Pharmacy Benefits Management program for State Employee Workers’ Compensation Claims

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SECTION 1: INTRODUCTORY SECTION

1.1 Purpose.

The State of Florida Department of Financial Services Division of Risk Management (DRM) is interested in obtaining competitive sealed bids from qualified vendors (“Proposer”) to provide pharmacy benefit management services for all claims adjusted by the State Employee Workers’ Compensation Program. Sections 284.30 and 284.33, Florida Statutes authorize DRM to seek risk management services as may be required to pay claims. DRM is seeking one vendor that will provide the best combination of cost control, services to claimants, and customer service to all stakeholders.

1.2 Purchasing Agent.

The Purchasing Agent is the sole point of contact from the date of release of this RFP until selection of a successful Proposer. All procedural questions and requests for clarification of this solicitation shall be submitted in writing to:

Department of Financial Services
Attn: Fran Spivey, Purchasing Services
200 E. Gaines Street, Larson Building
Tallahassee, FL 32399-0317
Email: fran.spivey@myfloridacfo.com
Fax: 850/487-2389

Between the release of the solicitation and the end of the 72-hour period following the agency posting of the notice of intended award, excluding Saturdays, Sundays, and state holidays, Proposers to this solicitation or persons acting on their behalf shall not contact any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Purchasing Agent as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a Proposal.

The Department cannot accept telephone calls from any vendor regarding a pending solicitation. Please note that questions will NOT be answered via telephone. Responses to questions will be posted on the Vendor Bid System (“VBS”) website, at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu (modifies PUR 1001 ¶5).

1.3 Purchasing Instructions and General Conditions.

PUR Form 1001, General Instructions to Proposers, and PUR Form 1000, General Conditions, which, except as modified by these Special Conditions, are incorporated and are attached or available online at http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms

1.4 Timetable.

The following schedule will be strictly adhered to in all actions for this solicitation:

<table>
<thead>
<tr>
<th>Date/Time</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 8, 2011</td>
<td>Release of solicitation</td>
</tr>
<tr>
<td>August 24, 2011 @ 10:00 A.M. ET</td>
<td>Mandatory Proposer’s Conference</td>
</tr>
</tbody>
</table>
September 2, 2011, by 5:00 P.M. ET  Last day for written inquiries.
September 9, 2011, on or about   Written responses to inquiries posted.
September 23, 2011, by 3:00 P.M. ET  Proposal Submissions due.
October 24, 2011, on or about   Estimated Posting of Intent to Award.

The Department reserves the right to make adjustments to this schedule and will notify participants in the solicitation. Adjustments to the schedule will be announced to all Proposers who have expressed interest by participating in the events listed in the table above.

1.5 Mandatory Proposer’s Conference.

There will be a mandatory Proposer’s conference held on August 24, 2011 at 10:00 A.M. ET and will end when the Department concludes addressing the questions that have asked by those in attendance. The Mandatory Proposer’s Conference will be held in the J. Edwin Larson Building, Conference Room B33, 200 East Gaines Street, Tallahassee, FL 32399.

If the qualified participant does not attend or send a representative to the mandatory pre-proposal conference the participant will be deemed non-responsive.

1.6 Definitions.

Solicitation Definitions:

1.6.1 "Business days" include only Monday through Friday, inclusive, except for holidays declared and observed by the state government of Florida.

1.6.2 "Business hours" means 8AM to 5 PM on all business days. “Day” means business day (defined as the Department’s normal working hours) unless otherwise described.

1.6.3 “Calendar days” means all days, including weekends and holidays, except that if the last day counted falls on a weekend or holiday, the due date shall be the next business day thereafter.

1.6.4 “Contract,” unless indicated otherwise, refers to the contract that will be awarded to successful Proposers under this RFP.

1.6.5 “Contractor,” unless indicated otherwise, refers to a business entity to which a contract has been awarded by the Department in accordance with a proposal submitted by that entity in response to this RFP. This may also be referred to as “Provider.”

1.6.6 “Department” means the Department of Financial Services, or Chief Financial Officer. Terms may be used interchangeably. This may also be referred to as Buyer, Customer, or “DFS.”

1.6.7 “Desirable Conditions” designated by the use of the words "should" or "may" in this solicitation, indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a proposal.

1.6.8 “Mandatory Requirements” means that the Department has established certain requirements with respect to proposals to be submitted by Proposers. The use of “shall,” “will” (except to indicate simple futurity) or “must” in this solicitation indicates that compliance is mandatory. Failure to meet mandatory requirements will cause rejection of the proposal or termination of a contract.
1.6.9 “Minor Irregularity,” used in the context of this solicitation and contract, indicates a variation from the proposal terms and conditions which does not affect the price of the Proposal or give the proposer an advantage or benefit not enjoyed by other proposers, or does not adversely impact the interests of the Department.

1.6.10 “Proposer” means the entity that submits materials to the Department in accordance with these Instructions, or other entity responding to this solicitation. This may also be referred to as Proposer, Respondent, or Vendor. The solicitation response may be referred to as Bid, Proposal, or Response.

1.6.11 "RFP" refers to this Request for Proposals and includes attachments to this Request for Proposals unless stated otherwise.

1.6.12 “Vendor Bid System” and “VBS” refers to the State of Florida internet-based vendor information system at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu

1.7 Solicitation Terms and Conditions.

The provisions of this solicitation, including the RFP and all its attachments, shall be read as a whole. In case of conflict between provisions, provisions shall have the order of precedence listed below, where the top listed item has the highest precedence:

- The Contract (Attachment D to the RFP)
- Statement or Scope of Services sections of the RFP (Attachment C to this RFP)
- Remaining RFP Sections
- Other Attachments to the RFP
- Instructions to Proposers (PUR 1001)
- General Conditions (PUR 1000)

If there are any perceived inconsistencies among any of the provisions of the RFP and its attachments, Proposers shall bring these inconsistencies to the attention of the Department prior to the submission of the Proposal. To report inconsistencies, Proposers must submit a formal question prior to the submission of a Proposal. The Contract, Attachment D, after execution by the parties, will take precedence over the RFP document.

The Department objects to and shall not consider any terms or conditions submitted by a Proposer, including any appearing in documents attached as part of a Proposer’s Proposal, which are inconsistent with or contrary to the requirements, terms, or conditions of this RFP. In submitting its Proposal, a Proposer agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect, and that the Department shall not be held to have acquiesced to such term or condition. Failure to comply with terms and conditions of the RFP, including those specifying information that must be submitted with a Proposal, shall be grounds for rejecting a Proposal. [Modifies PUR 1001 ¶4]
SECTION 2: SCOPE OF SERVICES

Attachment C contains the Scope of Services.

