



Department of  
Civil Service

## REQUEST FOR PROPOSALS

ENTITLED:

**“New York State Vision Plan Services”**

RELEASE DATE:

**June 14, 2021**

PROPOSAL DUE DATE:

**July 26, 2021**

**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 of this RFP and shall be in compliance with the Procurement Lobbying Law and the NYS 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](mailto:DCSprocurement@cs.ny.gov)

Rebecca Corso  
Acting Commissioner  
NYS Department of Civil Service

James DeWan  
Director  
Employee Benefits Division

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## **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 administer the New York State Vision Plan (Vision Plan).

The Vision Plan is self-funded, and the Department seeks a qualified organization to provide Administrative Services Only (ASO). 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 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/VisionPlanServicesRFP/>.

### **1.2 Period of Performance**

It is the Department's intent to execute a Contract for a term beginning with an Implementation Period of a minimum of 30 Business Days followed by an additional five years of service which shall begin January 1, 2022 and end December 31, 2026, unless otherwise terminated in accordance with the contract provisions. January 1, 2022 is the Service Start Date. 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).

### **1.3 Overview of the New York State Vision Plan**

The Vision Plan was established in 1982 to provide vision plan benefits to certain New York State employees and their eligible dependents. Public authorities, public benefit corporations, and other quasi-public entities, such as the NYS Thruway Authority and the Dormitory Authority, may choose to participate in the Vision Plan; those that do are called Participating Employers (PEs).

The Vision Plan is paid for primarily by New York State, PEs, and their Enrollees. Enrollees pay copayments, Upgrade Program fees, and Laser Vision Surgery fees. Enrollees, for purposes of this RFP, are defined as the policyholder. The term Members, for purposes of this RFP, is defined as all policyholders and their dependents. The Vision Plan is sponsored by the Council on Employee Health

Insurance. The Council is composed of the President of the Civil Service Commission, who also serves as the Commissioner of the Department, the Director of the Governor's Office of Employee Relations (GOER), and the Director of the Division of the Budget (DOB). The Department currently holds, and will hold, the contract with the Vision Plan contractor. The Employee Benefits Division (EBD) of the Department is responsible for administration of the Vision Plan and oversight of the contract. The Vision Plan currently has close to 102,180 Enrollees and 132,800 dependents, totaling approximately 235,000 covered Members. These figures do not include Student Employee Health Plan (SEHP) Members.

The benefit design of the Vision Plan is the result of collective bargaining between the State and the various unions representing its employees. Benefits under the Vision Plan are administratively extended to non-represented State employees and employees of PEs. As a result, the Vision Plan's benefits design is subject to change from time to time as the result of those negotiations, and there are variations in the Vision Plan benefits design among the bargaining units. The benefits design cannot deviate from that which has been collectively bargained. The majority of the New York State employees are represented by various unions, and union participation in the design and oversight of the Vision Plan is active and ongoing.

The SEHP also participates in the Vision Plan. The SEHP was established in 1994 through collective bargaining. The SEHP became part of the New York State Health Insurance Program (NYSHIP) in 2002 to provide basic health insurance as well as limited dental and vision services to employees of the State University of New York represented by the Graduate Student Employees Union (GSEU) and their eligible dependents. Vision Plan benefits were extended to graduate student employees of the City University of New York (CUNY) on January 1, 2009. SEHP, which is administered by EBD, covers an average of 4,800 Enrollees and 900 dependents, totaling approximately 5,700 covered Members.

Enrollees and dependents may receive services from any licensed Optometrist or Ophthalmologist acting within the scope of his/her license. Vision Plan benefits are currently available from approximately 2,300 Participating Provider locations throughout New York State. For those Enrollees and dependents who obtain Vision benefits from Non-Participating Providers, partial reimbursement is available based on a fixed Indemnity Reimbursement Schedule. (See a listing of covered benefits in *Summary of Benefit Eligibility by Group* (Attachment 23) and *Summary of Covered Benefits by Group* (Attachment 24)). For calendar year 2019, the Participating Provider utilization rate was over 99%.

Under the Vision Plan, eye examinations, frames, and lenses or contact lenses are available to Enrollees and covered dependents once in any twenty-four-month period. Exams for only refraction services are not covered. Certain employee groups are eligible for an annual contact lens examination. In order to be eligible, the Member must have obtained contact lenses during their last eligibility cycle from either a Participating Provider, or through a Non-Participating Provider and was reimbursed at

the indemnification rate. This benefit is currently available to Management Confidential (M/C), PE, and NYS Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) Members. For almost all groups, dependent children under the age of 19 are entitled to such benefits once in any twelve-month period. The eligibility periods will not be reset as of the beginning of the Contract. Partial use of benefits is considered full use, although all Enrollees are permitted up to a 90-day window to select eyewear from the date of the eye examination at a Participating Provider. Enrollees must use their benefit (eye exam, frames, and lenses (or contacts)) within the 90-day window. Otherwise, vision benefits will not be available until their next eligibility date. SEHP members are required to use their exam and eyewear benefit on the same day.

Dependent children are eligible until 19 years of age, including natural children, legally adopted children, children in a waiting period prior to finalization of adoption, Enrollee's stepchildren and children of the Enrollee's domestic partner. Other children who reside permanently with the Enrollee in the Enrollee's household and are chiefly dependent on the Enrollee are also eligible, subject to a Statement of Dependence and documentation. Children who are unmarried full-time students and under the age of 25 are also eligible under the Vision Plan. Children of Employees who are in SEHP are considered eligible up to age 26 regardless of marital or student status.

Active Employees and Enrollees in the Consolidated Omnibus Budget Reconciliation Act (COBRA) who are represented by the Police Benevolent Association of New York State (PBANYS), Council 82 and NYSCOPBA are covered for a laser vision correction benefit at a Laser Vision Correction Provider once every five years, subject to a copayment of 10% of the discounted cost for laser vision correction procedures, up to a maximum of \$200. Dependents of these groups are eligible for the patient-pay-all laser vision "discount program" (current contractor offers up to 50% off the national average price). Active Employees and Enrollees in COBRA and their dependents who are represented by Police Benevolent Association (PBA)-Troopers, PBA-Supervisors, Police Investigators Association (PIA), and Public Employees Federation (PEF) are eligible for the patient-pay-all laser vision "discount program" of up to 50% off the national average price.

#### **1.4 Offeror Eligibility**

Offeror means any responsible and eligible entity submitting a responsive Proposal to this RFP. It shall be understood that references in the RFP to "Offeror" shall include an entity's proposed Subcontractors or Affiliates (as defined in Section 4.3 of this RFP). 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, possesses 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 NYS, 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 NYS with the New York State Secretary of State. Such application must be approved prior to Contract Award. (For details concerning this requirement, refer to:

[http://www.dos.ny.gov/corps/forms\\_listing.html](http://www.dos.ny.gov/corps/forms_listing.html). 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. As of the Proposal Due Date, the Offeror must be currently providing vision services, similar to those as set forth in the RFP, for a minimum of 500,000 covered lives in total and with at least one current client with at least 100,000 covered lives.
5. As of the Contract Start Date, the Offeror shall retain staff with the appropriate experience relevant to the duties and responsibilities outlined in Section 3 of this RFP; establish appropriate minimum qualifications for individuals filling positions slated to service the Vision Plan in the future; and possess the necessary account services, enrollment, claims processing, clinical management, and customer service staff levels, located in facilities within the Continental United States, to service the Vision Plan.
6. 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.
7. 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 Program participants and to ensure that public dollars are spent appropriately.
8. 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)(d) requiring the Offeror to propose a financial guarantee supporting its commitment to satisfy all implementation requirements.

9. The Offeror must administer the Vision Plan in accordance with all State and federal rules, laws and regulations.

10. The Offeror must understand and indicate its agreement that the benefits design cannot deviate from that which has been collectively bargained.

**1.5 Timeline of Key Events**

<b>EVENT</b>	<b>DATE</b>
RFP Release Date	June 14, 2021
Deadline for Submission of Offeror Affirmation of Understanding	See below*
Pre-Proposal Conference	June 21, 2021
Deadline for Submission of Offeror Questions	June 28, 2021
Release Date of Official Responses to Offeror Questions	July 5, 2021
Proposal Due Date and Time	July 26, 2021
Anticipated Technical Management Interviews	August 9, 2021
Anticipated Tentative Contract Award	August 30, 2021
Anticipated Contract and Implementation Start Date	November 17, 2021
Service Start Date	January 1, 2022

\*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 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 contact information 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.

Brian Bopp  
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 7 Calendar Days after the RFP Release Date at 10:00 a.m. in the Swan Street Building, Core 1, Room 2106, Albany, NY and/or using a virtual platform. Attendance is not mandatory but is strongly encouraged for Offerors intending to submit a Proposal. Each Offeror is requested to send no more than two representatives to the Pre-Proposal Conference. If Offeror's organization plans to attend the Pre-Proposal Conference, please notify the Designated Contact identified in Section 2 of this RFP via e-mail at the address noted in Section 2 at least 24 hours before the conference with the name and affiliation of each person attending. Information regarding directions to the Empire State Plaza, available parking and security requirements, may be found at <https://empirestateplaza.ny.gov/>. On the date of the conference, visitors may be required to present photo identification. Prospective Offerors are advised to allow sufficient time to go through security.

### **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 Official Responses to Questions specified in Section 1.5 of this RFP. Business Day(s) means every Monday through Friday, from 9:00 a.m. to 5:00 p.m. ET, except for days designated as state holidays by the Department.
- 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  
New York State Vision 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/VisionPlanServicesRFP/>.

## **5. Submission of Questions**

Using the *Questions Template* (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* form (Attachment 1), the *Questions Template* (Attachment 4), and those individuals who register to attend the pre-proposal conference. The questions and answers will also be posted to <https://www.cs.ny.gov/VisionPlanServicesRFP/>.

## **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 two 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 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 (both the hard copies and the USB), 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  
“New York State Vision 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 *Standard Clauses for All Department Contracts* (Appendix B), *Information Security Requirements* (Appendix C) and the *Glossary for Appendix B and C* (Appendix C-1). NYS 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 Offeror has an issue or concern regarding provisions in the solicitation and is considering submission of a proposal containing a bid deviation, 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. 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.
  - 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 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  
New York State Vision Plan Services”**

OR

**“Submission of Tentative Award Protest for  
Request for Proposals  
New York State Vision 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/VisionPlanServicesRFP/>;
- 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, information obtained through any site visits, 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 not revocable for a minimum period of one hundred and eighty 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. Disclaimer**

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, GOER 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 the Adobe "Mark for Redaction" function; do not use the "Apply Redactions" function; or 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 NYS 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 statements on the MacBride Fair Employment Principles and Non-Collusive Bidding Certification. It also sets forth the certifications regarding compliance with the Federal Americans with Disabilities Act, compliance with the NYS Public Officers Law, certification required under NYS Procurement Lobbying Law, certification required under Executive Order No. 177 and certification required by New York State Finance Law section 139-l regarding written sexual harassment policies.

