4 of this RFP will be evaluated by an evaluation team composed of staff from the Department. An Offeror's Proposal shall not be considered for award until the Offeror submits a *Formal Offer Letter* (Attachment 3) and an *Offeror Attestations Form* (Attachment 13).

7.2 Technical Proposal Evaluation

The evaluation of the Offeror's Technical Proposal will be based on that Offeror's written Technical Proposal and responses to clarifying questions (if any) and, as deemed necessary by the Department, Technical Management Interviews conducted to amplify and/or clarify information in the Offeror's Technical Proposal.

1. Technical Score Ratings

The Technical Proposal of any Offeror meeting the requirements set forth in Section 7.1 of this RFP will be evaluated by the Department and representatives from other State agencies or/and third-party contractors or consultants. Each Offeror's Technical Proposal will be evaluated based on the following rating scale and criteria as applied to each response as required in Section 5 of this RFP. A rating of "excellent" equates to a score of 4 for each evaluated response. Each reduction in the ratings results in a one-point reduction in the score such that a rating of "poor" equates to a score of 1.

a. Excellent (4)

The Offeror far exceeds the criteria. The services described indicate that the Offeror will provide high-quality services and is proactive and innovative.

b. Good (3)

The Offeror exceeds the criteria. The services described indicate that the Offeror will exceed the requirements of the RFP. The Offeror demonstrates some innovative features not shown in typical proposals.

c. Meets Criteria (2)

The Offeror meets but does not exceed the criteria. The services described indicate that the Offeror will meet the requirements of the RFP.

d. Poor (1)

The Offeror misinterpreted or misunderstood the question; or the Offeror does not answer the question/criteria in a clear manner; or the Offeror does not answer the question; or the Offeror does not meet the criteria.

2. Performance Guarantee Ratings

The Offeror's commitment to meet the levels of standards it outlines in its proposal will be verified by reviewing responses to related Performance Guarantee questions and reviewing the Offeror's proposed credit to the Administrative Fee (credit amount) for its failure to meet each of its proposed performance guarantees.

A rating of "excellent" equates to a score of 4 for each evaluated service level standard. Each reduction in the ratings results in a reduction in the score such that a rating of "poor" equates to a score of 1. An Offeror may propose performance guarantees that exceed the Dental Plan's service level standards presented in this RFP. Proposed Performance Guarantees are contained within the *Performance Guarantees* form (Attachment 6) and will be evaluated using the following criteria:

a. Excellent (4)

i. The Offeror's proposed performance guarantee exceeds the Dental Plan's service level standard contained within this RFP; and

ii. The Offeror's proposed credit amount is 125% or more of the Standard Credit Amount stated within this RFP.

b. Good (3)

i. The Offeror's proposed performance guarantee equals the Dental Plan service level standard contained within this RFP, and the Offeror's proposed credit amount is 125% or more of the Standard Credit Amount stated within this RFP; or

ii. The Offeror's proposed performance guarantee exceeds the Dental Plan's service level standard contained within this RFP; and the Offeror's proposed credit amount is greater than 100% but less than 125% of the Standard Credit Amount stated within this RFP.

c. Meets Criteria (2)

i. The Offeror's proposed performance guarantee equals or exceeds the Dental Plan's service level standard contained within this RFP; and

ii. The Offeror's proposed credit amount equals the Standard Credit Amount stated within this RFP.

d. Poor (1)

i. The Offeror's proposed performance guarantee is below the Dental Plan's service level standard contained within this RFP regardless of the credit amount proposed by the Offeror; or

ii. The Offeror's proposed credit amount is less than 100% or less of the Standard Credit Amount stated within this RFP regardless of the level of performance the Offeror pledges.