The Department will include a process in the contract for testing, inspection and acceptance of deliverables. As well, the contract will include the specific financial consequences that will follow any nonconformance of the contract requirements.
SECTION 3: SPECIAL CONDITIONS

3.1 PROPOSAL CONTENTS

3.1.1 Technical Bid/Proposal Content – Proposal Section 1

Section 1  Tab 1 Executive Summary

- A brief statement of the Proposer’s understanding of the work to be done;
- The names, titles, addresses (including e-mail), and telephone numbers of the individuals who are authorized to make representations on behalf of the Proposer;
- Signature of person(s) authorized to legally bind the Proposer;
- Letter of Certification, signed by the Proposer, stating that the firm has operated a pharmacy benefits management business for a minimum of three (3) consecutive years. If the Proposer is the local resident manager/representative for a nationwide company, this fact should be indicated in the certification. The local business address from which the firm operates, business telephone/cell phone number(s), and the name of a local contact person must also be included in the Proposal. Include Proposer’s certification as to the accuracy of the Proposal; and a statement that Proposer agrees to not seek indemnification from the Department for any costs or services.
- If the Proposer’s Proposal is for goods or services of $1 million or more, the Proposer shall certify that the Proposer as a company as defined in s. 287.135, F.S., is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. (See http://www.state.gov/s/ct). Use Attachment I.

Section 1  Tab 2  Management Summary

The Proposer must provide a management plan that describes administration, management, experience, personnel, qualifications, company history, and financial information.

a. Administration and Management
   Proposer must include a description of the organizational structure established and the methodology to be used to control costs, provide service reliability, and maintain schedules; as well as the means of coordination and communication between the organization and the Department.

b. Experience and References

   b (1) Experience
   Proposer must provide documentation of previous experience in conducting services similar to the requirements of this RFP. Experience should be reflective of the Proposer’s ability to perform the services requested in this RFP

   b (2) References
   The Proposal shall describe three or more current contracts, in effect with customers for longer than one year, that are relevant to the requirements of this RFP. A contract must be currently in operational use. For each contract, include:

   1. Project title, client organization, and project reference, with phone and email address;
   2. Period of performance (initial and final). Explain any delay in project completion;
3. Contract value (initial and final). Explain any growth in contract value;
4. The degree to which the project was successful with respect to Department acceptance, success in meeting organizational goals, on-time completion of project, and on-budget delivery of project;

The Proposer shall complete the Client Reference Survey form, Attachment E and include it with the Proposal. Failure to comply will not be considered a minor irregularity and Proposals that fail to meet these mandatory minimum requirements will be rejected and considered no further in the evaluation process.

c. Identification of Key Personnel

Proposer must provide the name and title of each key individual who will be engaged in this contract. Include a description of the functions and responsibilities of each person relative to the task to be performed. The State requires that the Proposer’s Contract Manager is on the designated key personnel list.

d. Staff Information

List all staff assigned to this project, including any subcontractors. The following information must be provided for each:
- Name;
- Title;
- Specific work or role to be performed and/or services to be provided. All personnel named for key roles shall be clearly designated as such;

Subcontractors may be used. However, the vendor will be responsible to meeting the timeframes provided regardless of delays caused by a subcontractor.

e. Location of work. Provide a summary of the Proposer’s locations and staffing in Florida and all other states.

Section 1 Tab 3 Identical Tie Response Preference (Optional)

Whenever identical solicitation responses are received, preference shall be given to the Proposal certifying in accordance with Rule 60A-1.011, Florida Administrative Code and Florida Statutes. It is optional to include an attached Identical Tie Response Form attached as Attachment B, if applicable to the Proposer.

Section 1 Tab 4 Provide Proposer(s) Financial Statements

Include independent evidence of sufficient financial resources and stability for Proposer(s) to provide the services sought, such as audited financial statements for the past two fiscal years.

3.1.2 Technical Approach and Qualifications Requirements-- Proposal Section 2

Section 2 Tab 1 Provide a concise summarization of the products and services offered to meet the State’s needs, the Proposer’s approach to providing the services, the benefits that the State will derive from completing the project, and documentation as to why the Proposer is best qualified to perform this engagement. Identify each by number associated with each product or service identified in Attachment C, Scope of Services.
Section 2 Tab 2  In the Proposals, Proposers must provide the Department with a work plan (Work Plan) that outlines the timeline and deliverables for such a study, consistent with RFP Scope of Services, Sec. 2.1.

The work plan must specify all necessary major tasks to be performed, any tasks, which are dependent upon the completion of other tasks, and completion dates for all major tasks identified in the work plan. The work plan must also specify the accountable parties for each major task. The work plan must also specify the approximate number of hours to be spent on this project, by each level of personnel, and the nature of work to be performed by such personnel.

Section 2 Tab 3
Change Management Support and Data Protection: The Proposer shall provide change management procedures, system test environments, and dedicated resources as necessary to ensure changes are adequately tested and do not disrupt the Department's production workload.

Describe the Proposer's methods for ensuring data protection to include:

(a). Infrastructure, data center, communication redundancy, and technical staff support procedures,
(b) Data security, data protection including physical and electronic security precautions.
(c) Describe the process used to restore client wholeness in the event of a loss of data or security breach.

3.1.3. Pricing/Cost Proposal (THIS INFORMATION SHALL BE SUBMITTED SEPARATELY FROM ALL OTHER PROPOSAL SUBMISSION DOCUMENTS)

The proposal must contain a signed, separately sealed, Price Proposal (Attachments A-1 and A-2). The Proposer shall provide complete and detailed pricing information as required by Attachments A-1 and A-2:

• Services (in units of tasks or deliverables)
• Project oversight
• Documentation
• Deliverable price breakdowns

Proposers shall include the total cost for each year of any contemplated renewals in their Proposals.

3.2. MANDATORY DOCUMENTS AND REQUIREMENTS

All Proposals received will be screened for compliance with these minimum qualifications. Any Proposal that does not demonstrate satisfaction of the minimum qualifications will not receive any further consideration. The mandatory minimum qualifications are:

1. The Proposal must be delivered timely.
2. The Proposal must include an original of the Technical Proposal and the Price/Cost Proposals. Also include eight (8) paper copies of the Technical Proposals and eight (8) digital copies (compact discs).
3. The Technical Proposal must include all Mandatory Requirements listed in the RFP, and respond to all technical requirements in Attachment C, Scope of Services, and must include all mandatory forms and attachments.
4. The Technical Proposal must include evidence of Proposer’s qualifications.
5. The separately sealed Price/Cost Proposal must include the proposed price and a signature by an authorized representative of the Proposer. Proposers are further reminded that conditions and specifications, which are considered mandatory requirements are expressed with the word “shall” or “must” in the description of the requirement. RFP Proposals that fail to demonstrate both willingness and ability to comply with such a condition or specification will be considered non-responsive and will be disqualified.