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 NYS, an Offeror for this RFP is strongly encouraged and expected to consider NYS 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 a qualified Offeror to function as an ASO to provide quality eye care services.

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

- A comprehensive Participating Provider Network to allow adequate access for Vision Plan Members;
- 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 files, based on information provided by the Department; and
- Quality customer service to Vision Plan Members and Providers, including a nationwide toll-free telephone number to service Vision Plan Members and Providers.

#### **3.1 Account Team**

The Offeror must provide a knowledgeable, experienced account leader and team dedicated solely to the Vision 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 Program 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 Program 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 Vision 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 Vision 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. Implementation activities must be completed no later than December 31, 2021. The Implementation Period shall be a minimum of 30 Business Days before the Service Start Date.

#### **1. Duties and Responsibilities**

- a. The Offeror must undertake and complete all start-up and implementation activities no later than December 31, 2021, so that the Vision Plan as described in this RFP is fully operational on the Service Start Date of January 1, 2022.
- b. The Implementation Plan must include evaluation and assessment activities and development of a project plan to achieve Contract requirements and deliver the Project Services.
- c. The Offeror must, by the Service Start Date be operationally ready as described by having in place:
  - i. Its contracted Participating Provider Network that meets the access standard set forth in Section 3.3(1)(a) of this RFP;
  - ii. Its contracted Laser Vision Correction Participating Provider Network that provides reasonable access as defined by the Offeror in Section 3.3 of this RFP;
  - iii. A fully operational call center providing all aspects of customer service as set forth in Section 3.4 of this RFP;
  - iv. A fully operational claims processing system that accurately reimburses claims in accordance with Vision Plan provisions as set forth in Section 3.8 of this RFP and accurately utilizes

enrollment and eligibility data provided by the Department to pay claims for eligible Members consistent with the Vision Plan benefit design; and

- v. A fully functioning customized Vision Plan website with a secure dedicated link from the Department's website, subject to the specific website requirements as set forth in Section 3.4 of this RFP.
- d. Implementation Guarantee: The Offeror must guarantee that all of the tasks identified in the Department approved Implementation Plan identified above will be in place on or before December 31, 2021.

### **3.3 Participating Provider Network Management**

Vision Plan Members reside primarily in New York State and contiguous states. For this reason, the selected Offeror must have a comprehensive Participating Provider Network in place to allow adequate access for Vision Plan Members. The Vision Plan establishes minimum standards for Participating Provider Network access. Although the access standards only apply to New York State, Offerors are encouraged to propose a nationwide network that would provide access to Members residing or traveling in areas outside of New York.

The current Vision Plan includes a regional Participating Provider Network. The selected Offeror must have a credentialed Participating Provider Network in place January 1, 2022 that meets the Vision Plan's Minimum Access Standards. The Offeror must also credential Participating Providers and Laser Vision Correction Participating Providers in a timely manner and shall have an effective process by which to confirm Participating Provider's and Laser Vision Correction Participating Provider's continuing compliance with credentialing standards. In addition, the selected Offeror must also illustrate and attest that it has the capability and contractual right to effectively audit its Participating Provider Network.

Participating Providers perform eye examinations and dispense Vision Plan lenses and frames, subject to applicable copays and upgrade fees, where applicable. Participating Providers offer several quality lens types and a wide variety of Vision Plan frames, including styles in metal or plastic for men, women and children. Ultraviolet coating, fashion tinting, scratch resistance, progressive, polycarbonate for dependent children, glass, and blended segment are covered at no cost to the member. Additionally, PIA and PBA members have no cost for photosensitive lenses (glass or plastic). Please review the *Summary of Covered Benefits by Group* (Attachment 24) that lists the minimum benefit coverage to be provided for each group.

SEHP Enrollees and their covered dependents may only receive services from Participating Providers (Vision Plan benefits are not available from Non-Participating

Providers) and are subject to a combined \$10 copayment for eyewear and examination and contact lens fitting (if applicable). The SEHP eyewear selection is limited to a basic frame; single or bifocal lenses, or an allowance for soft, daily wear contacts (currently \$105). Ultraviolet coating and fashion tinting are not permitted.

The Offeror may propose a standardized selection of Vision Plan frames available at each Participating Provider and/or a frame allowance. For members of M/C, PBA, PIA, and PEF, the incumbent contractor utilizes a frame allowance with price points set at \$80, \$100 and \$130 for basic, standard and enhanced frames and a non-collection frame allowance of \$130. Non-collection frame means a frame made available at a Participating Provider that is not part of the Offeror's proposed frame collection. Members of Agency Police Services Unit (APSU), Council 82, and NYSCOPBA have a \$100 frame allowance. Participating Providers must offer all covered Lens types and options, as set forth in the *Summary of Covered Benefits by Group* (Attachment 24). Frame and Lens Plan Utilization data is set forth in *Claims Utilization Data from 2016 to 2020* (Attachment 31).

In lieu of eyeglasses, Enrollees/dependents may select contact lenses. Participating Providers perform a contact lens examination and fitting and offer a selection of Vision Plan contact lenses, including soft, daily wear, planned replacement and disposable contact lenses. The Offeror may propose a standardized contact lens selection and/or a contact lens allowance for PEF, SEHP, and M/C and unrepresented Enrollees/dependents. The incumbent contractor offers paid-in-full contact lenses and an allowance for contact lenses per benefit period for all PEF, M/C and unrepresented Enrollees/dependents, subject to a \$25 or \$45 copayment, respectively. This allowance is currently \$105 for conventional contact lenses and \$125 for disposable contact lenses. The incumbent contractor offers paid in full contact lenses and an allowance of \$105 for both conventional and disposable contact lenses for all NYSCOPBA, PBANYS, Council 82, PBA and PIA Enrollees/dependents subject to no copayment. Enrollees and their dependents represented by NYSCOPBA, PBANYS, Council 82, PBA and PIA have up to a \$200 allowance towards exam, fitting and materials at a Participating Provider or through a Non-Participating Provider. Certain employee groups are eligible for an annual contact lens examination. In order to be eligible, the member must have obtained contact lenses during their last eligibility cycle from either a Participating Provider, or through a Non-Participating Provider and was reimbursed at the indemnification rate. This benefit is currently available to M/C, PE, and NYSCOPBA members.

Active employees and Enrollees covered by COBRA who are represented by PBANYS, Council 82 and NYSCOPBA are covered for a laser vision correction benefit at a Laser Vision Correction Provider once every five years, subject to a copayment of 10% of the discounted cost for laser vision correction procedures, up to a maximum of \$200. Dependents of these groups are eligible for the patient-pay-all laser vision "discount program" (current contractor offers up to 50% off the national average price). Active employees and Enrollees in COBRA and their dependents who are represented by PBA-Troopers, PBA-Supervisors, PIA, and PEF are eligible for the patient-pay-all laser vision "discount program" of up to 50% off the national average price. Laser Vision

Correction benefits are set forth in the *Summary of Covered Benefits by Group* (Attachment 24).

The successful Offeror should have a good working relationship with Participating Providers and Laser Vision Correction Participating Providers to ensure that Vision Plan initiatives are accurately communicated and implemented, Enrollee questions or complaints are resolved timely, and that quality eyewear products are dispensed on a timely basis by Participating Providers.

Contracts with Participating Providers and Laser Vision Correction Providers should be written to utilize the Vision Plan's market strength to obtain cost-effective pricing while ensuring Vision Plan access standards are met, where applicable. The Offeror's contracting staff should keep abreast of current market conditions and have the wherewithal to adjust contracts that reflect the best interests of the Vision Plan. The Offeror must ensure that all Participating Providers and Laser Vision Correction Participating Providers contractually agree and comply with the Vision Plan's requirements and benefit design.

## **1. Duties and Responsibilities**

- a. The selected Offeror must maintain a credentialed and contracted Participating Provider Network (excluding Laser Vision Correction Providers) that, throughout the term of the Contract, meets or exceeds the Department's Minimum Access Standards within New York State as follows:
  - i. Ninety-five percent of Enrollees in urban areas of New York State will have access to at least one Participating Provider within five miles;
  - ii. Ninety-five percent of Enrollees in suburban areas of New York State will have access to at least one Participating Provider within fifteen miles, and
  - iii. Ninety-five percent of Enrollees in rural areas of New York State will have access to at least one Participating Provider within thirty miles.

For the purpose of meeting the Minimum Access Standards within NYS, the term Participating Provider shall mean a licensed Optometrist or Ophthalmologist who has an existing contract with the Offeror as of January 1, 2022 and who will provide services under the terms of the contract resulting from this RFP.

In calculating whether the Offeror meets the Minimum Access Standards, all Enrollees residing in New York State must be counted; no Enrollee may

be excluded even if there is no provider located within the minimum mandatory access requirements.

The Minimum Access Standards are based on the driving distance, in miles, from an Enrollee's home zip code to the nearest Participating Provider location. Urban, suburban and rural are based on US Census Department classifications, as determined by Quest Analytics.

- b. The Offeror shall be responsible for ensuring that Participating Providers maintain a varied and contemporary selection of Vision Plan frames, including but not limited to styles in metal or plastic for men, women and children, half-eye styles, protective sport goggles and designer models. Vision Plan frames must be available at three separate benefit levels, Basic, Standard, and Enhanced. The Offeror must contractually require that Participating Providers stock a minimum of 10 Basic frame styles, 25 Standard frame styles and 10 Enhanced frame styles. The Offeror may not count a different size or different color of the same frame when assessing compliance with the minimum frame selection. In addition, the Offeror is responsible for ensuring that all Participating Providers will dispense all covered lens types and lens options, including combination of two or more lens types and options.
- c. The Offeror must program their claims system to accurately track contact lens utilization so eligibility for the annual exam is made available twelve months after the prior contact lens exam. Programming must be made possible for selected employee groups.
- d. The Offeror must develop communication materials which accurately describe the benefit to eligible populations. See *Summary of Benefit Eligibility by Group* (Attachment 23) for employee groups currently eligible for the annual contact lens benefit.
- f. The Offeror must ensure that Participating Providers maintain a varied selection of Vision Plan contact lenses, including soft, daily wear, planned replacement and disposable contact lenses, subject to Vision Plan benefit coverages set forth in *Summary of Covered Benefits by Group* (Attachment 24). If proposed, the standardized contact lens selection should be updated periodically to reflect current products and preferences. If an allowance method is proposed, the allowances must be adequate to ensure a wide variety of contact lens selection.
- g. The Offeror must administer a \$200 contact lens benefit for Enrollees and covered dependents in NYSCOPBA, Council 82, PBANYS, PBA and PIA, which includes the cost of the eye examination, standard or premium contact lens fitting and contact lens material. This benefit is available from either a Participating Provider, or through a Non-Participating Provider.

