

**SECTION VI: EVALUATION AND SELECTION CRITERIA**

Proposals determined by the Procuring Agencies to satisfy the submission requirements set forth in Section II and the Minimum Mandatory Requirements set forth in Section III of this RFP will be evaluated by an evaluation team composed of staff of the Procuring Agencies, the Governor's Office of Employee Relations (GOER) and/or the Division of the Budget (DOB), assisted by any person(s), other than one associated with a competing Offeror, designated by the Procuring Agencies. Proposals will be made available to representatives of NYS employee unions for review and comment. An Offeror's Proposal shall be removed from the evaluation process and not be considered for award should it be determined that the Offeror did not satisfy the Minimum Mandatory Requirements as specified in Section III, despite any attestation made regarding the Minimum Mandatory Requirements.

During the evaluation process, the Procuring Agencies may require clarifying information from an Offeror(s) for the purpose of assuring a full understanding of the Offeror's responsiveness to the RFP requirements and the duties and responsibilities set forth therein. This clarifying information must be submitted in writing in accordance with the formats set forth in Section II of this RFP and, if accepted, shall be included as a formal part of the Offeror's Proposal. Failure to provide the required information by the due date set forth in the Procuring Agencies' request for clarification may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon the Procuring Agencies to seek or allow clarifications provided for herein. The Procuring Agencies may, at the Procuring Agencies' discretion, elect to perform site visits of Offerors' facilities and have Offerors provide oral presentations pertaining to their Technical Proposal and Cost Proposal. If scheduled, representatives of NYS employee unions may also participate in site visits, Offeror oral presentations, and such other activities applicable to the evaluation of Proposals. The Pharmacy Benefit Services Procurement Manager will coordinate the necessary scheduling arrangements with the Offeror(s).

The Procuring Agencies will consider for evaluation and selection purposes only those Proposals 1) determined to have met the Minimum Mandatory Requirements specified in Section III of this RFP, and 2) determined to be responsive to the duties and responsibilities set forth in the RFP. The Procuring Agencies' desire is to select a single Offeror to administer the Programs (i.e., The Empire Plan Prescription Drug Program, The Excelsior Plan Prescription Drug Program, and the Student Employee Health Plan Prescription Drug Program and the New York State Insurance Fund Workers' Compensation Prescription Drug Program). To this end, the Procuring Agencies intend to select that responsive and responsible Offeror whose Proposal offers the "Best Value" to the Procuring Agencies as specified in the following evaluation criteria for the purpose of entering into negotiations for two

separate stand-alone contracts (i.e., one between the Offeror and the Department, and the other between the Offeror and NYSIF).

The Diversity Practices Questionnaire (Exhibit IV.B) is designed to award additional points to the Offeror's evaluated Technical Proposal based upon their current level of Minority and Women Business Enterprises (MWBE) utilization. Answering the questionnaire is not mandatory and a blank submission will not result in a disqualification from the procurement. Please note the Diversity Practices Questionnaire will not be used to evaluate whether the Offeror has met the Department MWBE goal as outlined in Section II.B.3 of this RFP.

The Technical Proposal and Cost Proposal components of the evaluation process shall be based on 1,000 total available points; with 250 points available to the Technical Proposal and 750 points available to the Cost Proposal (i.e., 25% allocated to the Technical Proposal and 75% allocated to the Cost Proposal).

The Technical Proposal and Cost Proposal will be evaluated separately as described below.

**A. Diversity Practice Questionnaire Scoring**

The New York State Diversity Practices Scoring Matrix (Exhibit IV.C) permits a maximum weight of ten percent (10%) to be added to the Technical Proposal Score, which results in 100 points that can be applied to the Offeror's evaluated Technical Proposal Score. The Total Diversity Score is directly proportional to the number of points that can be added to an Offeror's Technical Proposal Score (e.g., a total Diversity score of 80 points equals 80 additional points on an Offeror's Technical Proposal). The scoring criteria is outlined below; for responses that fall between the outlined criteria, the evaluator will assign a score within the applicable range.

**1. Criteria and Scoring for each Diversity Practices Question**

**a. Question 1**

Yes - 5 Points will be awarded to affirmative responses that also supply the requisite evidence.

No - 0 Points will be awarded to negative responses, or responses that merely cited the officer without supplying the requested evidence.