3. <u>Allocation of Technical Score Points</u>

The scores referenced above shall be applied to weighted point values associated with each evaluated Submission response. The relative point value for each section of the Technical Proposal is as follows:

Section	Title	% of Technical Score
5.1	Executive Summary	1%
5.2	Account Team	5%
5.3	Preliminary Implementation Plan	2%
5.4	Participating Provider Network	50%
5.5	Customer Service	15%
5.6	Member Communication Support	4%
5.7	Reporting Services	3%
5.8	Enrollment Management	10%
5.9	Direct-Pay Enrollment Option	1%

5.10	Claims Processing	4%
5.11	Plan Audit and Fraud Protection	2%
5.12	Appeals Process	1%
5.13	Pre-Determination of Benefits	1%
5.14	Transition and Termination of Contract	1%
Total		**100%**

4. **Technical Proposal Scoring**

The Technical Proposal evaluation will be based on 700 total available points. The average score of all evaluators for each section of the Technical Proposal will be applied against the weights depicted in the chart above.

7.3 Financial Proposal Evaluation

The Financial Proposal of any Offeror meeting requirements set forth in Section 7.1 of this RFP will be evaluated by the Department. Based on available Department resources, the Department may use a third-party contractor to assist or perform the Financial Proposal Evaluation including, performing the in-network discount analysis and cost projection on behalf of the Department.

1. **Financial Proposal Scoring** **Amended**

a. The Department will calculate a Total Projected Cost for each Offeror as the sum of i. and ii. as follows:

i. The Offeror must submit a completed *Discount Analysis Workbook* (Attachment 35). The *Discount Analysis Workbook* requires Offerors to provide the average submitted charges and average allowed amounts for a list of dental procedure codes by a list of three-digit zip codes. More detailed instructions are provided in Attachment 35. The Department is seeking the broadest network access possible for its enrollees. Therefore, Attachment 35 should reflect discounts for the Offerors' broadest networks.

The Offerors' discounts will be applied against a projection of network provider charges over the contract term. Network provider charges will be projected by utilizing historical claims data trended forward for each of the five years of the resulting Contract. The projections for In-network provider charges will be based on Offerors responses to the *Utilized Provider Files* (Attachment 30).

The Department will project out-of-network costs on Offerors responses to the *Utilized Provider Files* (Attachment 30). For non-network providers the projections will be calculated by multiplying projected non-network utilization by a pre-determined average

allowed amount based on the *Out-of-Network Reimbursement Schedule* (Attachment 34).

ii. The Total Projected Administrative Costs, which shall be calculated by the Department by multiplying the Monthly Administrative Fee quoted by the Offeror on the *Administrative Fee Form* (Attachment 10) by a projection of Plan enrollment times twelve months to determine an annual fee.

b. The Offeror's Proposal with the lowest Total Projected Cost will be awarded 300 points. A Financial Proposal score for each remaining Offeror will be determined based on the following formula:

Cost Score of Evaluated Proposal =

300 * Lowest Evaluated Cost

divided by

Total Cost of Proposal being evaluated

7.4 Total Combined Score

The Total Combined Score assigned to each Offeror will be the sum of the Offeror's Technical Score and Financial Score.

7.5 Best Value Determination

Best Value means that the proposal that optimizes quality, cost, and efficiency among responsive and responsible Offerors shall be selected for award (State Finance Law, Article 11, Section 163). Best Value will be determined by a weighted point system, with 70 percent allocated to the Technical Proposal and 30 percent allocated to the Financial Proposal. The Department shall select and enter into negotiations for the purpose of executing a Contract with the responsive and responsible Offeror that has obtained the highest Total Combined Score, inclusive of both cost and technical. If two Offerors' Total Combined Scores are tied, the award shall go to the Offeror with the highest cost score (lowest price), as calculated pursuant to Section 7.3 of this RFP.

SECTION 8: ADDITIONAL PROVISIONS

The Offeror that is determined to provide the Best Value to the Department shall be notified of its conditional award of Contract subject to the successful development of a Contract. The resulting Contract shall incorporate the requirements set forth in the RFP. Additional terms and conditions not already addressed in the RFP are set forth below.

1. **Work in The Continental United States of America**

   All work performed by Contractor personnel under this Contract must be performed within the Continental United States of America.