- h. The Offeror must develop and contract a network of Laser Vision Correction Participating Providers to provide eligible Enrollees with a covered laser vision correction benefit, including:
  - i. A pre-operative evaluation, laser vision correction surgery, and necessary follow-up visits once every five years. Prior utilization data for the covered benefit is set forth in *Claims Utilization Data from 2016 to 2020* (Attachment 31).
  - ii. A regional network of qualified, credentialed ophthalmologists that provides reasonable access to Enrollees and dependents to provide laser vision correction services through both a covered benefit and discount program.
  - iii. Effective communication regarding the availability of the Laser Vision Correction Network to eligible Members, in addition to notifying them of their benefit and how to access their benefit. Eligible Members are eligible to use their laser vision correction benefit once every five years.
  - iv. Additional Laser Vision Correction Participating Providers to participate in the Laser Vision Correction Network, at the request of the Department.
- i. The Offeror must provide a one-year unconditional warranty against breakage for all Vision Plan frames and lenses that are fabricated in laboratories at manufacturing companies that are either a parent or subsidiary company of the Offeror.
- j. Participating Provider Access Guarantees: The Offeror must guarantee that throughout the term of the Contract, Enrollees living in urban, suburban and rural areas of New York State will have access to a Participating Provider. Offerors may propose performance guarantees with better access than the minimums, as specified in Section 3.3(1)(a) of this RFP.
- k. Turnaround Time for Receiving Eyewear Guarantee: The Vision Plan's service level standard requires that ninety-five percent of all orders placed with a Participating Provider for covered eyewear will be shipped to the Participating Provider within seven Calendar Days after the order is received by lab processing the eyewear.

### **3.4 Customer Service**

The Vision Plan requires that the Offeror provide quality customer service to Enrollees, as such, the Offeror must maintain a nationwide toll-free telephone number to service Enrollees and Providers. Through this toll-free telephone number, Enrollees and Providers must have access to representatives who respond to questions and inquiries regarding Vision Plan benefits, the Participating Provider Network, the Laser Vision Correction Participating Provider Network, eligibility and claims status, and complaints.

## **1. Duties and Responsibilities**

- a. The Offeror will be responsible for providing all customer support and services including, but not limited to:
  - i. Providing Enrollees and Providers 24-hour access, except for regularly scheduled maintenance, to information on vision benefits and eligibility related to the Vision Plan through a nationwide toll-free number.
  - ii. Maintaining a call center located in the United States employing an adequate staff of fully trained customer service representatives (CSRs), and supervisors available between the hours of 8:00 a.m. and 8:00 p.m. ET, Monday through Friday, and between the hours of 9:00 a.m. and 4:00 p.m. ET on Saturday, except for legal holidays observed by the State. These hours may be adjusted based on actual call volume by mutual agreement between the Department and the Offeror. CSRs must be able to timely respond to questions, complaints and inquiries, including but not limited to, Vision Plan benefits, Participating Provider and Laser Vision Correction Participating Provider locations, eligibility and claims status.
  - iii. Utilizing an integrated system for CSRs to log and track all Enrollee calls. The system must create a record of the Enrollee contacting the call center, the call type and all customer service actions and resolutions.
  - iv. Maintaining a back-up telephone system located in the United States (preferably in New York State).
  - v. Developing and maintaining a secure online customized website for Enrollees, 24 hours a day, 7 days a week, except for regularly scheduled maintenance throughout the term of the Contract, which will provide access to information including, but not limited to: Vision Plan benefits; Participating Provider locations; laser vision benefits and Laser Vision Correction Participating Provider locations; eligibility and claim status. This includes:



- 1) Accurately updating the Vision Plan's customized website within 30 Calendar Days of notification by the Department.
  - 2) Notifying the Department of all regularly scheduled maintenance at least one Business Day prior to such maintenance being performed.
  - 3) Establishing a dedicated link to the customized website for the Vision Plan from the Department's website (content subject to the approval of the Department), with information from the link limited to information that pertains to the Vision Plan. Any links should bring a viewer back to the Department website. No other links are permitted without the prior written approval of the Department.
- vi. Providing resources to assist non-English speaking and hearing-impaired Enrollees to address and resolve their inquiries.
- b. Call Center Telephone Guarantees: The Offeror must provide guarantees for the following four measures of service:
- i. Call Center Response Time Guarantee: The Vision Plan's service level standard requires that, at a minimum, ninety percent of incoming calls to the Offeror's telephone line will be answered by a CSR within sixty seconds. Response time is defined as the time it takes incoming calls to the Offeror's telephone line to be answered by a CSR.
  - ii. Telephone Availability Guarantee: The Vision 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 ninety-nine and five-tenths of the Offeror's required up-time (between 8:00 a.m. to 8:00 p.m. ET, Monday through Friday; and between 9:00 a.m. to 4:00 p.m. ET on Saturday, except for legal holidays observed by the State).
  - iii. Telephone Abandonment Rate Guarantee: The Vision 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 call center representative will not exceed three percent.
  - iv. Telephone Blockage Rate Guarantee: The Vision Plan's

service level standard requires that not more than three percent of incoming calls to the Offeror's telephone line will be blocked by a busy signal.

- c. Website Maintenance Guarantee: The Vision Plan's service level standard requires that all Vision Plan benefit changes be accurately updated by the Offeror to the Vision Plan's customized website within thirty Calendar Days of notification by the Department.

### **3.5 Reporting Services**

Reporting must be structured to provide assurances that member, network and account management service levels are being maintained and that claims are being paid and billed according to the terms of the agreements with Participating Providers and Laser Vision Correction Participating Providers and the terms of the Contract. The Offeror must provide accurate claims data as well as specific summary reports concerning the Vision Plan and its administration. The selected Offeror may on occasion be requested to provide ad-hoc reporting and analysis within very tight time frames.

#### **1. Duties and Responsibilities**

- a. The Offeror will be responsible for providing reporting services including, but not limited to:
  - i. Developing, in conjunction with the Department, standard electronic management, financial, and utilization reports required by the Department for its use in the review, management, and analysis of the Vision Plan. These reports must tie to the amounts billed to the Vision Plan. The final format of reports is subject to the Department review and approval;
  - ii. Providing Ad Hoc reports and other data analysis at no additional cost to the State. The exact format, frequency and due dates for such reports shall be specified by the Department. Information required in the Ad Hoc Reports may include, but is not limited to, providing:
    - 1) Forecasting and trend analysis data;
    - 2) Benefit design modeling; and
    - 3) Reports to meet clinical program review needs.

iii. Supplying reports in paper format and/or in an electronic format (Microsoft Access, Excel, Word) as determined by the Department including but not limited to the reports listed in below:

- 1) The Offeror must submit semi-annual Utilization Reports that detail utilization by type of service and employee group for both network(s) and non-network claims, including services provided under the Occupational Vision Program and the Medical Exception Program as well as the Laser Vision Correction Program. Additionally, for the Medical Exception Program, the Offeror must report the number of authorized services, by medical condition and employee group. This report is due thirty Calendar Days after the end of each reporting period.
- 2) The Offeror must submit semi-annual Enrollee Satisfaction Survey Summary Reports that summarize, by employee group, the results of Enrollee satisfaction surveys designed to evaluate the level of Enrollee satisfaction with the Vision Plan. The survey should seek Enrollee satisfaction with:
  - (i) Quality of Professional care provided, including eye examinations, contact lens fittings and eyewear dispensing;
  - (ii) Quality of frames and lenses;
  - (iii) Technical competency, familiarity with Vision Plan benefit design, and customer service skills of the Participating Provider staff; and
  - (iv) Adequacy of Provider access, including ease of making an appointment and convenience of office hours.

The format of the report is subject to Department input and approval and must include free form reporting of all Enrollee comments and an accounting and resolution of any Enrollee issues. This report is due ninety Calendar Days after the end of each reporting period.

- 3) The Offeror must submit a *Quarterly Performance Guarantee Report* (Attachment 25) that details the

Offeror's compliance with all of the performance guarantees as specified within the Contract and for any occurrence when a performance guarantee is not met, the Offeror will provide a root cause analysis and detail corrective action. This report is due thirty Calendar Days after the end of each quarter.

- 4) The Offeror must submit a monthly Payment Detail Report in Microsoft Excel format that provides summarized claims processed, issued and paid on behalf of the Vision Plan during the reporting period. Such report shall include the following:

- (i) Column A – Benefit Program (BP)
- (ii) Column B – Agency Code
- (iii) Column C – Type of Service
- (iv) Column D – Type of Service Description
- (v) Column E – Date of Service
- (vi) Column F – Claim Number
- (vii) Column G – Member ID
- (viii) Column H – Member Last Name
- (ix) Column I – Member First Name

- 5) The Offeror must submit a Monthly Claims Data Report in Microsoft ACCESS format that provides summarized claims processed, issued and paid on behalf of the Vision Plan during the reporting period. Format specifications are outlined in *Monthly Paid Claims Data Report* (Attachment 27).

- b. Management Reports and Claims File Guarantee: The Offeror must state its agreement and guarantee that all Vision Plan management reports and claim files listed in Section 3.5 of this RFP, will be accurate and delivered to the Department no later than their respective due dates.

### **3.6 Enrollee and Provider Communication Support**

All Enrollee and Provider communications are subject to the review and approval of the Department. The Offeror shall be required to create Vision Plan materials that clearly explain the Enrollee's benefits specific to each bargaining unit and group. The Department shall retain editorial control over all aspects of the Vision Plan material, including final determination on the content and tone; provide expeditious final approval of all print and/or other materials developed for the Vision Plan; make available, if possible, any records or information which the Offeror clearly needs to design and implement effective

communication strategies; and assist the Offeror as necessary in communicating with Enrollees and Providers but at no additional expense to the State.