**b. Question 2**

Offerors will be scored based upon the percentage of gross revenue paid to MWBEs for the provision of goods and services for their company's clients and customers during the prior fiscal year. Offerors can only supply data from the prior fiscal year relative to MWBEs; data from other fiscal years, other business enterprises, or MWBEs not certified by the State will be disregarded. Points will be awarded based upon the following percentages:

≥ 20% - 20 points

≥ 15 - <20% - 14 points

≥ 10 - <15% - 10 points

≥ 5 - <10% - 6 points

≥ 1 - <5% - 2 points

< 1 % - 0 points

**c. Question 3**

Offerors will be scored based upon the percentage paid to MWBEs for overhead costs or non-contract-related expenses during the prior fiscal year. Offerors can only supply data from the prior fiscal year relative to MWBEs; data from other fiscal years, other business enterprises, or MWBEs not certified by the State will be disregarded. Points will be awarded based upon the following percentages:

≥ 20% - 16 points

≥ 15 - <20% - 10 points

≥ 10 - <15% - 7 points

≥ 5 - <10% - 4 points

≥ 1 - <5% - 1 point

< 1% - 0 points

**d. Question 4**

Offerors will be scored on the number of MWBEs they provided industry-specific technical training to, duration of training and total training hours. Training that is general and non-specific to the MWBEs' industry will not be counted.

**Robust (16 points)** – The Offeror has provided industry-specific technical training to 1 or more MWBEs for 2 or more years, with 200 or more hours of training.

**Moderate (8 points)** – The Offeror has provided industry-specific technical training to 1 or more MWBEs for at least 2 years, with between 100-199 hours of training.

**Minimum (4 points)** – The Offeror has provided industry-specific technical training to 1 MWBE for 1 year or less, with 100 hours or less of training.

**None (0 points)** – The Offeror has not provided industry-specific technical training; has provided only examples of general non-industry-specific training; or claims to have provided industry-specific training but has not provided substantiating documentation.

e. **Question 5**

Offerors will be scored on the number of MWBEs they are engaged in a government approved mentor protégé program with, the duration of the program, progress and impact of program, and supplying official governmental documents validating participation (the governmental entity approved program does not have to be through New York State).

**Robust (12 points)** - The Offeror is engaged in a mentor protégé program with 1 or more MWBEs for 2 or more years, and can provide evidence of substantial progress resulting from the program.

**Moderate (8 points)** – The Offeror is engaged in a mentor protégé program with 1 or more MWBEs for a duration of 1-2 years, and can provide evidence of moderate progress resulting from the program.

**Minimum (4 points)** – The Offeror is engaged in a mentor protégé program with 1 MWBE for 1 year or less, can provide evidence of some progress resulting from the program.

**None (0 points)** – The Offeror has not engaged in a mentor protégé program; or is engaged in a mentor protégé program that is not approved by a governmental entity; or claims to be engaged in a mentor protégé program but has not provided substantiating evidence.

f. **Question 6**

Offeror will be scored on their current MWBE utilization goal for non-government procurements, level of achievement, and supporting documentation.

**Robust (20 points)** – The Offeror currently has a 10% goal and has achieved 80% of that goal.

**Moderate (12 points)** – The Offeror currently has a 7% goal and has achieved 80% of that goal.

**Minimum (6 points)** – The Offeror currently has a 3% goal and has achieved 80% of that goal.

**No (0 points)** – The Offeror has not established a goal; or claims to have established a goal but has not provided substantiating evidence.

**g. Question 7**

Offerors will be scored based upon the program and methods they developed to utilize MWBE suppliers, substantiate MWBE certification, and increase MWBE participants.

**Robust (6 points)** – The Offeror has established a program with substantial procedures for MWBE verification and outreach.

**Moderate (4 points)** – The Offeror has established a program with procedures for MWBE verification and outreach.

**Minimum (2 points)** – The Offeror has established a program with few procedures for MWBE verification and outreach.

**No (0 points)** – The Offeror has not established a program to utilize MWBE suppliers; or claims to have established a program but has not provided substantiating evidence.

**h. Question 8**

Offerors will be scored based upon their MWBE utilization plan designed to meet the Department's MWBE goal established for this procurement set forth in Section II.B.3.