2. **Information Classification** **Amended**

   ~~The Department has determined that the State information which the Contractor will either host, maintain or have access to has an impact level as follows and requires the Contractor, pursuant to IT Standard: Information Security Controls (NYS-S14-003) (see https://its.ny.gov/document/information-security-controls), to have the associated baseline security controls implemented to uniformly protect the confidentiality, integrity and availability of the information entrusted to the Contractor~~

   ~~a. Confidentiality = High~~
   ~~b. Integrity = High~~
   ~~c. Availability = High~~

   The Department has determined that the State information which the Contractor will either host, maintain, or have access to has an impact level of: Confidentiality = High, Integrity = High, and Availability = High; and requires the Contractor to have appropriate security controls pursuant NIST SP 800-53B, Control Baselines for Information Systems and Organizations, implemented to uniformly protect the confidentiality, integrity, and availability of the information entrusted to the Contractor, unless the State indicates otherwise.

3. **Continued Data Access:** The Department has determined that the period of time that the Contractor must provide the Department continued access to Data beyond the expiration or termination of the Agreement is no less than three years. All Contract provisions related to the protection and security of the Data will survive termination of the Contract. This provision does not limit or lessen the time period or Contractor's obligations pursuant to Appendix A to establish and maintain Records.

4. **Use and Disclosure of Protected Health Information**

   a. The Offeror acknowledges that the Offeror is a "Business Associate" as

that term is defined in the HIPAA implementing regulations at 45 CFR 160.103, of the Department as a consequence of the Offeror's provision of Project Services on behalf of the Department within the context of the Offeror's performance under the resulting Contract and that the Offeror's provision of Project Services will involve the disclosure to the Offeror of individually identifiable health information from the Department or other service providers on behalf of the Department, as well as the Offeror's disclosure to the Department of individually identifiable health information as a consequence of the Project Services performed under the resulting Contract. As such, the Offeror, as a Business Associate, will be required to comply with the provisions of this Section.

b. For purposes of this Section, the term "Protected Health Information" (PHI) means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. Within the context of the resulting Contract, PHI may be received by the Offeror from the Department or may be created or received by the Offeror on behalf of the Department in the Offeror's capacity as a Business Associate. All PHI received or created by the Offeror in the Offeror's capacity as a Business Associate and as a consequence of its performance under the resulting Contract is referred to herein collectively as "Department's PHI".

c. The Offeror acknowledges that the Department administers on behalf of NYS, several group health plans as that term is defined in HIPAA's implementing regulations at 45 CFR Parts 160 and 164, and that each of those group health plans consequently is a "covered entity" under HIPAA. These group health plans include NYSHIP, which encompasses the Empire Plan as well as participating health maintenance organizations; the Dental Plan, and the Vision Plan. In this capacity, the Department is responsible for the administration of these "covered entities" under HIPAA. The Offeror further acknowledges that the Department has designated NYSHIP and the Empire Plan as an Organized Health Care Arrangement (OHCA), respectively. The Offeror further acknowledges that

    i. The Offeror is a HIPAA "Business Associate" of the group health plans identified herein as "covered entities" as a consequence of the Offeror's provision of certain services to and/or on behalf of the Department as administrator of the "covered entities" within the context of the Offeror's performance under the resulting Contract, and that the Offeror's provision of such services may involve the disclosure to the Offeror of individually identifiable health information from the Department or from other parties on behalf of the Department, and also may involve the Offeror's disclosure to the Department of individually identifiable health

information as a consequence of the services performed under the resulting Contract; and

ii. Contactor is a “covered entity” under HIPAA in connection with its provision of certain services under the resulting Contract. To the extent Offeror acts as a HIPAA “Business Associate” of the group health plans identified as “covered entities”, the Offeror shall adhere to the requirements as set forth herein. Offeror is responsible to obtain from Members and Enrollees all consents and/or authorizations, if any, required for Offeror to perform the services hereunder and for the use and disclosure of information, including the Department’s PHI, as permitted under the resulting Contract.