## **1. Duties and Responsibilities**

- a. The Offeror must provide communication support and services including but not limited to:
  - i. Designing and producing all necessary claim forms, benefit booklets, and other printed materials in sufficient quantities to promote and operate the Vision Plan;
  - ii. Designing and producing a Participating Provider directory and making the directory accessible on the Offeror's dedicated Vision Plan website;
  - iii. Designing and producing any regular standardized direct communication materials for Enrollees or Participating Providers in connection with covered benefits or the processing of claims;
  - iv. Developing and distributing communication materials to Participating Providers and Laser Vision Correction Participating Providers introducing the Vision Plan and describing changes, when necessary;
  - v. Designing and producing a Vision Plan Summary of Benefit Booklet. The Vision Plan Summary of Benefit Booklet means the booklet that describes the Vision Plan benefits applicable to each Member's employee group or union and summarizes Vision Plan provisions, including eligibility criteria. Vision Plan Summary of Benefit Booklets are not required for Enrollees represented by SEHP;
  - vi. Working with the Department to develop an accurate Vision Plan Summary of Benefit Booklet;
  - vii. Shipping Vision 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 as of January 1, 2022. The Enrollee count by State agency by bargaining unit for 2020 is included as *Distribution of Vision Plan Enrollees by Agency* (Attachment 22) for informational purposes. HBA means an agency representative, primarily located in agency human resource office, who provides information on health benefits to agency staff;

- viii. Providing the Department's Fulfillment Center with Vision Plan publications and ensure quantity on hand can 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;
- ix. Developing, printing and mailing to Enrollees' homes notification of benefit modifications and any other communications materials that may be required by the Department during the term of the Contract, including a customized listing of Participating Provider and a Vision Plan Summary of Benefits booklet which states the Plan benefits applicable to each Member and summarizes Plan provisions (including eligibility criteria) within 30 days of the Contractor's implementation date. All documents must be developed, printed, and mailed in cooperation with and subject to the approval of the Department;
- x. Accounting and paying for all development, production and mailing costs incurred to disseminate Vision Plan communications materials to Enrollees and Department Fulfillment Center (excluding cost to ship publications from Department Fulfillment Center to HBAs and Enrollees);
- xi. Retaining no proprietary or literary rights with respect to communication material developed solely for the Vision Plan and executing any assignment found necessary to release proprietary rights; and
- xii. Attending health benefit fairs, conferences, and benefit design information sessions located in New York State, at the request of the Department. The Offeror must agree that the costs associated with these services are included in the Offeror's Administrative Fee. *Health Fairs* (Attachment 35) details health benefit fairs attended in the past by the incumbent.

### **3.7 Enrollment Management**

The Vision Plan requires the Offeror to ensure timely addition of enrollment data as well as cancellation of benefits in accordance with Vision Plan eligibility rules. Enrollment information is set forth in *Enrollment Counts by Zip Code* (Attachment 20) and *Vision Plan Enrollment by Group* (Attachment 21). EBD utilizes a web-based enrollment system for the administration of employee benefits. The system is referred to as the New York Benefits Eligibility & Accounting Systems (NYBEAS). NYBEAS is the source of eligibility information for all Vision Plan Enrollees and dependents.

## 1. Duties and Responsibilities

- a. The selected Offeror shall be responsible for the maintenance of an accurate, complete and up-to-date enrollment file, located in the United States, based on information provided by the Department. This enrollment file 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 a test file from the Department during Program implementation. The file may be EDI Benefit Enrollment and Maintenance Transaction set 834 (ANSI x.12 834 standard either 834 (4010x095A1) or 834 (005010x220)) or a custom file format. The determination will be made by the Department;
  - ii. Testing to determine if the enrollment file and enrollment transactions are 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 Program enrollment data, and promptly correct any identified issues to the satisfaction of the Department;
  - iii. Providing an enrollment system capable of receiving secure enrollment transactions and having all transactions fully loaded to the claims processing system within forty-eight hours of release of a retrievable file by the Department. The Offeror shall immediately notify the Department of 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 forty-eight hours of their release, as required. The Offeror must have a process in place to correct any records that cannot be loaded programmatically in a timely manner. The Department will transmit enrollment transaction changes to the Offeror in an electronic format weekly. The format of these transactions will be in EDI Benefit Enrollment and Maintenance transaction set, utilizing an ANSI x.12 834 transaction set in the format specified by the Department (see *Detailed Record Layout (Attachment 28)* for a detailed record layout). The Offeror must also have the capability to receive any special update files from the Department containing eligibility additions and deletions, including emergency updates, if required;

- iv. Meeting the administrative requirements for National Medical Support Notices. A child covered by a Qualified Medical Child Support Order (QMCSO), or the child's custodial parent, legal guardian, or the provider of services to the child, or a 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 shall store this information in their system so that any claim payments or any other plan communication distributed by the Offeror, including access to information on the Offeror's website would go to the person designated in the QMCSO;
- v. Ensuring the security of all enrollment information as well as the security of a Health Insurance Portability and Accountability Act (HIPAA) compliant computer system in order to protect the confidentiality of Enrollee/dependent data contained in the enrollment file. The Offeror must have an Information Security Plan (ISP) acceptable to the Department in place on the effective date of the Contract, which states all of the security policies and procedures for the protection of data, equipment and facilities, including receipt of and transmission of data in accordance with Department standards, policies and procedures. The ISP must agree to the policies, terms and conditions stated in this RFP, the Contract and *Standard Clauses for New York State Contracts* (Appendix A), *Standard Clauses for All Department Contracts* (Appendix B), *Information Security Requirements* (Appendix C), and *Glossary for Appendix B & C* (Appendix C-1). Any transfers of enrollment data within the Offeror's system or to external parties must be completed via a secured process;
- vi. Providing an enrollment system capable of administering a social security number and an employee identification number;
- vii. Cooperating fully with any Department 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 course of the Contract;
- viii. Maintaining a read only connection to the NYBEAS enrollment system for the purpose of providing the Offeror's staff with access to current Program enrollment information. Offeror's staff must be available to access enrollment information through NYBEAS, Monday through Friday, from 9:00 a.m. to 5:00 p.m., with the exception of State holidays;



- ix. Providing a back-up system in the event that the primary enrollment system fails or cannot be accessed so that there is no interruption of service to Members; and
  - x. Ensuring the provider portal is updated timely and accurately regarding Enrollee eligibility status, to permit Participating Providers to verify eligibility for services.
- b. Enrollment Management Guarantee: The Offeror must guarantee one hundred percent of all Vision Plan enrollment records that meet the quality standard for loading will be loaded into the Offeror's enrollment system within forty-eight hours of release by the Department.

### **3.8 Claims Processing**

The Offeror is required to process all claims submitted under the Vision Plan. The selected Offeror must be capable of processing Participating Provider and Laser Vision Correction Participating Provider claims as well as Enrollee submitted claims for non-network benefits. Enrollees are required to submit claim forms to the Offeror for non-network services no later than ninety Calendar Days after the end of the calendar year in which the vision services were rendered, unless it was not reasonably possible for the Enrollee to meet this deadline. The Vision Plan's claim utilization data for Participating Providers, Laser Vision Correction Participating Providers and non-network services and can be found in *Claims Utilization Data from 2016 to 2020* (Attachment 31), and *Indemnity Utilization* (Attachment 32), respectively.

#### **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 United States staffed by fully trained claims processors and supervisors;
  - ii. Verifying that the Vision Plan's benefit designs have been loaded into the system appropriately to adjudicate and calculate cost sharing and other edits correctly;
  - iii. Accurate and timely processing of all claims submitted under the Vision Plan in accordance with the benefit design(s) applicable to the Enrollee at the time the claim was incurred as specified to the Offeror by the Department;
  - iv. Charging the Vision Plan consistent with the Offeror's proposed pricing quotes;

- v. Developing and maintaining claim payment procedures, guidelines, and system edits that guarantee accuracy of claim payments for covered services only, utilizing all edits as proposed by the Offeror and approved by the Department. The Offeror's system must ensure that payments are made only for authorized services;
- vi. Maintaining records necessary to support claim payments, legal responsibilities, and reporting, and providing direct access to all Vision Plan records for State audit requests;
- vii. Utilizing the auditing tools and performance measures proposed by the Offeror to identify potential fraud and abuse by Participating and Laser Vision Correction Participating Providers;
- viii. Maintaining claims histories for twenty-four months online and archiving older claim histories for up to six years with procedures to easily retrieve and load claim records;
- ix. Reversing all attributes of claim records processed in error or due to fraud or abuse and crediting the Vision Plan for all costs associated with such claim;
- x. Maintaining the security of the claim files and ensuring HIPAA compliance;
- xi. Maintaining a back-up system and disaster recovery system for processing claims in the event that the primary claims payment system fails or is not accessible;
- xii. Analyzing and monitoring claim submission to identify errors, fraud or abuse and reporting to the Department in a timely fashion in accordance with a Department approved process. The Vision Plan will be charged for only accurate (i.e., the correct dollar amount) claims payments of covered expenses. The Offeror shall credit the Vision Plan the amount of any overpayment regardless of whether any overpayments are recovered from Provider and/or Enrollees in instances where a claim is paid in error due to Offeror error or due to fraud or abuse. In cases of overpayments resulting from errors found to be the responsibility of the Department, the Offeror shall use reasonable efforts to recover any overpayment and credit them to the Vision Plan upon receipt; however, the Offeror is not responsible to credit amounts that are not recovered. The

Offeror shall report fraud and abuse to the appropriate authorities;

- xiii. Processing Enrollee submitted claims using the *Non-Network Fee Schedule* (Attachment 15);
- xiv. Establishing a process through which Providers can verify eligibility of Enrollees and dependents during Call Center Hours; and
- xv. Agreeing that all claim data is the property of the State. As such upon request of the Vision Plan, the Offeror shall share appropriate claims data with other Department consultants and contractors for various program analysis; and the Offeror cannot sell, release, or make the data available to third parties in any manner without the prior consent of the Department.