**Robust (5 points)** – The Offeror's utilization plan is designed to meet 100% of Department's MWBE goal.

**Moderate (3 points)** – The Offeror's utilization plan is designed to meet 75% of Department's MWBE goal.

**Minimum (1 point)** – The Offeror's utilization plan is designed to meet 50% of Department's MWBE goal.

**No (0 points)** – The Offeror does not intend to enter into partnering or subcontracting agreements with New York State certified MWBEs or does not provide any evidence of intent.

**B. Technical Evaluation**

Each Offeror's ability and willingness to deliver the Program Services described in this RFP will be evaluated and scored based on a weighted point system. The evaluation of the Offeror's

Technical Proposal will be based on that Offeror's written Technical Proposal; responses to clarifying questions, if any; information obtained through reference checks, including any proposed Key Subcontractor(s) who performed services under a contract with the Procuring Agencies and, as deemed necessary by the Procuring Agencies, oral presentation(s) and/or site visits conducted to amplify and/or clarify that Offeror's proposed Technical Proposal.

### 1. **Technical Score Ratings**

Each Offeror's Technical Proposal will be evaluated based on the following rating scale and criteria as applied to each Required Submission response as required in Section IV of the RFP. A rating of "excellent" equates to a score of 5 for each evaluated Required Submission 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 (5)**

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 (4)**

The Offeror exceeds the criteria. The services described indicate that the Offeror will exceed the Programs' needs. The Offeror demonstrates some innovative features not shown in typical proposals.

#### c. **Meets Criteria (3)**

The Offeror meets but does not exceed the criteria. The services described indicate that the Offeror will meet the Programs' needs.

#### d. **Fair (2)**

The Offeror's answer is minimal; or the answer is very general and does not fully address the question; or the Offeror meets only some of the criteria.

#### e. **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.

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.

## **2. Performance Guarantee Ratings**

A rating of "excellent" equates to a score of 5 for each evaluated Service Level Standard. 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. Offerors may propose performance guarantees that exceed the Program's service level standards presented in this RFP. Proposed Performance Guarantees are contained within the respective technical areas and will be evaluated using the following criteria:

### **a. Excellent (5)**

- (1) The Offeror's proposed performance guarantee exceeds the Program's service level standard contained within this RFP; and
- (2) The Offeror's proposed credit amount is one hundred and twenty-five percent (125%) or more of the standard credit amount stated within this RFP.

### **b. Good (4)**

- (1) The Offeror's proposed performance guarantee equals the Program's service level standard contained within this RFP, and the Offeror's proposed credit amount is one hundred and twenty-five percent (125%) or more of the standard credit amount stated within this RFP; or
- (2) The Offeror's proposed performance guarantee exceeds the Program's service level standard contained within this RFP; and the Offeror's proposed credit amount is greater than one hundred percent (100%) but less than one hundred and twenty-five percent (125%) of the standard credit amount stated within this RFP.

### **c. Meets Criteria (3)**

- (1) The Offeror's proposed performance guarantee equals or exceeds the Program's service level standard contained within this RFP; and

(2) The Offeror's proposed credit amount equals the standard credit amount stated within this RFP.

**d. Fair (2)**

(1) The Offeror's proposed performance guarantee equals or exceeds the Program's service level standard contained within this RFP; and

(2) The Offeror's proposed credit amount is greater than fifty percent (50%) but less than one hundred percent (100%) of the standard credit amount stated within this RFP.

**e. Poor (1)**

(1) The Offeror's proposed performance guarantee is below the Program's service level standard contained within this RFP regardless of the credit amount proposed by the Offeror; or

(2) The Offeror's proposed credit amount is fifty percent (50%) or less of the standard credit amount stated within this RFP regardless of the level of performance the Offeror pledges.

**3. Performance Guarantee Standard Credit Amounts**

**DCS Program**

The DCS Program standard credit amount for each Offeror's proposed performance guarantee is \$25,000 per quarter, assessed on a quarterly basis with the following exceptions;

**a.** Implementation and Start-Up (Section IV.B.3.b.(2)): Fifty percent (50%) of the Claims Administration Fee(s) (minimum mandatory requirement);

**b.** Program Claims Processing System Availability and Accuracy (Section IV.B.11.b.(18) (19)): \$100,000 each per each quarter;

**c.** Enrollment Management (Section IV.B.7.b.(9)): \$5,000 for each 24-hour period beyond 24 hours from the release of DCS Program enrollment records;