Proposals shall be considered **nonresponsive if they contain disclaimers** in either a technical or price Proposal that the Proposal is for evaluation purposes only and/or should not be interpreted as a binding offer or commitment on the part of a Proposer. [Infinity v. DOE (and Microsoft), Case No. 011/11001662, Div. of Admin. Hearings, at 24 (June 7, 2011)]

### 3.3 SUBMISSION INSTRUCTIONS

#### 3.3.1 Costs.

Proposals shall be prepared simply and economically. The Department is not liable for any cost incurred by a Proposer in responding to this solicitation. The Proposer is required to examine carefully the contents of the solicitation and be thoroughly informed regarding all of its requirements.

#### 3.3.2 Format and Copies.

- In responding to the requirements in each section, structure your Proposal to match the order of any sub-headings in the section as presented in the RFP, to facilitate the comparison of your offer to the agency’s requirements.

- Sealed Proposals must be received in the Purchasing Office at the 200 East Gaines Street, Larson Bldg., Purchasing Services, Attn: Fran Spivey, Tallahassee, FL 32399-0317 by the deadline listed in the Timeline in Section 1.4. All Proposals received by the deadline will be opened in the Purchasing Office at that time. Mark the Proposal package (box of binders as described below) clearly on the outside of the package with: PROPOSAL NUMBER, DATE, AND TIME OF PROPOSAL OPENING mark each binder in the package as noted below. (This submission requirement replaces the electronic submission instructions in PUR 1001 ¶ 3.)

- The "original" Proposal will contain the originals of any documents required to be signed as part of the proposal submission (e.g., cover letter). The original Proposal as submitted should bear the following printed information on both its outside front cover, and on its spine:

  - [Proposers exact legal name, in which name the contract would be awarded]
  - Proposal regarding DFS RM RFP 11/12-03
  - ORIGINAL, Binder ___ of ___

- Include with the copies of the proposal photocopies of signed documents. Bind each copy in a 3-ring binder(s) just as the original, with a complete and exact duplicate of the original. For each copy, all sections may be contained in one binder clearly labeled at each section and tab. Each copy of the proposal should bear the following printed information on both its outside front cover, and on its spine:

  - [Proposer’s name in which the contract would be awarded]
3.3.3 Communications

Notice required by statute: Proposers to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a Proposal.

No decisions or actions shall be initiated or executed by the Proposer as a result of any discussions with any Department employees. Only communications which are in writing from the Department may be considered as duly authorized communications on behalf of the Department. During selection the Proposer, its agents and employee will not engage in any written or verbal communication with any Department employees whether or not such individual is assisting in the selection, regarding the merits of the Proposer or whether the Department should retain or select the Proposer. The Proposer will not engage in any lobbying efforts or other attempts to influence the Department or the evaluation team, in an effort to be selected. The selection period shall begin according to the Timetable in Section 1.4.

3.4 EVALUATION PROCESS

Proposals shall be opened on the date and at the location indicated on the Timeline. Proposers may, but are not required to, attend. Prices will not be read at the RFP Opening.

3.4.1 Evaluation Team.

An evaluation team consisting of at least three members, appointed in writing by the Department, will evaluate the Proposals.

3.4.2 Determination of Conformance.

Proposals must satisfy certain mandatory minimum requirements in order to proceed into the detailed evaluation phase. All Proposals will be reviewed for compliance with these mandatory minimum requirements. Evaluators will verify that all mandatory technical requirements are met and addressed. Proposals that meet these requirements will be accepted into a detailed evaluation phase. WARNING: Proposals that fail to meet these mandatory minimum requirements will be rejected and considered no further in the evaluation process.

The objective of this solicitation is to elicit firm contractual offers subject to the Department's acceptance. For a proposal to be responsive the Proposer must be committed to enter into a contract based on this RFP and the Proposer's proposal. If a proposal contains language which withdraws or negates commitments to requirements of the RFP, or qualifies the proposal such that it is not a firm offer to contract under terms consistent with the requirements of this RFP, the submission shall be subject to being deemed nonresponsive and rejected. Proposers are cautioned to carefully proofread responses to ensure the removal of boilerplate disclaimers which have the effect of negating commitments made elsewhere in the proposal.

3.4.3 Technical Bid portion of the Proposal.
Each team member will evaluate their copy of the Proposal independent of the others and provide a score on each section of the Technical Proposal, based on the evaluation criteria. The Department may request oral presentations from any or all of the Proposers. The Purchasing Office will coordinate and conduct the presentations.

3.4.4 Price/Cost Proposal.

The Purchasing Officer will open the Price/Cost Proposals and they will be evaluated separately.

3.4.5 Evaluation Criteria.

TECHNICAL PROPOSAL
A. Experience, qualifications, and financial strength of the company (Does Proposer’s corporate structure, references, proposed staffing, etc., reveal that experience, financial strength and qualifications have been met?) ..................................................... 60 points

B. Quality of services ..................................................................... 160 points

COST PROPOSAL
Total Costs for product/ services ....................................................... 20 points

3.4.6 Reservations.

The Department reserves the right to reject any and/or all Proposals, or to waive minor discrepancies if it is in the Department’s best interest to do so. The Department may, by written notice, revise and amend the solicitation before the due date for the Proposal.

3.4.7 Contract.

The contract shall be awarded by written notice to the responsible and responsive vendor, whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and other criteria set forth in the Request for Proposals. The Department will coordinate a contract for signature, substantially in the form attached as Attachment D, between the Department and successful Proposer, who will be the Contractor, that incorporates this solicitation and the Proposer’s Proposal as soon as possible after the posting of the notice of award on the Vendor Bid System (VBS) website, at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu.

After selection of the Contractor, the Request for Proposals (including addenda thereto, if any), the Proposal of the Contractor, and the executed Contract will constitute the entire agreement of the parties and will supersede any prior representations, commitments, conditions, or agreements between the parties. In the event of conflict among the terms and conditions of the various documents, the Contract shall prevail over the Request for Proposals and the Request for Proposals shall prevail over the terms of the Proposal. The term “Proposal” includes both the Technical and Price Proposals submitted in response hereto.

The Contract shall be substantially in the form attached as Attachment D to the RFP, with only such non-substantive changes therein as shall be necessary to the orderly administration of the program/Project.
Modifications as noted in response to the Proposers' questions and any other Addenda to the RFP are incorporated into the RFP. The Department reserves the right to amend this Request for Proposals by an addendum prior to the date for Proposal submission. If there are any perceived inconsistencies among any of the provisions of the RFP and its attachments, Proposers shall bring these inconsistencies to the attention of the Department prior to the submission of the Proposal.

3.4.8. Entire Contract; Order of Precedence.

The Contract document (substantially in the form attached to the RFP as Attachment D), the Department's solicitation including attachments and addenda, and Proposer's Proposal and in that order, state all of the rights and responsibilities of, and supersede all prior oral and written communications between the parties. The Department objects to and shall not consider any terms or conditions submitted by a Proposer, including any appearing in documents attached as part of a Proposer's Proposal, which are inconsistent with or contrary to the requirements, terms, or conditions of the RFP. In submitting its Proposal, a Proposer agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect.