### **3.9 Occupational Vision Program**

Under the Occupational Vision Program, PBA Troopers, PBA Supervisors, PIA, PEF, M/C and unrepresented Enrollees may be entitled to an additional pair of prescription eyeglasses (frame and lenses) from a Participating Provider in conjunction with their regular benefit once in every 24-month period. The Occupational Vision Program covers the cost of job-related eyeglasses for said Enrollees only, and if determined they are needed, based on testing done by a Participating Provider in conjunction with the regular vision examination. The occupational eyewear must differ from the primary eyewear based on criteria established by the Offeror and consistent with the Occupational Vision Program benefits specified in the *Summary of Benefit Eligibility by Group*, (Attachment 23). Occupational eyewear is not available for COBRA vision plan enrollees. As a health and safety measure, Enrollees in the State Police covered under PBA-Troopers, PBA-Supervisors and PIA may order supplemental occupational lenses meeting precise specifications, for insertion into respirators. See insert specifications on *NYS Police Respirator Insert Dispenser Instructions* (Attachment 34).

Historically, approximately 51.8% of Enrollees have received occupational vision benefits.

The Occupational Vision Program is not available to dependents.

#### **1. Duties and Responsibilities**

- a. The Offeror must develop sound eligibility criteria for the Occupational Vision Program (e.g., variations in lens type, strength, or segment height differential, for occupational vision needs) in accordance with the negotiated benefit design by employee group.

- b. The Offeror must communicate Occupation Vision Program eligibility criteria to Participating Providers and ensure that they properly administer the program.
- c. The Offeror must work with the Department and the State Police to develop a procedure to order and fabricate prescription lenses for insertion into respirators.
- d. The Offeror must have claims editing system in place to ensure no pairs of Occupational Glasses are billed to the Vision Plan that do not meet the established eligibility criteria in 3.9(1)(a).

### **3.10 Medical Exception Program**

The Vision Plan's Medical Exception Program benefit is available to eligible Enrollees and their covered dependents represented by PBANYS, Council 82, NYSCOPBA, PEF, PBA-Troopers, PBA-Supervisors, PIA and M/C as specified in the *Summary of Benefit Eligibility by Group* (Attachment 23). Enrollees and covered dependents with a medical condition that may impact vision refraction are entitled to an eye examination, and if necessary, a frame and lenses, if at least 12 months has passed since they last used the vision benefits available under the Vision Plan, provided that they obtain Vision Plan prior authorization via a referral by the physician caring for their documented medical condition. The Medical Exception Program utilization is presented in *Medical Exception Program Utilization* (Attachment 26).

#### **1. Duties and Responsibilities**

- a. In consultation with their medical director, the Offeror must establish and maintain a listing of medical conditions that would qualify an Enrollee or dependent to receive services under the program. The listing of medical conditions must include, but not be limited to: diabetes, cataracts, keratoconus, eye surgery within two years of last Rx, taking a prescription drug whose side effects cause vision changes, and any other documented medical condition which could reasonably be expected to result in a change in refractive status;
- b. The Offeror must administer a process for Participating Providers to request prior authorization of medical exception benefits for eligible Enrollees and dependents. As part of this process, the Offeror must develop sound criteria for authorizing eyewear benefits; and
- c. The Offeror must communicate Medical Exception Program eligibility criteria to Participating Providers and ensure that they properly administer the program.

### **3.11 Upgrade Program**

Through the Upgrade Program, eligible Enrollees (except for those represented by SEHP) and their covered dependents may select certain non-Vision Plan eyewear from a Participating Provider and pay a discounted surcharge (in addition to the Participating Provider fee paid by the Vision Plan). The goal of the program is to make available, at a discounted price, a wider selection of frames, lens types (including contact lenses) and lens options, that are not otherwise covered under the Vision Plan.

The patient's cost is based on the Offeror's Participating Provider Fee schedule for the lens or lens option(s) eligible for upgrade. The incumbent contractor currently offers a discount of twenty percent off retail prices for non-covered lenses or lens options (for example, Polaroid lenses) as well as frames priced above the allowance. The current Upgrade Program average utilization by type of service is outlined in *Upgrade Program Utilization – Dresswear* (Attachment 29) and *Upgrade Program Utilization – Occupational* (Attachment 30).

#### **1. Duties and Responsibilities**

- a. The Offeror must provide a minimum discount off of retail pricing for upgrade selections that are not a covered benefit for any employee group covered under the Vision Plan. The Offeror must set the Upgrade Program surcharges for selections that are a covered benefit for one or more employee groups under the Vision Plan equal to the fee paid by the Vision Plan, as set forth by the Offeror on the *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16).
- b. The Offeror must communicate the Upgrade Program requirements and pricing methodology to Participating Providers and ensure that they properly administer the Program. The Offeror must also communicate the Upgrade Program to Enrollees to ensure awareness of its availability.

### **3.12 Transition and Termination of Contract**

To ensure that the transition to a successor entity provides Members with uninterrupted access to all Vision Plan benefits and associated customer services, the contractor is required to provide contractor-related obligations and deliverables to the Vision Plan through final termination of the Contract. This includes, but is not limited to: ensuring that Members can continue to receive services from network(s) providers as necessary, processing all network(s) and non-network claims; verification of enrollment; and, providing sufficient staffing to ensure Enrollees continue to receive good customer service even after the termination date of the Contract. It is also imperative that the Vision Plan continue to have dialogue with key personnel of the Offeror, maintain access to online systems and receive data/reports and other information regarding the Vision Plan after the effective end date of the Contract. In addition, the Offeror and the

selected successor shall fully cooperate with the Department to create and establish a Transition Plan in a timely manner. Within fifteen Business Days from receipt of the Transition Plan, the Department shall either approve the Transition Plan or notify the Offeror, in writing, of the changes required to the Transition Plan so as to make it acceptable to the Department.

### **1. Duties and Responsibilities**

- a. The Offeror must, within forty-five Calendar Days of the end of the Contract, or within forty-five Calendar Days of notification of termination, if the Contract is terminated prior to the end of its term, provide the Department with a detailed written plan for transition (Transition Plan), which outlines, at a minimum, the tasks, milestones and deliverables associated with:
  - i. Electronic transition of Vision Plan data including, but not limited to, the most recent date of service for Enrollees and dependents and unique information required for a smooth transition to a successor contractor including providing a test file to the successor contractor in advance of the implementation date; and
  - ii. Completion of all such contractor-provided services associated with claims incurred on or before the scheduled termination date of the Contract.
  
- b. The Offeror is required to provide the following contractor related obligations to the Vision Plan through the final settlement of the Contract which includes, but is not limited to:
  - i. Providing an electronic file of the most recent date of service for Enrollees and covered dependents, including Laser Vision Correction Surgery Services in a format to be specified by the Department, no later than thirty Calendar Days prior to termination of the Contract;
  - ii. Providing all contractor-provided services associated with claims incurred on or before the scheduled termination date of the Contract, including but not limited to paying network claims and, manual submit claims, and retaining NYBEAS access;
  - iii. Completing all required reports in the reporting section of this RFP;
  - iv. Providing sufficient staffing to address State audit requests and reports in a timely manner;

- v. Agreeing to fully cooperate with all the Department or OSC audits consistent with the requirements of Appendices A and B;
  - vi. Performing timely reviews and responses to audit findings submitted by the Department and OSC; and
  - vii. Remitting reimbursement due the Program in a timely manner upon final audit determination.
- c. The selected Offeror must incorporate any Departmental changes to the Transition Plan and submit such revised Transition Plan to the Department for approval within fifteen Business Days from the Offeror's receipt of the required changes.
- d. The selected Offeror shall be responsible for transitioning the Vision Plan in accordance with the approved Transition Plan.
- e. The selected Offeror is required to reach agreement with the Department on receiving and applying enrollment updates, keeping phone lines open with adequate available staffing to provide customer service at the same levels provided prior to termination of the Contract, adjusting phone scripts, and transferring calls to successor contractor's lines.
- f. The Offeror must commit to fully cooperate with the successor contractor to ensure the timely, smooth transfer of information necessary to administer the Vision Plan.
- g. 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(7), 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 for Appendix B and C* (Appendix C-1), 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 and (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. For the purpose of this RFP, Affiliate is defined as a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. On the *Subcontractors or Affiliates* (Attachment 9) form, 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/vendors/index.htm>.

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 New York State 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 New York State 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 New York State 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. The Offeror should complete and return the certification forms within five Business Days from the date of request (if the forms are not completed and returned with bid submission). 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](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](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)

#### **4.6 Compliance with New York State Workers' Compensation Law**

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any Contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a Contract with the Department, the selected Offeror and Subcontractor(s) or

Affiliates, with more than \$100,000 in expected expenses over the life of the Contract, if any, will be required to verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in *Compliance with NYS Workers' Compensation Law* (Attachment 10). Any questions relating to either workers' compensation or disability benefits coverage should be directed to the New York State Workers' Compensation Board, Bureau of Compliance at 518-486-6307. You may also find useful information on their website: <http://www.wcb.ny.gov>.

Submission of the proof of workers' compensation and disability benefits insurance coverage is required at the time of Proposal submission. Failure to provide verification of either of these types of insurance coverage with the Offeror's Administrative Proposal may be grounds for disqualification of an otherwise successful Proposal.

To the extent that the Offeror is proposing the use of Subcontractors or Affiliates, the Offeror must verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that the Subcontractors or Affiliates are properly insured or are otherwise in compliance with the insurance provisions of the WCL.

#### **4.7 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 4.7 should be licensed or authorized by the New York State Department of Financial Services 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.

An Offeror shall deliver to the Department evidence of the insurance required by this RFP and any Contract resulting from this RFP in a form satisfactory to the Department. 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 paragraph 12 *Specific Coverages and Limits* below.
  - 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 paragraph 11 below. 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.
- 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.

## 2. **Primary Coverage**

All 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 excess of and shall not contribute with the Offeror's insurance. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as generally 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.

## 3. **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.

## 4. **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.

## **5. 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 4.7(11) 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.

## **6. Waiver of Subrogation**

For all liability policies with the exception of professional and cyber liability, 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 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.

## **7. Additional Insured**

The Offeror shall cause to be included in each of the liability policies (except Professional Liability and Date Breach/Cyber Liability) required below coverage

for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 04 13 or 20 38 04 13 and CG 20 37 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 11 below. 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.

#### **8. 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.

#### **9. 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 non-renewal 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.

#### **10. 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.

## **11. 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:

- a. For certificates of insurance: five Business Days from request or renewal, whichever is later;
- b. For information on self-insurance or self-retention programs: fifteen Calendar Days from request or renewal, whichever is later;
- c. For other requested documentation evidencing coverage: fifteen Calendar Days from request or renewal, whichever is later;
- d. For additional insured and waiver of subrogation endorsements: thirty Calendar Days from request or renewal, whichever is later; and
- e. For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: five 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 thirty Calendar Days.