- d. Management Reports and Claim File (Section IV.B.8.b.(6)): \$1,000 per report per Business Day between the due date and the date the report is received by DCS inclusive of the day the report is received;
- e. Network Pharmacy Access (Section IV.B.10.b.(6)), under subheading “Retail Pharmacy Network”): \$100,000 per quarter for each performance guarantee in each of the three (3) areas in which the Performance Guarantee is not met;
- f. Customer Service/Call Center Availability (Section IV.B.4.b.(8)(a)): \$100,000 per each quarter; and
- g. Turnaround Time for Claims Adjudication Guarantee (Section IV.B.11.b.(19)): \$5,000 per each quarter.

### **NYSIF Program**

The NYSIF Program standard credit amount for each Offeror’s proposed performance guarantee is \$7,500 per quarter, assessed on a quarterly basis with the following exceptions:

- a. Implementation and Start-Up (Section IV.B.3.b.(2)): Fifty percent (50%) of the Claims Administration Fee(s) (minimum mandatory requirement);
- b. Enrollment Management (Section IV.B.7.b.(9)): \$375 for each 24-hour period beyond 12 hours from the release of NYSIF Program enrollment records;
- c. Management Reports and Claim File (Section IV.B.8.b.(22)): \$75 per report per Business Day between the due date and the date the report is received by NYSIF inclusive of the day the report is received;
- d. Turnaround Time for Non-Intervention Mail Service Prescriptions Guarantee (Section IV.B.11.b.(19) “Mail Service Pharmacy Process”): \$375 per each quarter;
- e. Turnaround Time for Intervention Mail Service Prescriptions Guarantee (Section IV.B.11.b.(19) “Mail Service Pharmacy Process”): \$375 per each quarter; and
- f. Turnaround Time for Claims Adjudication Guarantee (Section IV.B.11.b.(20)): \$375 per each quarter.

**4. Allocation of Technical Score Points**

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

**A.1. Executive Summary: 1.00% of Total Technical Score**

- Applicable to both DCS and NYSIF

**A.2. General Qualifications of the Offeror: 3.00% of Total Technical Score**

- Applicable to both DCS and NYSIF

**B.1. Account Team: 3.00% of Total Technical Score**

- Applicable to both DCS and NYSIF

**B.2. Premium Development Services (Exclusive to DCS): 1.00% of Total Technical Score**

- DCS only section

**B.3. Implementation Plan: 2.00% of Total Technical Score**

- Applicable to both DCS and NYSIF

**B.4. Customer Service: 6.00% of Total Technical Score**

- 1.95% DCS Only
- 0.30% NYSIF Only
- 3.75% Applicable to DCS and NYSIF

**B.5. Empire Plan Medicare Rx (Exclusive to DCS): 10.00% of Total Technical Score**

- DCS only section

**B.6. Enrollee Communication Support: 2.00% of Total Technical Score**

- 0.40% DCS Only
- 0.08%% NYSIF Only
- 1.52% Applicable to DCS and NYSIF

**B.7. Enrollment Management: 5.00% of Total Technical Score**

- 0.375% DCS Only
- 0.100% NYSIF Only
- 4.525% Applicable to DCS and NYSIF

**B.8. Reporting: 5.00% of Total Technical Score**

- 4.75% DCS Only
- 0.25% NYSIF Only

**B.9. Transition and Termination of Agreement: 0.50% of Total Technical Score**

- Applicable to both DCS and NYSIF

- B.10.** Network Management: 24.25% of Total Technical Score
  - 8.08% DCS Only
  - 0.92% NYSIF Only
  - 15.25% Applicable to DCS and NYSIF
- B.11.** Claims Processing: 7.00% of Total Technical Score
  - 0.98% DCS Only
  - 0.035% NYSIF Only
  - 5.985% Applicable to DCS and NYSIF
- B.12.** Retrospective Coordination of Benefits (Exclusive to DCS): 1.00% of Total Technical Score
  - DCS only section
- B.13.** Utilization Management: 5.50% of Total Technical Score
  - 1.70% DCS Only
  - 3.80% Applicable to DCS and NYSIF
- B.14.** Clinical Management/Drug Utilization Review (DUR): 8.75% of Total Technical Score
  - 2.61% DCS Only
  - 0.26% NYSIF Only
  - 5.88% Applicable to DCS and NYSIF
- B.15.** Drug List Development and Management (Exclusive to DCS): 15.00% of Total Technical Score
  - 13.50% DCS Only
  - 0.50% NYSIF Only
  - 1.00% Applicable to DCS and NYSIF