3.4.9. Renewal and Termination.

By mutual agreement of the parties, and pursuant to Section 287.057(13), Florida Statutes, the Department may renew the Contract for one or more renewals totaling four (4) years. The renewals shall be contingent upon availability of funds and satisfactory performance by the Contractor. No other costs for the renewals may be charged. Any renewal is subject to the same terms and conditions as the original contract. The Department shall have the right to terminate or suspend the Contract, by providing the Contractor ninety (90) calendar days written notice. The Contractor shall not perform any Services after it receives the notice of termination, except as necessary to complete the transition or continued portion of the Contract, if any. Contractor shall submit to the Department within thirty (30) calendar days of termination a request for payment of completed Services. Requests submitted later than thirty (30) calendar days after termination will not be honored and will be returned unpaid.

3.4.10. Acceptance.

The Department will accept each Deliverable when it meets the performance measures and requirements of the Contract. The Department shall have a maximum period of twenty (20) business days after delivery of a deliverable to verify that the deliverable meets the Contract requirements. The acceptance review will identify any non-conformity which the Department will provide in writing to the Contractor. Contractor shall correct nonconformities within five (5) business days or proceed on another mutually acceptable basis as set forth in writing. The Department shall then have five business days upon redelivery of the Deliverable to confirm the nonconformity has been corrected and report any continuing nonconformity. The Scope of Services contains the financial consequences for nonperformance of a deliverable.

3.4.11 Public Records.

Notwithstanding any provisions to the contrary, public records shall be made available pursuant to the provisions of the Public Records Act. Trade secrets are not solicited or desired as submissions with Proposals. Section 812.081, Florida Statutes, defines trade secrets. If the Proposer submits a Proposal containing trade secrets, the Proposer shall submit a statement titled "Notice of Trade Secrets." This Notice shall clearly identify specific sections of the Proposal that are trade secrets and...
identify the reason for each designation. If the Department receives a public records request related to the Proposal, the Proposers who have filed Notices of Trade Secrets shall be notified of the request. The Proposer shall be solely responsible for taking whatever action it deems appropriate to legally protect its claim of exemption from the public records law. Such protection shall be accomplished within 15 business days of the notification of the public records request by the Department. Failure to protect the trade secret shall constitute a waiver of any claim of confidentiality and the Department shall release the requested document. Any prospective Proposer acknowledges that the protection afforded by Section 815.045, Florida Statutes, is incomplete, and it is hereby agreed that that no right or remedy for damages arises from any disclosure. The successful Proposer shall retain such records for the longer of (3) three years after the expiration of the awarded Contract or the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dlis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm).

3.4.12 Modification of Terms.

Any terms and conditions that the Proposer provides with or before or after delivery that attempt to modify the Contract or add additional restrictions of usage, license conditions, or requirements have no effect and are not enforceable under the Contract. Any proposed agreement submitted in the Proposal shall not contain any provisions, unless such provisions are expressly negated in the Proposal, which:

(1) are inconsistent with Florida law,
(2) exclude, prohibit, or negate other contract documents,
(3) subject the State of Florida to the jurisdiction of another state, or
(4) provide that the State will indemnify the Proposer or any other person.

All work materials developed or provided by Contractor under this Contract and any prior agreement between the parties shall be deemed to be work made for hire and owned exclusively by the State of Florida, Department of Financial Services.

3.4.13 MyFloridaMarketPlace.

Unless exempted under Rule 60A-1.030-.032, Florida Administrative Code, each Contractor doing business with the State of Florida shall submit reports and be assessed a Transaction Fee of one percent (1.0%) on its payments under a Contract, which must be remitted within 40 calendar days after receipt of payment for which such fees are due or the Contractor shall pay interest at the rate established under Section 55.03(1), Florida Statutes, on the unpaid balance from the expiration of the 40-day period until the fees are remitted.

3.4.14 Electronic Accessibility.

If applicable, Section 508 compliance information on the supplies and services in this Contract are available on a website indicated by the Proposer in the Proposal or resulting Contract. The Electronic and Information Technology standard can be found at: http://www.section508.gov/.

3.4.15 Limitation of Liability.

a) Department’s maximum liability
The Department’s maximum liability for any damages, regardless of form of action, shall in no event exceed the contract price for the relevant products or services giving rise to the liability, prorated over
a three year term from the installation of products or the date of performance of the applicable services.

Both Parties recognize that the Department, as an agency of the State of Florida, is prohibited from entering into indemnification agreements. Subject to that prohibition, the Parties agree that the Contractor shall not be responsible for damages resulting solely and exclusively from the Department’s negligence.

b) Contractor’s maximum liability
The Indemnification provisions of this RFP and its incorporated PUR 1000-14 and 20 shall apply with the following clarifications, except that each party shall be responsible for its own attorney fees. Further, for the avoidance of doubt, the limitations and exclusions of liability will not apply to exclude or limit the recovery of any damages required by Rule 60A-1.006, F.A.C. or attributable to any of the following:

1. The Contractor shall be fully liable for the actions of its agents, employees, partners, or Subcontractors and shall fully indemnify, defend, and hold harmless the State, claimants, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys’ fees, arising from or relating to:

   a) Any claim by, on behalf of, or pertaining to a Contractor Subcontractor or Contractor personnel in relation to the Contract or the Services. In the case of a claim by employees of Contractor (or of any of its Subcontractors), Contractor’s indemnification of the State, claimants, agents, and employees will be to the same extent as if the claim was made by a person who is not an employee of Contractor (or its Subcontractor) – i.e., the Contractor’s indemnification obligations to the Department will not be subject to any limitation of the Contractor’s liability to the person claiming injury under workers’ compensation or similar Laws;

   b) Any claim that, if true, would constitute a breach of the Contractor’s obligations with respect to any Confidential Information or data security;

   c) Any claim that any Personal Information (as defined in Section 817.5681, F. S.) was misused or improperly disclosed due to any act or omission of the Contractor (or any entity or person for which the Contractor is responsible);

   d) Any claim that, if true, would arise from or be attributable to a breach of Contractor’s obligations to comply with Laws;

   e) Any claim that, if true, would arise from or be attributable to a breach of the Contractor’s warranties regarding non-infringement of Deliverables;

   f) Any claim that, if true, would arise from or be attributable to fraud, theft, or embezzlement by any Contractor (or Subcontractor) personnel;

   g) Any claim that, if true, would arise from or be attributable to an intentional tort, willful misconduct (including intentional breach of contract), unlawful conduct, or gross negligence of the Contractor (or any entity or person for which the Contractor is responsible);

   h) Personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, or Subcontractors,
(i) The Contractor’s cessation or abandonment of any Services without providing Exit Transition Services substantially in accordance with the Contract.

(j) Notwithstanding anything to the contrary, nothing in this section will be construed to impose any limitation on compliance with Rule 60A-1.006 (3), F.A.C.