d. Permitted Uses and Disclosures of the Department’s PHI: The Offeror may create, receive, maintain, access, transmit, use, and/or disclose the Department’s PHI solely in accordance with the terms of the resulting Contract. In addition, the Offeror may use and/or disclose the Department’s PHI to provide data aggregation services relating to the health care operations of the Department. Further, the Offeror may use and disclose the Department’s PHI for the proper management and administration of the Offeror if such use is necessary for the Offeror’s proper management and administration or to carry out the Offeror’s legal responsibilities, or if such disclosure is required by law or the Offeror obtains reasonable assurances from the person to whom the information is disclosed that it shall be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Offeror of any instances of which it is aware in which the confidentiality of the information has been breached. Additionally, the Offeror may use and/or disclose the Department’s PHI, as appropriate:

i. For treatment, payment and health care operations as described in 45 CFR Section 164.506(c)(2), (3) or (4); and

ii. To de-identify the information or create a limited data set in accordance with 45 CFR §164.514, which de-identified information or limited data set may, consistent with this section, be used and disclosed by Offeror only as agreed to in writing by the Department and permitted by law.

e. Nondisclosure of the Department’s PHI: The Offeror shall not create, receive, maintain, access, transmit, use, or further disclose the Department’s PHI otherwise than as permitted or required by the resulting Contract or as otherwise required by law. The Offeror shall limit its uses and disclosures of PHI when practicable to the information comprising a Limited Data Set, and in all other cases to the minimum necessary to accomplish the intended purpose of the PHI’s access, use, or disclosure.

f. Safeguards: The Offeror shall use appropriate, documented safeguards to prevent the use or disclosure of the Department's PHI otherwise than as provided for in the resulting Contract. The Offeror shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards that satisfy the standards set forth in the HIPPA Security Rule at 45 CFR §§ 164.308, 164.310, and 164.312, along with corresponding policies and procedures, as required by 45 CFR § 164.316, appropriate to the size and complexity of the Offeror's operations and the nature and scope of its activities, to reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI that it creates, receives, maintains, accesses, or that it transmits on behalf of the Department pursuant to the resulting Contract to the same extent that such electronic PHI would have to be safeguarded if created, received, maintained, accessed, or transmitted by a group health plan identified herein.

g. Breach Notification: In addition to the Disclosure of Breach requirements specified in *Standard Clauses for All Department Contracts* (Appendix B), the following provisions shall apply:

    i. Reporting: The Offeror shall report to the Department any breach of unsecured PHI, including any use or disclosure of the Department's PHI otherwise than as provided for by the resulting Contract, of which the Offeror becomes aware. An acquisition, access, transmission, use, or disclosure of the Department's PHI that is unsecured in a manner not permitted by HIPAA or the resulting Contract is presumed to be a breach unless the Offeror demonstrates that there is a low probability that Department's PHI has been compromised based on the Offeror's risk assessment of at least the following factors:

        1) The nature and extent of Department's PHI involved, including the types of identifiers and the likelihood of re-identification;

        2) The unauthorized person who used Department's PHI or to whom the disclosure was made;

        3) Whether Department's PHI was actually acquired or viewed; and

        4) The extent to which the risk to Department's PHI has been mitigated.

    ii. Required Information: In addition to the information required in *Standard Clauses for All Department Contracts* (Appendix B),

Disclosure of Breach, the Offeror shall provide the following information to the Department within the time period identified in *Standard Clauses for All Department Contracts* (Appendix B), Disclosure of Breach, except when, despite all reasonable efforts by the Offeror to obtain the information required, circumstances beyond the control of the Offeror necessitate additional time. Under such circumstances, the Offeror shall provide to the Department the following information as soon as possible and without unreasonable delay, but in no event later than thirty Calendar Days from the date of discovery:

1) The date of the breach incident;

2) The date of the discovery of the breach;

3) A brief description of what happened;

4) A description of the types of unsecured PHI that were involved;

5) Identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach;

6) A brief description of what the Offeror is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and