## **12. 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, products-completed operations, 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).



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 – \$2,000,000
- ii. General Aggregate – \$2,000,000
- iii. Products/Completed Operations – \$2,000,000
- iv. Personal Advertising Injury – \$1,000,000
- v. Medical Expense – \$5,000

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;
- v. Cross liability for additional insureds;
- vi. Products/completed operations for a term of no less than 1 year, commencing upon acceptance of the work, as required by the Contract;

The CGL policy, and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above, must be endorsed to be primary with respect to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Department. Any other insurance maintained by the Department shall be excess of and shall not contribute with the Contractor’s or Subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy(ies) of insurance, if applicable.

b. Business Automobile Liability Insurance

The Offeror shall maintain Business Automobile Liability Insurance in the amount of at least \$1,000,000 each occurrence, covering liability arising

out of any automobile 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 \$10,000,000 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.

- i. Such insurance shall include coverage of all professionals and technical personnel whose actions could be considered “professional services” arising out of the scope of services as additional named insureds.
- ii. If coverage is written on a claims-made policy, the Offeror 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 any Contract resulting from this Solicitation is completed. Written proof of this extended reporting period must be provided to the Department upon request.
- iii. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of any Contract resulting from this Solicitation.

d. Technology Errors & Omissions Insurance

The Offeror shall maintain, during the term of any Contract, Technology Errors and Omissions Insurance in the amount of at least \$10,000,000 each occurrence, for claims for damages arising from computer-related services including, but not limited to, the following: consulting, data processing, programming, system integration, hardware or software development, installation, distribution or maintenance, systems analysis or design, training, staffing or other support services, any electronic equipment, computer software developed, manufactured, distributed, licensed, marketed or sold. The policy shall include coverage for third

party fidelity including cyber theft if coverage is not met in a Data Breach and Privacy/Cyber Liability policy or a Fidelity/Employee Dishonesty policy.

If the policy is written on a claims-made basis, the Offeror must provide to the Department 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 canceled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

e. Data Breach/Privacy/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 \$10,000,000 each occurrence, 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. Cyber theft of customer's property, including but not limited to money and securities, unless coverage is provided under a Fidelity/Employee Dishonesty policy or bond (subject to verification by the State).

## **SECTION 5: TECHNICAL PROPOSAL REQUIREMENTS**

The purpose of Section 5 of the RFP is to set forth the submissions required of the Offeror. 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 Vision Plan, which covers over 240,000 lives and incurs claims costs of over \$10 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 vision plans of other state or local government employers or any other organizations with over 100,000 covered lives; and a list of client organizations to clearly demonstrate and support how the Offeror meets the 500,000 minimum covered lives requirement. 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); and
  - c. A description of the Offeror's experience managing a vision plan similar to the Plan described in this RFP, including details on how this experience qualifies the Offeror to undertake the functions and activities required by this RFP.

### **5.2 Account Team**

1. The Offeror must complete the *Biographical Sketch Form* (Attachment 14) for all key personnel including Subcontractor provided key staff, if any, of the proposed Account Team.
2. The Offeror must also provide:

- a. 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;
- b. An organizational and staffing plan that describes the roles and responsibilities of key personnel involved in administering the Vision 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.
- c. 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.
- d. An explanation of how the Offeror's Account Team will be prepared to administer the operational and clinical aspects of the Vision Plan.
- e. A description of how the Offeror proposes to ensure that responses are provided within one Business Day to administrative concerns and inquiries.
- f. A description of the protocols that will be put into place to ensure the Department will be kept abreast of actual or anticipated events impacting costs and/or delivery of services to Enrollees, including a representative scenario.
- g. 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 Implementation Plan**

The Offeror must provide a detailed Implementation Plan in narrative, diagram, and timeline formats, designed to meet the implementation by the required Service Start Date of January 1, 2022. The Implementation Period shall be a minimum of 30 Business Days. Specifically, the Implementation Plan must include:

1. Roles, responsibilities, estimated timeframes for individual task completion, testing dates and objectives, and areas where complications may be expected.
2. Key activities such as:

- a. Establishing a Participating Provider Network;
  - b. Establishing a Participating Provider Laser Vision Network;
  - c. Enrollee and Provider communications;
  - d. Training of customer service staff;
  - e. Report generation; and
  - f. Eligibility feeds and testing claims processing.
3. 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 3.2 will be in place on or before December 31, 2021.

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) for each Calendar Day that all Implementation and Start-Up requirements are not met is \$1,000. However, an Offeror may propose a higher amount.

**5.4 Participating Provider Network Management**

- 1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in participating provider network management as specified in Section 3.3 of this RFP, including the following:
  - a. Propose access standards for the Vision Plan’s Participating Provider Network that meet or exceed the Minimum Access Standard set forth below. The access standard must be provided in terms of actual distance from Enrollees’ residences and must meet or exceed the Minimum Access Standards stipulated below.

<b>NYS Enrollee Location</b>	<b>Access Standard – At least 1 Provider within</b>
Urban	5 miles
Suburban	15 miles
Rural	30 miles

- i. To demonstrate satisfaction of this requirement, the Offeror must submit all required Attachments below based on the Geo-

Coded Census file provided in *Enrollment Counts by Zip Code* (Attachment 20).

- 1) *Offeror's Participating Provider Network Access Summary* (Attachment 17). This attachment summarizes the number of Enrollees with and without access to network providers in urban, suburban, and rural areas;
  - 2) *Offeror's Current Participating Provider Network File* (Attachment 18). Offeror should list every provider that will be included in their network as part of their Technical Proposal responses. This attachment contains the required file layout; and
  - 3) *Offeror's Participating Provider Quest Analytics Report* (Attachment 19). Offeror must provide a detailed GeoAccess report from Quest Analytics. The Quest Analytics report should include every ZIP Code that is in the demographic file; even ZIP Codes with no access should be included. Offeror should use Estimated Driving Distance from the employee's home ZIP code for calculating distance. The most current version of Quest Analytics software should be used to create these reports.
- b. Confirm that if selected, the Offeror shall provide an updated *Participating Provider Network Access Summary* (Attachment 17) on December 1, 2021 confirming that the proposed Participating Provider Network will be implemented as required on January 1, 2022.
  - c. Describe the approach(es) the Offeror would use to solicit additional providers to enhance its proposed Participating Provider Network or to fulfill a request to add a Participating Provider.
  - d. Explain whether Members traveling or residing outside of New York State will have access to the same level of benefits as those offered by Participating Providers located in New York State if a national network of Participating Providers is proposed.
  - e. Describe in detail how the Offeror proposes to develop and maintain the three levels of Vision Plan frames required under the Vision Plan frame selection and/or allowance method, a description of the variety of frame options, and the minimum contractual and average number of frames available in each level including how Enrollees will be made aware of the

available Vision Plan frame selection when receiving services from a Participating Provider (i.e., separate location of frames, color coding of UPC codes, price tag).

- f. State the retail price points for a standard collection and/or the Offeror's proposed allowances for frames covered at each of the three levels. If an allowance method is proposed, confirm the allowances are adequate to ensure that Participating Providers stock the minimum contractual number of frames.
- g. Describe in detail how lens types and lens options will be classified as either Standard (covered) material or premium material, eligible for the upgrade program.
  - i. Provide a listing of the currently manufactured lens products that are/will be classified as Standard or premium for the following categories of lens types: polycarbonate, high index, photochromatic and progressive.
  - ii. Confirm which covered lens options will be available in both basic and premium classifications.
  - iii. Confirm that Enrollees eligible for multiple covered lens types and options will be able to select a combination of covered eyewear with no out-of-pocket cost. For example, a photochromatic single vision high index lens with Standard scratch-resistance and ultraviolet coating.
- h. Describe the Offeror's proposed product guarantees for Vision Plan frames and lenses dispensed by a Participating Provider including how the Offeror will ensure that Participating Providers perform product repairs and replacements for eyewear which are under warranty.
- i. The Offeror must provide a narrative describing prior experience administering an annual contact lens examination benefit of this design, and how it will ensure this benefit is accurately programmed into their eligibility system.
- j. The Offeror must detail how they will communicate the annual contact lens examination benefit to providers and eligible members through print materials and through call center inquiries.
- k. State whether a Standardized contact lens selection and/or contact lens allowance is proposed.
  - i. If a Standardized contact lens selection is proposed:



- 1) Describe how the Offeror will develop and maintain the selection of Vision Plan contact lenses. Complete *Summary of Contact Lenses Covered by the Plan* (Attachment 33), to detail the Vision Plan contact lenses the Offeror is proposing.
  - 2) State the Offeror's proposed criteria for classifying contact lenses as either standard or premium (which are subject to the higher copay level for PEF, GSEU, M/C and unrepresented employee and their covered dependents).
    - ii. If a contact lens allowance is proposed, state the proposed allowance for standard and premium contact lenses.
- I. State how the Offeror proposes to administer the \$200 contact lens benefit for other employee groups, and confirm that the eye exam, contact lens fitting, and contact lens material will be included.
  - m. Indicate whether or not the Offeror currently has, and is proposing, a contracted Laser Vision Correction Network that provides both a covered benefit and a discount program. If so, please provide a listing of the proposed Laser Vision Correction Participating Providers located in New York State. In addition:
    - i. Specify the minimum, maximum and average discount offered by Laser Vision Correction Participating Providers, expressed as a percentage.
    - ii. Describe how the Laser Vision Correction Participating Network and its availability will be communicated to Enrollees.
  - n. Describe the Offeror's proposed process to ensure that the Participating Providers and Laser Vision Correction Participating Providers meet the applicable state licensing requirements and are in compliance with all other federal and State laws, rules and regulations. Identify the resource, database, or other information that will be used by the Offeror to verify this information.
  - o. Describe the Offeror's proposed approach for credentialing Participating Providers and Laser Vision Correction Participating Providers. Specify if the Offeror is proposing to utilize an external credentialing verification organization. Indicate when the credentialing verification process was last completed, the Offeror's process for confirming continued compliance with

credentialing standards, and how often the Offeror will conduct a complete review.