2. Provided, however, the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State.

3.4.16 Data Protection and Confidential Information.

No Department data or information will be transferred or stored offshore or out of the United States of America.

Access to Department data shall only be available to approved and authorized staff, including remote/offshore personnel, that have a legitimate business need. If that need changes, then access shall be removed promptly. Contractor shall encrypt all data transmissions. Remote data access must be provided via a trusted method such as SSL, TLS, SSH, VPN, IPSec or a comparable protocol approved by the Department.

Contractor agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to Contractor’s breach of data security or the negligent acts or omissions of Contractor related to this subsection.

All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Department. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, Rule Chapter 71A-1, F.A.C. security procedures, AP&P 4-03, Information Technology Security Policy (CSIRT), business operations information, or commercial proprietary information in the possession of the State or the Department.

Data containing any confidential or exempt information shall be readily identifiable. The Contractor will initiate internal CSIRT procedures as defined by the Contractor’s security policies.

“State Data” means any data or information of or concerning the State or the Department that is provided to or obtained by the Contractor or Contractor Personnel in connection with the negotiation and execution of the Contract or the performance of the Contractor’s obligations under the Contract, including any such data and information that either (i) is created, generated, collected or processed by Contractor Personnel in the performance of the Contractor’s obligations under the Contract, including data processing input and output, Performance measurements, asset information, reports, third party service and product Contracts, and the Contractor’s charges to the Department, or (ii) resides in or is accessed through the Department’s operating environment or the Contractor’s Service delivery infrastructure; as well as any data and information derived from the foregoing.

3.4.17 Supplemental Obligations Regarding Personal Information.
In addition to Contractor's other obligations under Section 3.4.16 and otherwise outlined in the contract, in the case of any Personal Information contained in or constituting part of the Department Confidential Information or the DFS Data:

(a) The term “personal information” means an individual's first name, first initial and last name, or any middle name and last name, in combination with any one or more of the following data elements when the data elements are not encrypted:
(i) Social security number.
(ii) Driver’s license number or Florida Identification Card number.
(iii) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. For purposes of this section, the term “personal information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(b) Unless otherwise agreed, Contractor will process and store all Personal Information in the United States, and will not transfer, process, or maintain Personal Information in any other jurisdiction without the Department’s prior written consent.

(c) In addition to the foregoing, Contractor will comply with all Laws applicable to Personal Information and the handling, security and transfer thereof in any relevant jurisdictions, whether such Laws are in place as of the Effective Date of the Contract or are enacted, adopted, or otherwise come into effect during the Term of the Contract. The Contractor and Department agree to cooperate to enter into any appropriate agreements relating to such new Laws as and when they apply, including data processing Contracts between Contractor and the Department.

(d) The Contractor will be and will remain familiar and in compliance with all Laws and changes in Laws applicable to (i) the organizational and security measures to be implemented and maintained by the Contractor and/or at Contractor Service Delivery Centers to safeguard Personal Information, and (ii) the restrictions or prohibitions on the use or disclosure of Personal Information by Contractor. If the Parties are unable to agree on the impact of any such Law or changes in such Laws on the Contractor’s performance of and/or Department’s receipt and use of the Services, the Department will retain the right, in its sole discretion, to interpret such Laws or change in Laws.

(e) The Contractor agrees that the Contractor will not use Personal Information and identifying addresses and telephone numbers for any purpose other than the fulfillment of the Contractor’s obligations under the Contract. The Contractor will not process, transfer or disseminate Personal Information without the approval of the Department unless expressly provided for in the Contract. The Contractor will take appropriate action to cause all Contractor Personnel having access to Personal Information to be advised of, receive training on, and comply with the terms of this Section 3.4.16 or 3.4.17 regarding their handling of Personal Information. The Contractor will be responsible for any failure of the Contractor Personnel (or other representatives of the Contractor) to comply with the requirements of the Contract regarding Personal Information.

(f) When interfacing with Department regarding Personal Information, the Contractor will only disclose or transmit Personal Information to those Department employees and representatives who have been authorized to receive it by the Department.
(g) If the Contractor has knowledge of any unauthorized disclosure of or access to Personal Information, the Contractor will, in addition to its other obligations under Sections 3.4.16 and 3.4.17 of the RFP and any additional terms in the contract and cooperate with the Department in providing any notices that the Department deems appropriate.

(h) To the extent any unauthorized disclosure of or access to Personal Information is attributable to a breach of the Contractor’s obligations under the Contract, the Contractor will bear the costs incurred by the Contractor (and other entities and persons for which the Contractor is responsible) in complying with its legal obligations relating to such breach and, in addition to any other damages for which the Contractor may be liable under the Contract, the following costs incurred by the Department in responding to such breach, to the extent applicable: (i) the cost of providing notice to affected individuals, (ii) the cost of providing notice to government agencies, credit bureaus, and/or other required entities, (iii) the cost of providing affected individuals with credit monitoring services for a specific period not to exceed 12 months, to the extent the incident could lead to a compromise of the data subject’s credit or credit standing, (iv) call center support for such affected individuals for a specific period not to exceed 30 days, (v) the cost of any other measures required under applicable Law, and (vi) any other Losses for which the Contractor would be liable under the Contract.

3.4.18 Background and employment eligibility verification.

The Contractor is responsible for payment of costs if any, and retaining records relating to, employment eligibility verification, which records are exempt from Chapter 119, Florida Statutes.

(a) Under the Governor’s Executive Order 11-116, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the “Memorandum of Understanding” with the federal Department of Homeland Security governing the program if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify “Edit Company Profile” screen, which contains proof of enrollment in the E-Verify Program.

(b) The Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the “Edit Company Profile” screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.

(c) Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the Contract and the Department may treat a failure to comply as a material breach of the Contract.


Provide a statement fully describing any investigatory or regulatory action, that has been undertaken and/or filed against your firm or any of your affiliated subcontractors (that will be associated with performing any of the duties or responsibilities contemplated by RFP), in the last three years. Additionally, please describe any litigation that has been filed against your firm or such subcontractors. If an action has been filed, please identify the court, administrative tribunal, or agency before which the action was instituted, the applicable case or file number, and the status or
disposition for such reported action. If no litigation or regulatory action has been taken against your firm or subcontractors, provide a statement to that effect.

A regulatory investigation, dispute, action, or other litigation shall be a basis for rejection of a reply if the Department determines that such a circumstance poses any risk that the Proposer may be compromised in its ability to perform the services sought in the RFP, or would tend to undermine the public trust, or would cause a lack of confidence in the propriety of the Proposer, or would otherwise result in a perceived detriment to the State.