## **5. Technical Scoring**

Qualifying Proposals will be evaluated independently by multiple evaluators based on the pre-established Evaluation Criteria. The average score for each evaluated response shall be applied to the points associated with each question such that an average score of “Excellent” for each evaluated response will result in a maximum available score of 1,000. All Offerors whose Technical Proposal is evaluated will receive a score in this manner. The combined Technical Proposal Score and the Diversity Practices Score will then be converted to points for each Offeror such that the Offeror with the highest technical score will receive 250 points. As calculated by the Procurement Manager, all other Offerors are awarded points at a reduced level with 0.01 points being the lowest possible point value that

may be assigned. The awarded points are calculated to the hundredth decimal place. The reduction in points shall be calculated in accordance with a predetermined formula. The formula calculates the assigned points of the evaluated Offeror proportionally to the scores of the highest Technical Proposal and the lowest possible Technical Proposal score.

**C. Cost Evaluation Component**

The Cost Proposal of any Offeror that meets the Minimum Mandatory Requirements will be evaluated by the Procuring Agencies, and others deemed appropriate by the Procuring Agencies. The Procuring Agencies reserve the right to conduct Cost Proposal oral interviews and/or seek written responses from Offerors to clarify any aspect of the Offeror's Cost Proposal. The Procuring Agencies will then calculate a Cost Score for each Offeror as follows:

**1. Cost Evaluation**

The Procuring Agencies recognize that at the time the Proposal is submitted, the Cost Evaluation will be based on the Offeror's cost proposal, calculated as follows:

- a. Claim Costs:** Claim costs will be calculated by applying the Offeror's quoted claim discounts and dispensing fees applicable to brand and generic drugs at mail, retail and specialty pharmacies to common AWP amounts and Final Paid Claim counts projected for the 2019 Plan Year. The claim cost calculation will also include adjustments to the AWP and Final Paid Claim counts based on the listing of Specialty Drugs proposed by each Offeror as compared to the current list of DCS Specialty Pharmacy Program drugs, and for the projected distribution of the proposed Specialty Drugs at mail, retail, and the Designated Specialty Pharmacy.
- b. Vaccination Network Pharmacy Pricing:** DCS will apply the Vaccine Administration Fees in Exhibit V.G of this RFP against normalized vaccine claim counts projected for the 2019 Plan Year.
- c. Claims Administration Fee(s):** DCS will apply the Claims Administration Fee(s) quoted in Exhibit V.F of this RFP against number of Final Paid Claim counts projected for the 2019 Plan Year.
- d. Pharma Revenue Guarantee:** The Pharma Revenue Guarantee will be calculated by multiplying the Offeror's average Pharma Revenue Guarantee quote(s) presented in

Exhibit V.E for the period 1/1/2019 – 12/31/2023 times the normalized Final Paid Claim count projected for the 2019 Plan Year.

The Procuring Agencies shall then calculate each Offeror's Total Projected Program Cost as the sum of a. through c. minus d. above. A Cost Score for each Offeror will be determined based on the following formula, with the lowest Total Program Cost as calculated in accordance with Section VI.D. receiving the maximum points:

$$\text{Cost Score of Evaluated Proposal} = 750 * \frac{\text{Lowest Evaluated Total Program Cost}}{\text{Total Program Cost of Proposal being evaluated}}$$

Scores will be calculated to the hundredth decimal place.

- 2. The Procuring Agencies Reserves the Right to Analyze and/or Normalize:** The Procuring Agencies reserve the right to make other cost calculation adjustments as necessary to determine the evaluated cost of the Offeror's Proposal. Any such adjustments shall be made with the intent to evaluate the Offeror's Proposal on a fair and consistent basis, without prejudice. These normalization adjustments may include, but are not limited to: 1) the application of quoted Claims Administration Fees to the applicable normalized claims basis, 2) the adjustment of the common AWP to reflect any material differences in the Offeror's quoted source pricing, 3) unforeseen circumstances whereby the normalization of specific factors among Offerors shall result in a more accurate and fair comparison of the Offeror's Cost Proposal as applied to the normalized claim base.