- p. Describe what steps will the Offeror take between credentialing periods to ensure that Participating Providers and Laser Vision Correction Participating Providers that are officially sanctioned, disciplined, or had their licenses revoked are removed from the Participating Provider Network and/or Laser Vision Correction Provider Network as soon as possible.
  - q. Outline the steps that the Offeror will take to advise members when a Participating Provider/Laser Vision Correction Participating Provider has been removed from the associated network(s).
  - r. Explain the Offeror's proposed contracting process. Describe the type of data analysis or access analysis that is/will be performed before extending participation into your network(s) to a new Provider. Provide a copy of the Offeror's proposed Participating Provider and Laser Vision Correction Participating Provider contracts, rate sheets (if applicable), and provider manual.
  - s. Explain the legal and operational relationship between the Offeror and any optical labs that are used to supply materials provided by Participating Providers.
  - t. Describe the Offeror's proposed method(s) for communicating with Participating Providers to advise them of Vision Plan benefits and modifications. Include copies of newsletters or other correspondence, as applicable.
  - u. Describe how the Offeror will monitor Participating Provider and Laser Vision Correction Participating Providers compliance with Vision Plan benefits. Include the steps that the Offeror will take when notified by an Enrollee of a billing dispute with a Participating Provider/ Laser Vision Correction Participating Provider or dissatisfaction with services received.
2. Provider Network Guarantees: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following three program service level standards:
- a. Network Access Urban Areas Guarantee: The Offeror's network cannot provide less than ninety-five percent of urban Enrollees in New York State with access to those Providers and Facilities outlined in Section 3.3(1)(a) of this RFP.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a single forfeiture amount for each quarter in which less than ninety-five percent of urban Enrollees in New York State do not have Provider access that meets the Network Access-Urban Areas requirement. The forfeited amount (Standard Credit Amount) is \$1,000, calculated quarterly. However, an Offeror may propose a higher amount.

- b. Network Access Suburban Areas Guarantee: The Offeror's network cannot provide less than ninety-five percent of suburban Enrollees in New York State with access to those Providers and Facilities outlined in Section 3.3(1)(a) of this RFP.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must, propose a single forfeiture amount for each quarter in which less than ninety-five percent of suburban Enrollees in New York State do not have Provider access that meets the Network Access-Suburban Areas requirement. The forfeited amount (Standard Credit Amount) is \$1,000, calculated quarterly. However, an Offeror may propose a higher amount.

- c. Network Access Rural Areas Guarantee: The Offeror's network cannot provide less than ninety-five percent of rural Enrollees in New York State with access to those Providers and Facilities outlined in Section 3.3(1)(a) of this RFP.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must, propose a single forfeiture amount for each quarter in which less than ninety-five percent of rural Enrollees in New York State do not have Provider access that meets the Network Access-Rural Areas requirement. The forfeited amount (Standard Credit Amount) is \$1,000, calculated quarterly. However, an Offeror may propose a higher amount.

3. Turnaround Time for Receiving Eyewear Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following program service level standard:

- a. The Vision Plan's service level standard requires that ninety-five percent of all orders placed with a Participating Provider for covered eyewear will be shipped to the Participating Provider within seven Calendar Days after the order is received by lab processing the eyewear. The Offeror shall propose the forfeiture of a specific dollar amount of the Offeror's Administrative Fee for failure to meet this standard.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must, propose a single forfeiture amount for each quarter in which less than ninety-five percent of all orders from a Participating Provider for covered eyewear are not shipped to the Participating Provider within

seven Calendar Days after the order is received by the lab processing the eyewear. The forfeited amount (Standard Credit Amount) is \$1,000, calculated on a quarterly basis. However, an Offeror may propose a higher amount.

## **5.5 Customer Service**

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

1. Describe the training that will be provided to CSRs before they go “live” on the phone with Members/Providers, including the orientation and training materials provided to employees to guide them in the administration of the Vision Plan.
2. Describe the internal reviews that are performed to ensure quality service is being provided to Members/Providers.
3. Specify the first call resolution rate for the proposed call center.
4. Identify the call center location, average number of CSRs on telephones during business hours, and turnover rate for CSRs.
5. Identify proposed staffing levels, including the ratio of management and supervisory staff to CSRs and the logic used to arrive at the proposed staffing levels.
6. Describe the information, resources and capabilities that will be available for the CSRs to address and resolve member inquiries. Include whether any Interactive Voice Response (IVR) system is proposed and if so, provide:
  - a. A sample of the IVR script and a description of customizable options, if any, the Offeror is proposing for the Vision Plan;
  - b. A description of the management reports and information that will be available from the system including any key statistics the Offeror is proposing to report; and
  - c. A description of the capabilities of the telephone system to track call types, reasons, and resolutions.
7. Describe the Offeror’s back-up systems for its proposed primary telephone system which would be used in the event the primary telephone system fails or is unavailable. Indicate the number of times the back-up system has been utilized over the past two years.

8. Describe the information and capabilities the Offeror's proposed website will provide to Enrollees/Providers. Indicate whether the Offeror currently has customized websites for its clients and, if so, describe the process utilized by the Offeror to establish customized websites for its clients.
9. Summarize how the Offeror will comply with federal and State law to assist hearing-impaired Members and those who need translation services.
10. Call Center Telephone Guarantees: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee for the following four program service level standards:

- a. Call Center Response Time Guarantee: Ninety percent of incoming calls to the Offeror's customer service toll-free telephone line must be answered by a CSR within sixty 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 sixty seconds falls below ninety percent of all incoming calls. The forfeited amount (Standard Credit Amount) is \$1,000 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose a higher amount.

- b. Telephone Availability Guarantee: The Offeror's customer service toll-free telephone line must be operational and available to Members and Providers equal to or better than ninety-nine and five-tenths percent of the Offeror's required up-time (between 8:00 a.m. to 8:00 p.m. ET, Monday through Friday; and between 9:00 a.m. to 4:00 p.m. ET on Saturday, except for 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 customer service toll-free telephone line is not operational and available to Members and Providers ninety-nine and five-tenths percent of the time. The forfeited amount (Standard Credit Amount) is \$1,000 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose a higher amount.

- c. Telephone Abandonment Rate Guarantee: No more than three percent of callers to the Offeror's customer service toll-free 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 three percent of callers disconnect a call prior

to the call being answered by a CSR. The forfeited amount (Standard Credit Amount) is \$1,000 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose a higher amount.

- d. Telephone Blockage Rate Guarantee: No more than three percent of incoming calls to the Offeror's customer service toll-free 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 three percent of incoming calls to the Offeror's telephone line are blocked by a busy signal. The forfeited amount (Standard Credit Amount) is \$1,000 a quarter for each quarter in which this guarantee is not met. However, an Offeror may propose a higher amount.

11. Website Maintenance Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that all Vision Plan benefit changes be accurately updated by the Offeror to the Vision Plan's customized website within thirty Calendar Days of notification by the Department.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount (Standard Credit Amount) for each Calendar Day beyond thirty Calendar Days notification by the Department that all Vision Plan benefit changes are not accurately updated to the Vision Plan's customized website. The forfeited amount (Standard Credit Amount) is \$100 a day for each Calendar Day in which this guarantee is not met. However, an Offeror may propose a higher amount.

## **5.6 Reporting Services**

1. The Offeror must submit examples of the financial, utilization and Enrollee satisfaction survey 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 NYS Vision Plan. Provide an overview of the Offeror's reporting capabilities and the value the Offeror believes it will bring to the Plan.
2. The Offeror must include a copy of the data sharing agreement the Offeror proposes, if any, for Department staff to execute in order to obtain system access.
3. The Offeror must provide examples of Ad Hoc reporting that the Offeror has performed for other clients.

4. **Management Reports and Claims File Guarantee:** In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that all Vision Plan management reports and claim files listed in Section 3.5 of this RFP, 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.

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 Vision 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.

### **5.7 Enrollee and Provider 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 3.6 of this RFP, including the following:

1. An outline of the communications campaign the Offeror is proposing for the Vision Plan's communication support.
2. A description of the experience and qualifications of the staff who will be assigned to attend health benefit fairs, conferences, and benefit design information sessions when so requested by the Department.

### **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 descriptions:
  - a. The Offeror's proposed testing plan to ensure that the initial enrollment load is accurately updated to the Offeror's system and that the Offeror's enrollment system interfaces correctly with the Offeror's claims system.
  - b. Quality controls that will be performed before the initial and ongoing enrollment transactions are loaded into the claims adjudication system.
  - c. How the Offeror's system will identify transactions that will not load into the Offeror's enrollment system including what exceptions will cause enrollment transactions to fail to load into the enrollment system, what

steps will be taken to resolve the exceptions, and the proposed turnaround time for the exception records to be added to the enrollment file.

- d. The Offeror's system capabilities for retrieving and maintaining enrollment information within forty-eight hours of its release by the Department as well as:
    - i. How the Offeror's system will maintain a history of enrollment transactions and how long enrollment history will be kept online. Indicate whether or not there will be a limit as to the quantity of historic transactions that can be kept online.
    - ii. How the Offeror's system will handle retroactive changes and corrections to enrollment data.
  - e. Whether or not the Offeror's enrollment and claims processing system has any special requirements to accommodate employee identification numbers; including an explanation on how dependents will be linked to the Enrollee in the enrollment and claims processing systems.
  - f. The Offeror's ability to meet the administrative requirements for national Medical Support Orders and dependents covered by a QMCSO, including storing this information in the Offeror's system so that information about the dependent is only released to the individual named in the QMCSO.
  - g. How the Offeror's enrollment system data transfer and procedure for handling data are HIPAA compliant.
  - h. The Offeror's backup system, process or policy that will be used in the event that enrollment information is not immediately available.
  - i. How the Offeror will ensure that the provider portal is updated timely and accurately when accessed by Participating Providers to verify Enrollee eligibility status.
2. Enrollment Management Guarantee: In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that one hundred percent of all Vision Plan enrollment records that meet the quality standards for loading will be loaded into the Offeror's enrollment system within forty-eight hours of release by the Department.

Utilizing the *Performance Guarantees* form (Attachment 6), the Offeror must propose a forfeiture amount for each forty-eight hour period or portion thereof in which one hundred percent of the 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 \$100 for each forty-eight hour period or portion thereof in which this guarantee is not met. However, an Offeror may propose a higher amount.