3.4.20. Reservations.

Proposals to this solicitation will be the primary source of information used in the evaluation process; therefore, each Proposer is requested and advised to be as complete as possible in its Proposal. Additional information may be requested by the State, including requests for oral presentation, interviews, or software demonstrations, from Proposers who have proposed solutions that appear to meet the needs of the State of Florida. The State may conduct site visits to locations where proposed solutions are in operation or in the process of being implemented. The Department reserves the right to accept portions of a competing Proposers’ Proposals(s) and merge such portions into one project, including the inclusion of the entity offering such portions. Components may be chosen and merged from various Proposers to provide the commodities and services sought. However, there will be one prime contractor selected to be responsible.

3.4.21 Audit Requirements.

(a) Contractor agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) The Proposer will permit Division staff or the Division’s designee to audit billing records for accuracy upon the Division’s request. At minimum, these records shall consist of 1) Bill ID; 2) Claim Number; 3) Patient Last Name; 4) Patient First Name; 5) Provider Last Name; 6) Provider First Name; 7) Tax ID; 8) Begin Date of Service; 9) End Date of Service; 10) Total Charges; 11) Total Allowance; 12) Invoice Date; 13) Check Number; 14) Check Date; 15) Processing Time (Number of days).

(c) Vendor shall also provide Department with the records, reports, or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If Vendor is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that Contractor expends $500,000 or more in Federal awards in its fiscal year, Vendor must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the federal awards expended in its fiscal year, Vendor shall consider all sources of federal awards. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of Vendor conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph. In connection with the audit requirements addressed in subparagraph (d) above, Vendor shall fulfill the requirements relative to audit responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3.4.22 No Advertising or Endorsements.

The Contractor's services to the Department may be generally stated and described in the Contractor's professional resume. The Contractor may not give the impression in any event or manner, that the Department recommends or endorses the Contractor.

3.4.23 Export Control.

Contractor certifies that by entering into this contract, it is, and during the term will ensure it remains, in compliance with the U.S. export control laws.

3.4.24 Conflict of Interest.

During the term of the Contract, Contractor shall not knowingly employ, subcontract with, or sub-grant to any person (including any non-governmental entity in which such person has an employment or other material interest as defined by Section 112.312 (15), Florida Statutes) who is employed by the State or who has participated in the performance or procurement of the Contract, except as provided in Section 112.3185, Florida Statutes.

3.4.25 Substitutions.

Price proposals and acceptance will be limited to the items and services required by the specifications in this RFP. Proposer may propose substitute items or services for any specifications in this RFP. These items or services may be accepted at the option of the Department, provided there is equivalent performance with economic benefits or significantly enhanced performance.

Minimum Qualifications for Acceptance of Substitutions:

- The substitute item shall meet or exceed the applicable requirements and specifications set forth in this RFP.
- Any substitute item shall be compatible with existing deliverable at the time the substitute is proposed for use.
- The substitute item or service shall have the capacity and performance characteristics equal to or better than those of the item it is to replace.
- The substitute item or service shall offer the same or increased functionality as the item it is to replace.
- The substituted item must be approved, in advance, by the Department.
- With any commodity offered as an equivalent, the Proposer must certify that it has consulted with the manufacturer and can represent it is not scheduled to be discontinued by the manufacturer within the next year; and if the manufacturer does discontinue the commodity, the Proposer shall certify that it will replace such part at no cost to the Department.

3.4.26 Preferred Pricing Offer.

During the Contract term, if the Department becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Department the price under the Contract shall be immediately reduced to the lower price. Contractor will be required to sign the affidavit in the form attached below as Attachment G, and submit it at the time they sign and return the contract documents.
3.4.27 Performance Bond.

The Contractor agrees to provide the Department with a performance bond acceptable and payable to the Department for 100% of the contract value (i.e., an annually renewable bond equal to the Contractor’s charges for the Contract year). The Contractor shall provide the performance bond to the Department before any services commence. This bond shall be issued from a reliable surety company, licensed to do business in the State of Florida and approved by the U.S. Department of Treasury.

The Performance Bond shall be executed and furnished to the Department prior to contract execution and no later than ten (10) calendar days after the ending date of the period for posting the intended award decision, unless the Department extends the time in writing. **Failure to provide the required Performance Bond to the Department within the aforementioned timeframe will void the Intended Award’s bid and the Department will proceed in contracting with the next lowest responsive bidder.**

The Performance Bond shall remain in effect until the Contractor has supplied all deliverables under the RFP and contract and the Contractor’s final invoice is accepted by the Department. Additionally, the Contractor shall require that all subcontractors comply with all provisions of this bond requirement to the extent of their performance.

**Bond Provisions.** The following provisions shall apply to the bond in this Section:

(a) The Department shall be named as the beneficiary of the bond. The Contractor’s bond shall provide that the insurer or bonding company shall pay losses suffered by Department directly to the Department. The Contractor or its insurer shall provide the Department with thirty (30) days prior written notice that the bond(s) has been renewed together and of any attempt to cancel or to make any other material changes in the status, coverage or scope of the required bond or of Contractor’s failure to pay bond premiums.

(b) Each surety bond shall be payable to the Department, or available to be drawn upon by it upon failure of the Contractor to perform pursuant to this RFP.

(c) If a disbursement is made under the surety bond, it shall be the obligation of Contractor, and not the Department, to reimburse the provider of the instrument.

(d) To be acceptable to the Department as surety for a performance bond, the surety company shall:

   (i) Have a currently valid Certificate of Authority, issued by the State of Florida, Department of Financial Services, authorizing it to write surety bonds in the State of Florida

   (ii) Have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

   (iii) Be in full compliance with the provisions of the Florida Insurance Code

   (iv) Have a minimum Best's Policyholder Rating of A- or Performance Index Rating of VI from Best's Key Rating Guide.
3.4.28 Insurance.

During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. At a minimum, this includes the following types of insurance for anyone directly or indirectly employed by Contractor and the amount of such Insurance shall be the minimum limits as follows, unless otherwise approved by the Department’s Contract Manager:

a) Commercial general liability coverage, bodily injury, property damage: $1,000,000 per occurrence/$2,000,000 aggregate.

b) Automobile liability coverage, bodily injury, property damage: $1,000,000 Combined Single Limits.

c) Insuring clause for both bodily injury and property damage shall be amended to provide coverage on an occurrence basis.

d) Workers’ compensation and employer’s liability insurance covering all employees engaged in any Contract work, in accordance with Chapter 440, Florida Statutes.

Such coverage may be reduced with the consent of the Department’s Contract Manager since certain subcontractors have potentially less exposure in liability than other subcontractors. Except as agreed in a separate writing, no self-insurance coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular coverage listed above in the State of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in the State of Florida.
ATTACHMENT A-1
Cost Proposal

Section 440.13 (12) (c) Florida Statutes states:  As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee, except where the carrier has contracted for a lower amount. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount. Where the employer or carrier has contracted for such services and the employee elects to obtain them through a provider not a party to the contract, the carrier shall reimburse at the schedule, negotiated, or contract price, whichever is lower. No such contract shall rely on a provider that is not reasonably accessible to the employee.