7) Any other details necessary to complete an assessment of the risk of harm to the individual.

iii. The Offeror will be responsible to provide notification to individuals whose unsecured PHI has been or is reasonably believed to have been accessed, acquired, or disclosed as a result of a breach, as well as the Secretary of the United States Department of Health and Human Services and the media, as required by 45 CFR Part 164.

iv. The Offeror shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to the Department upon request.

v. The Offeror shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Offeror not permitted by the resulting Contract.

h. Associate's Agents: The Offeror shall require all of its agents or Subcontractors to whom it provides the Department's PHI, whether received from the Department or created or received by the Offeror on behalf of the Department, to agree, by way of written contract or other written arrangement, to the same restrictions and conditions on the access, use, and disclosure of PHI that apply to the Offeror with respect to the Department's PHI under the resulting Contract.

i. Availability of Information to the Department: The Offeror shall make available to the Department such information and documentation as the Department may require regarding any disclosures of PHI by the Offeror to fulfill the Department's obligations to provide access to, provide a copy of, and to account for disclosures of the Department's PHI in accordance with HIPAA and its implementing regulations. The Offeror shall provide such information and documentation within a reasonable amount of time of its receipt of the request from the Department. The Offeror must provide the Department with access to the Department's PHI in the form and format requested, if it is readily producible in such form and format; or if not, in a readable hard copy form or such other form and format as agreed to by the Parties, provided, however, that if the Department's PHI that is the subject of the request for access is maintained in one or more designated record sets electronically and if requested by the Department, the Offeror must provide the Department with access to the requested PHI in a readable electronic form and format.

j. Amendment of the Department's PHI: The Offeror shall make the Department's PHI available to the Department as the Department may require to fulfill the Department's obligations to amend individuals' PHI pursuant to HIPAA and its implementing regulations. The Offeror shall, as directed by the Department, incorporate any amendments to the Department PHI into copies of such Department PHI maintained by the Offeror.

k. Internal Practices: The Offeror shall make its internal practices, policies and procedures, books, records, and agreements relating to the use and disclosure of the Department's PHI, whether received from the Department or created or received by the Offeror on behalf of the Department, available to Department and/or the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the Department and/or the Secretary of the U.S. Department of Health and Human Services for purposes of determining the Department's compliance with HIPAA and its implementing regulations.

l. Termination: This Contract may be terminated by the Department at the Department's discretion if the Department determines that the Offeror, as a Business Associate, has violated a material term of this Section. Data return and destruction upon contract termination is governed by *Information Security Requirements* (Appendix C).

m. Indemnification: Notwithstanding the provisions in *Standard Clauses for All Department Contracts* (Appendix B), the Offeror agrees to indemnify, defend and hold harmless the State and the Department and its respective employees, officers, agents, or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this section, Use and Disclosure of Protected Health Information, or from any acts or omissions related to this section by the Offeror or its employees, officers, subcontractors, agents, or other members of its workforce, without limitations. Accordingly, the Offeror shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs, or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding, or demand by any third party which results from the Offeror's acts or omissions hereunder. The Offeror's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Contract.

n. Miscellaneous:

   i. Survival: The respective rights and obligations of Business Associate and the "covered entities" identified herein under HIPAA and as set forth in this Section, USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION, shall survive termination of the resulting Contract.

   ii. Regulatory References: Any reference herein to a federal regulatory section within the Code of Federal Regulations shall be a reference to such section as it may be subsequently updated, amended, or modified, as of their respective compliance dates.

   iii. Interpretation: Any ambiguity in the resulting Contract shall be resolved to permit covered entities to comply with HIPAA.

5. Entire Contract

The resulting Contract, including all appendices, constitutes the entire Contract between the parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and the Contract shall not be changed, modified, or altered in any manner except by an instrument in writing executed by both parties hereto, except as otherwise provided herein. The Contract is subject to amendment(s) only upon mutual consent of the Parties, reduced to writing and approved by OSC and subject to the termination provisions contained herein.