## **5.9 Claims Processing**

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in processing claims specified in Section 3.8 of this RFP, including the following:
  - a. Provide a flow chart and step-by-step description of the Offeror's proposed methodology for processing Participating Provider, Laser Vision Correction Participating Provider and Enrollee-submitted claims for the Vision Plan.
  - b. Describe the capabilities of the Offeror's claim processing system addressing each of the following Vision Plan components:
    - i. Eligibility verification;
    - ii. Prior authorization for Medical Exception Program benefits;
    - iii. Variations in covered Vision Plan benefits for various employer groups;
    - iv. Duplicate claims;
    - v. Accurate claims pricing; and
    - vi. Edits, controls, and safeguards to ensure claims are processed according to benefit design.
  - c. Describe the Offeror's claims processing system platform including any backup system utilized.
  - d. Describe the Offeror's disaster recovery plan and how Enrollee disruption will be kept to a minimum during a system failure, including the process to service Enrollees who try to receive Vision Plan services when the claim payment system is down or not available.
  - e. Describe how any changes to the benefit design would be monitored, verified and tested for the Vision Plan, and the quality assurance program to guarantee that changes to other client benefit programs do not impact the Vision Plan.

- f. Describe what steps the Offeror will take to ensure that Participating Providers and Laser Vision Correction Participating Providers comply with the HIPAA requirement for use of National Provider Identifiers for all electronic claims submissions.
- g. Describe how the Offeror's adjudication system will feed the reporting and billing systems.

### **5.10 Occupational Vision Program**

1. The Offeror must provide a narrative describing its proposed Occupational Vision Program based on the specifications in Section 3.9 of this RFP, including the following:
  - a. Indicate whether the Offeror has experience administering an Occupational Vision Program for an Employer. If so, describe the Offeror's experience administering an Occupational Vision Program and state what percentage of Enrollees receive Occupational Vision eyewear for a similar client, using the same criteria that the Offeror proposes for the Vision Plan.
  - b. Specifically state the Offeror's proposed eligibility criteria for the Occupational Vision Program. Based on the proposed criteria, indicate whether there are additional procedures outside of the regular, comprehensive eye examination that Participating Providers will be required to perform. If so, describe the additional procedures.
  - c. Indicate whether the Offeror's lens fabricator has experience with or the ability to fabricate lenses for insertion into respirators, as specified in *NYS Police Respirator Insert Dispenser Instructions* (Attachment 34). If so, describe that experience or ability.
  - d. Describe how the Offeror will communicate the Occupational Vision Program to Enrollees and Participating Providers.
  - e. Describe how the Offeror will monitor Participating Provider compliance with the established Occupational eligibility criteria to ensure eye wear that does not meet the criteria will not be charged to the Vision Plan or dispensed to the Enrollee. Detail how the Offeror will prove compliance with the established criteria and refund any claims that were inappropriately charged to the Vision Plan.

### **5.11 Medical Exception Program**

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in its Medical Exception Program as specified in Section 3.10 of this RFP, including the following:
  - a. The Offeror's experience administering a Medical Exception Program.
  - b. A listing of medical conditions that the Offeror is proposing to use to qualify an Enrollee or dependent to receive services under this program.
  - c. The Offeror's proposed authorization process for the Medical Exception Program, including a sample of any Medical Exception Program authorization forms that the Offeror is proposing to use under the program, timeframes for authorization and eyewear benefit criteria.
  - d. How the Offeror will communicate the Medical Exception Program and monitor Participating Provider compliance.

### **5.12 Upgrade Program**

1. The Offeror must provide a narrative describing in detail the proposed processes that will be utilized in its Upgrade Program as specified in Section 3.11 of this RFP. In this narrative, the Offeror must:
  - a. Explain the Offeror's experience in administering an upgrade program, including what direction the Offeror gives to Participating Providers regarding Upgrade selling and how this benefit is communicated to Enrollees.
  - b. Propose a minimum discount of retail pricing for upgrade selections that are not a covered benefit for any employee group covered under the Vision Plan. Propose a methodology for charging Enrollees for these options under the Upgrade Program, including examples of the pricing methodology for frames with a retail cost of \$200 or more, premium progressive lenses and premium anti-reflective lens coating.
  - c. Confirm that the Enrollee surcharge for Upgrade Program selections that are a covered benefit for one or more employee groups covered under the Vision Plan will be equal to the Vision Plan fees set forth in the *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16). [Note: Do not specify the actual amount of the Participating Provider Fee Schedule when responding to this question. The amount of the Participating Provider Fee Schedule should be included in the Financial Proposal only.]

### **5.13 Transition and Termination of Contract**

1. The Offeror must provide a narrative describing in detail how a transition to a successor entity will ensure uninterrupted benefits to Members, as specified in Section 3.12 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 3.12 of this RFP will be completed in the required times 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 \$300 for each Calendar Day this guarantee is not met. However, an Offeror may propose higher amounts.

## **SECTION 6: FINANCIAL PROPOSAL**

This section 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. The actual amount reimbursed to Participating Providers and Laser Vision Correction Providers is at the discretion of the Offeror provided that no liability is incurred by the Enrollee for covered services with the exception of applicable copayments. 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.

If a significant change in benefits occurs during the term of the Contract which, determined by the Department in its sole discretion, materially impacts the Offeror's level of effort and/or cost, the State reserves the right to and, at its sole discretion may, renegotiate the unit rates contained in the *Participating Provider - Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16).

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

The Financial Proposal must consist of the following:

### **6.1 Program Claims**

Throughout the term of the Contract, the Offeror will be paid on a monthly basis for Vision Plan claims, including Participating Provider and Non-Network claims. 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 *Non-Network Reimbursement Schedule* (Attachment 15).

Using the *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16), the Offeror must provide the proposed fixed fee for each type of service listed for each year of the Contract. The Offeror shall charge the Vision Plan for covered services based on the type of service and the proposed fixed fees of this schedule, less any applicable copayments. The Offeror's proposed unit rates as set forth in the *Participating Provider - Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16) must be guaranteed for the term of the Contract.

Please see the Vision Plan's claim utilization data for Participating Providers, and Laser Vision Correction Participating Providers in *Claims Utilization Data from 2016 to 2020* (Attachment 31).

## **6.2 Administrative Fees**

1. The Offeror must submit a completed *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16) which must include the Offeror's proposed per Enrollee per month fee for Administrative Fees charged to the Vision 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 Plan 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 shall be adjusted on an annual basis based on penalties due to the Department or payments due to the Offeror in accordance with the *Performance Guarantees* form (Attachment 6).

## **SECTION 7: EVALUATION AND SELECTION CRITERIA**

The Department seeks to contract with a single Offeror to provide and administer the Vision Plan. To this end, the Department intends to select the responsive and responsible Offeror whose Proposal offers the “Best Value”. Best Value will be determined by a weighted point system, with 25 percent allocated to the Technical Proposal and 75 percent allocated to the 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 reviewed 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, oral presentation(s) and/or site visits 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. 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 5 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 (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 requirements of the RFP. 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 requirements of the RFP.

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.

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 one-point 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 Program'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 Program's service level standard contained within this RFP; and
- ii. The Offeror's proposed credit amount is one hundred and twenty-five percent or more of the Standard Credit Amount stated within this RFP.

b. Good (3)

- i. 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 or more of the Standard Credit Amount stated within this RFP; or

- ii. 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 but less than one hundred and twenty-five percent of the Standard Credit Amount stated within this RFP.

c. Meets Criteria (2)

- i. The Offeror’s proposed performance guarantee equals or exceeds the Program’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 Program’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 the Standard Credit Amount stated within this RFP regardless of the level of performance the Offeror pledges.

**3. Allocation of Technical Score Points**

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:

<b>Section</b>	<b>Title</b>	<b>% of Technical Score</b>
5.1	Executive Summary	1%
5.2	Account Team	5%
5.3	Implementation Plan	10%
5.4	Participating Provider Network Management	25%
5.5	Customer Service	15%
5.6	Reporting Services	3%
5.7	Enrollee and Provider Communication Support	10%
5.8	Enrollment Management	10%

5.9	Claims Processing	4%
5.10	Occupational Vision Program	10%
5.11	Medical Exception Program	3%
5.12	Upgrade Program	3%
5.13	Transition and Termination of Contract	1%
<b>Total</b>		<b>100.0%</b>

#### 4. Technical Proposal Scoring

The Technical Proposal evaluation will be based on 250 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 4 of this RFP will be evaluated by the Department.

#### **1. Financial Proposal Scoring**

- a. The Department will calculate a Total Projected Cost for each Offeror as the sum of (i); and (ii) as follows:
  - i. The Total Projected Claims Cost, which shall be calculated by the Department by multiplying the Offeror's quoted Participating Provider and Laser Vision Correction Surgery scheduled fees for each type of service, as presented by the Offeror on the *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16), by the normalized utilization projected by the Department for Participating Providers and Laser Vision Correction Providers over the five-year period.
  - 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 *Participating Provider/Laser Vision Correction Surgery Fee Schedule and Administrative Fee Form* (Attachment 16) by the projected Vision Plan enrollment.

- b. The Offeror's Proposal with the lowest Total Projected Cost will be awarded 750 points. A Financial Proposal score for each remaining Offeror will be determined based on the following formula:

Cost Score of Evaluated Proposal =

750 \* 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**

The Department shall select and enter into negotiations for the purpose of executing a Contract with the responsive and responsible Offeror that has accumulated the highest Total Combined Score. If an Offeror's Total Combined Score is equal to or less than one point below the highest Total Combined Score, that Offeror's proposal will be determined to be substantially equivalent to the Offeror holding the highest Total Combined Score.

Among any Offeror proposals with the same or substantially equivalent Total Combined Scores, the Department shall select the Offeror with the highest Financial Proposal Score, as calculated pursuant to Section 7.3 of this RFP, to enter into negotiations for the purpose of executing a Contract.

## **SECTION 8: LEGAL TERMS AND CONDITIONS**

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. Entire Contract

This 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 the Office of the State Comptroller of the State of New York and subject to the termination provisions contained herein.

### 3. 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 New York State 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 C.F.R §§164.308, 164.310, and 164.312, along with corresponding policies and procedures, as required by 45 C.F.R. § 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 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: (i) the nature and extent of Department's PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used Department's PHI or to whom the disclosure was made; (iii) whether Department's PHI was actually acquired or viewed; and (iv) the extent to which the risk to Department's PHI has been mitigated.
- ii. Required Information: In addition to the information required in Appendix B, paragraph 40, Disclosure of Breach, the Offeror shall provide the following information to the Department within in the time period identified in 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 for purposes of determining the Department's compliance with HIPAA and its implementing regulations.
- l. Termination
  - i. 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 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. This section is not subject to the limitation of liability provisions of the 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.