<table>
<thead>
<tr>
<th>Administrative fee per Prescription</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
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<tbody>
<tr>
<td>A. Point of Sale</td>
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<td>B. Paper</td>
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List other fees: Including but not limited to: Bill Review, Check writing, Utilization Reviews for entire book of business

*** Please provide detailed descriptions of all fees to include why and when they are assessed, services covered by the fee, and all other additional information.

| ****Amount in Attachments A-1 and A-2 combined will be used as the basis of awarding Cost Points (Initial years 1-4) | GRAND TOTAL: | $ |

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### ATTACHMENT A-2
Cost Proposal

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<thead>
<tr>
<th></th>
<th>Renewal Year 1</th>
<th>Renewal Year 2</th>
<th>Renewal Year 3</th>
<th>Renewal Year 4</th>
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<tbody>
<tr>
<td>Administrative fee per Prescription</td>
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<tr>
<td><strong>A. Point of Sale</strong></td>
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</tbody>
</table>

List other fees: Including but not limited to: Bill Review, Check writing, Utilization Reviews for entire book of business.

*** Please provide detailed descriptions of all fees to include why and when they are assessed, services covered by the fee, and all other additional information.

| GRAND TOTAL: (Initial years and renewal years) | $ |

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies or equipment, or services and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer and that the Proposer is in compliance with all requirements of the RFP, including but not limited to, certification requirements.

Proposer Name: ______________________________________

Proposer E-Mail: ______________________________________

Proposer Phone: ______________________________________

Authorized Representative: (Printed) ____________________

Authorized Signature: ________________________________

Date: _______________________________________________
ATTACHMENT B
Identical Tie Response Certification

In the event of identical tie Proposals, preference shall be given to the Proposer who (check the applicable block) certifies one or more of the following:

____ A. The response is from a certified minority-owned firm or company;
____ B. The response is from a Florida-domiciled entity
____ C. The commodities are manufactured, grown, or produced within this state;
____ D. Foreign manufacturer with a factory in the State employing over 200 employees working in the State.
____ E. Businesses with drug-free workplace programs. Whenever two (2) or more solicitation Responses which are equal with respect to price, quality and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a solicitation Response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie solicitation Responses will be followed if none of the tied Proposers have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2) Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.

3) Give each employee engaged in providing the commodities or contractual services that are under solicitation a copy of the statement specified in subsection (1).

4) In the statement specified in subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under contract, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.

5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community by any employee who is so convicted.

6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

I certify that this firm complies fully with the above-selected requirements. (If item E above is selected, subsections “1” through “6” have been met.)

Proposer’s Name: ______________________
Authorized Signature: ______________________
ATTACHMENT C
Scope of Services

I. Conditions of Coverage and Proposer Qualification

The Scope of Services will cover all workers’ compensation benefits recipients who require prescriptions related to their work-related injury.

All pharmacies in the Proposer’s retail network must be licensed under Chapter 465, Florida Statutes. Prior to the signing of a contract, the Proposer must verify that it is licensed. Throughout the term of the contract, Proposer must maintain its licenses in continuous good standing.

The Proposer must have at least three (3) years of experience handling a workers’ compensation prescription program at the time a response is submitted.

Prescription mail order services must be licensed under Chapter 465, Florida Statutes. The mail order program may be sub-contracted. Proposer must disclose all sub-contracts it intends to use to fulfill the terms of the Contract.

II. Detailed Scope of Services

A. Network

1. Proposer must provide a proprietary statewide network of retail pharmacies. The network must include pharmacies in each of Florida’s sixty-seven (67) counties as well as nationwide to serve the population of state employees.

2. Proposer must describe a detailed procedure for authorizing, provision, and billing where claimant elects to use a pharmacy not in the network. The procedure must comply with Section 440.13 (12) (c), Florida Statutes.

3. For numbers 1 and 2, provide the business process for applying network discounts where appropriate. The Department will not pay for any form of non-network rates if the pharmacy is in the Contractor’s network regardless of whether network status could be determined at the time of sale.

4. Proposer must provide an on-line data link with all pharmacies in its network to convey timely information on claimant eligibility, pricing information and other safety checks or edits to network members prior to sale.

5. Proposer must demonstrate increased network saturation semi-annually.

B. Drug Standards

Participating pharmacies must only dispense drugs that have been approved and manufactured by licensed companies that adhere to the FDA quality standards and practices. All generic drugs must meet therapeutic equivalents evaluations.

C. Formulary

The Proposer shall establish a formulary in accordance with Section 440.13 (1) (m), Florida Statutes. Formularies should use generics or single-source patented drugs, unless the authorized healthcare provider specifies brand-name drugs, and include clinical guidelines,
treatment protocols and standards of care for the particular drug. The formulary should generally be a workers’ compensation specific formulary, customized to State of Florida Division of Risk Management’s (Division) requirements, and will exclude drugs not associated with injuries. The Proposer must describe the frequency of maintenance done on the formulary to ensure that it meets the changes in the medical and pharmaceutical industries.

D. Customer Service

The Proposer must provide staff to provide initial authorizations for all requests 24 hours per day, 7 days per week.

E. Claim Eligibility Data

1. Upon signature of the Contract, the Proposer will be provided with a list of all injured workers handled by the Division who purchased prescriptions during the prior six month period. The list will contain the claimant’s name, date of accident, Risk Management case number, and accident description. The Proposer will accept additions/deletions to this list by electronic means. The Proposer must update its enrollment list within twenty-four hours of notification by the Division.

2. The Proposer must have the capability to receive claim data from the Division’s contracted First Notice of Loss’ Intake Call Center (currently OptaComp), and Division’s other case management vendor (currently CorVel), and will have a detailed procedure for coordination of benefits with the Call Center.

F. Mail Order

The Proposer must own or have sub-contracted a mail order prescription program that includes at minimum the following elements:

a. The Proposer must be capable of notifying claimants of the benefits of the program, providing educational information and providing the forms required for ordering pharmacy items.

b. Ordered items should be received by claimants no more than ten (10) calendar days from the date of order.

c. The Proposer must allow no automatic fills and they must not solicit refills.

d. The Proposer must provide secure delivery. The State shall not be billed for prescriptions not received by the claimant.

e. The Proposer must be responsible for all costs associated with the mail order program.

f. The Proposer must provide a procedure for the handling for all mail order returned items, to include at a minimum the tracking of the returned items and the disposal of the returned items. The procedure shall be submitted to the Division for its review within 60 days of the date of the Contract and shall take effect only upon express written approval by the Division.

G. Patient Education
1. The Proposer will work with the Division to develop a plan for providing eligible claimants with educational materials on how the program works (these materials must highlight the benefits of participation), ID cards, a listing of network pharmacies local to the claimant, information on accessing the customer assistance toll-free telephone service, and information about using pharmacies that are out of network. All materials must be approved by the Division prior to distribution. Upon notification of additions to eligibility, the Proposer will be responsible for the costs of producing and distributing materials to eligible claimants.