**D. Total Combined Score of Technical and Cost**

The Total Combined Score assigned for each Offeror shall be calculated by adding the Offeror's Technical Score and Cost Score.

**E. Best Value Determination**

It is the Procuring Agencies' desire and intent, if deemed in the best interest of the Department and NYSIF, to select and enter into negotiations for the purpose of executing two separate stand-alone contracts, with that Offeror that has accumulated the highest Total Combined Score ultimately determined by the Procuring Agencies to be responsible. (**Note:** If an Offeror's Total Combined Score is equal to or less than 1 point below the highest Total Combined Score, the Offeror's Proposal will be determined to be substantially equivalent to the Offeror holding the

highest score. Among any Offerors' Proposals deemed substantially equivalent, the Procuring Agencies shall select the Offeror that has the highest Cost Score calculated pursuant to Section VI.C.1. of this RFP.) Contract award shall be deemed made when notice of proposed contingent award is issued by the Procuring Agencies to the selected Offeror.

By submitting a Proposal in response to this RFP, the Offeror agrees that, if selected, the Offeror will enter into two separate stand-alone contracts that substantially include the terms set forth in Section VII of this RFP, Agreement Provisions, and Appendices A, B, C, and D. After Agreements are separately executed with the Contractor and DCS and NYSIF, any change to the scope of the Agreement, including but not limited to the inclusion of any individual independent Network Pharmacy(ies), requested by one Procuring Agency shall have no impact on the other Procuring Agency's Agreement or cost thereunder, unless the other Procuring Agency likewise agrees to said change(s).

Please note that the terms in Appendix A, "Standard Clauses for New York State Contracts"; Appendix B, "Standard Clauses for All Department Contracts"; Appendix B, "Standard Clauses for All NYSIF Contracts"; Appendix C, "Third Party Connection and Data Exchange Agreement (DCS Version)"; Appendix C, "Third Party Connection and Data Exchange Agreement (NYSIF Version)"; and Appendix D, "Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures," are not subject to negotiation.

In the case of a joint award, as envisioned in the RFP, if the Procuring Agencies determine that contract negotiations between the Procuring Agencies and the selected Offeror are unsuccessful because of material differences in key provision(s) as determined by the Procuring Agencies, the Procuring Agencies may invite the Offeror with the next highest Total Combined Score to enter into negotiations for purposes of executing two separate stand-alone contracts. Scores will not be recalculated for any remaining Offerors, should contract negotiations between the Procuring Agencies and the selected Offeror be unsuccessful, excepting in a case where the reason for such failure is based on a determination, made subsequent to contract award, that the Offeror is non-responsive or non-responsible.

If NYSIF determines that contract negotiations between NYSIF and the selected Offeror are unsuccessful because of material differences in key provision(s) as determined by NYSIF, but the Department does **not** make the same determination and the Department is able to successfully negotiate a contract, then proposed contract award to the selected Offeror, as regards the Department's respective components of the RFP, shall stand, however the proposed

award as regards the NYSIF components of the RFP shall be withdrawn. If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful because of material differences in key provision(s) as determined by the Department, then contract negotiations between the Offeror and NYSIF shall be deemed unsuccessful, regardless of whether or not NYSIF and the Offeror's contract negotiations were otherwise successful, and a contract between NYSIF and the selected Offeror will be **not** be finalized or executed by NYSIF. In such case, the contract award shall be withdrawn and the Procuring Agencies may invite the Offeror with the next highest Total Combined Score to enter into negotiations for purposes of executing two separate stand-alone contracts. Scores will not be recalculated for any remaining Offerors, should contract negotiations between the Department and the selected Offeror be unsuccessful, excepting in a case where the reason for such failure is based on a determination, made subsequent to contract award, that the Offeror is non-responsive or non-responsible.

Should NYSIF decide, at any point in time prior to contract award, to withdraw its respective components from the RFP and/or not make a contract award, then the Offerors' Proposals will be rescored excluding NYSIF's evaluation as provided for in the Procurement's evaluation criteria.

If an Offeror did not meet the Minimum Mandatory Requirements, or was not responsive or responsible any time prior to contract award, and that Offeror had the highest Technical score and/or Cost score, the Procuring Agencies shall recalculate the applicable Cost and/or Technical Scores for each remaining Offeror in accordance with the methodologies set forth herein.