2. The Proposer will have procedures for informing claimants about the drug prescribed, proper usage of the drug, side-effects, etc., at the point of sale.

3. The Proposer will provide access to the participating pharmacies within its network. The Proposer will provide the Division and claimants with revisions to the list of participating pharmacies on a quarterly basis or upon request. The Proposer will be responsible for all costs, including printing and postage, required to notify claimants of changes to the network.

H. Eligibility Verification

1. The Proposer will perform eligibility determination prior to dispensing all medicines, either at the retail level or by mail order. If an employee attempts to fill a prescription that does not appear to be related to his/her injury, or that appears to be prescribed by a non-authorized physician, the pharmacy provider member will contact the Proposer who will contact the adjuster for assistance and clarification.

2. The Proposer will have procedures for detecting the misuse of drugs by claimants.

I. Physician Education

1. The Proposer will have a physician education program relating to prescribing and dispensing of drugs, drug therapies, and generic usage.

2. The Proposer must have established a system for analyzing the prescribing histories of physicians and providing physician counseling and education about appropriate prescribing and dispensing methods. This system must identify physicians who consistently write “brand-name” prescriptions, narcotics, off-label prescribing, etc., contain procedures for review of the physician practices and correction of the prescribing practices of identified physicians.

J. Concurrent Drug Utilization Review (point of sale)

1. The Proposer must have procedures for conducting a review of the prescription prior to sale (in addition to verifying the eligibility of the claimant). This review must include the following: appropriateness of the drug for the presented date of injury (drug-injury conflict), over utilization, duplicate drug therapy, too-early refill, drug dosage, low and high dose alert, duplicate prescription, drug-drug interactions, substance abuse, fraud (accident date-injury-drug conflict), drug-gender conflict, drug-age conflict, and use of generic drugs.

2. The Proposer must have detailed procedures to be used when an edit indicates a problem with the prescription and any steps taken in resolution.

K. Retrospective Case Management and Peer Review
The Proposer must have an established process for retrospective drug utilization review that identifies interventions to improve quality of care. This system should identify treatments that are not working or treatments that might work better. The Proposer must disclose the basis of their recommendations and the method in which the treating physician will be advised of their recommendations. The Proposer must be able to provide the physician and the Division with potential and actualized benefit from the implemented changes to the treatment plan.

L. Audits

1. The Proposer must conduct audits of a statistically valid sampling of prescriptions filled at network and non-network pharmacies on a quarterly basis to ensure a) all pharmacies are dispensing drugs with the same NDC number they are billing for; and b) billing and pricing procedures are followed. If the Proposer finds discrepancies, it must perform additional audits and take appropriate corrective action. The Proposer must report to the Division the results of audits and of corrective actions taken within five business days of their occurrence.

2. The Proposer will permit Division staff or the Division’s designee to audit billing records for accuracy upon the Division’s request. At minimum, these records shall consist of 1) Bill ID; 2) Claim Number; 3) Patient Last Name; 4) Patient First Name; 5) Provider Last Name; 6) Provider First Name; 7) Tax ID; 8) Begin Date of Service; 9) End Date of Service; 10) Total Charges; 11) Total Allowance; 12) Invoice Date; 13) Check Number; 14) Check Date; 15) Processing Time (Number of days); 16) Drug Description; 17) Quantity Dispensed.

M. Processing of Pharmacy Bills

The Proposer must have off-line and on-line procedures for processing pharmacy bills for purchases both inside and outside of their network.

The Proposer must have procedures for processing 1) paper billing from pharmacies, 2) physician prescribing, 3) compound medications; and 4) medical food.

All pharmacy data will be generated electronically in a format established by the Division. For those pharmacies not in the Proposer’s network, Proposer must establish and describe its process for payment of electronic and paper bills for approval by the Division.

N. Quantity Dispensed

For long term cases and treatments, medications may be dispensed if appropriate in a sixty, ninety, or one hundred and twenty day supply.

O. Partial Fills

Participating pharmacies may only bill for the amount of drug dispensed. Pharmacies shall not bill for a full prescription if only a partial prescription is dispensed. The Proposer shall only bill the Division one dispensing fee per prescription or prescription refill.

P. Grievance/Complaint Procedure

The Proposer must have in place a system for resolving complaints by claimants, physicians, pharmacies or the Division, and must disclose to the Division the components of the system and quarterly report the results of the complaints process.
Q. Stewardship meetings

The Proposer shall participate in at least two (2) stewardship meetings per year that discuss results since the previous stewardship meeting and goals and modifications to the Program.

R. Miscellaneous Services

Proposer should describe any other pharmacy benefit services and related services offered to the Division (e.g. disease management).

S. Reports

1. The Proposer shall provide the following reports at no additional charge.

   a. Monthly report of intercepts. This report will show at minimum the instances where the Proposer “intercepted” a prescription due to unauthorized physician, where the drug was not related to injury, instances of generic substitution, excessive dosage, early refill, or duplication of drug, and drug interaction.

   b. Report showing, by physician, all prescriptions written and whether each prescription was filled with a brand name or generic giving the percentage generic versus brand names dispensed. A related report will show the generic fill percentage for each pharmacy.

   c. Report showing prescriptions filled by drug class (the higher the class, the greater the potential for abuse) including physician name and claimant name with the Division’s claim number.

   d. Report showing claimants who have received three or more prescriptions for the same drug or are receiving maintenance drugs. This will be used to monitor for claimants who should be using the mail order service and/or receiving prescriptions for a longer duration sixty (60) days, thus eliminating excessive dispensing fees.

   e. Drug use reports including the top fifty (50) by number of prescriptions and by dollar amount.

   f. Drug use report by therapeutic class (anti-depressants, anti-inflammatory, etc.). This report will also indicate the top ten most prescribed drugs for each therapeutic class and claimants who were prescribed two or more different drugs in the same therapeutic class.

   g. Bill pay summary report for reconsiderations.

2. The Proposer may be asked to provide ad-hoc reports (non-standard reports), up to a maximum of five (5) per quarter, within fifteen (15) calendar days of request as specified by the Division, at no additional cost to the Division.

T. Additional Services

If the Department requires Additional Services, then the Department shall submit a written query to the selected Respondent requesting that the selected Respondent implement the Additional Services in exchange for a fee. Additional services include only services that are outside the
Scope of Services and Specifications of the RFP. An Additional Service must be based on (1) changes in the Assumptions pre-determined by the parties or (2) changes in law. Any activities, tasks, products, or materials that would be reasonably necessary in order for the selected Proposer to perform in accordance with the Scope of Services and Specifications sections of this RDP are not considered Additional Services.

III. Division of Workers’ Compensation (DWC) Electronic Filing Services

A. The Proposer shall electronically file with DWC all DFS-F5-DWC-10 forms in compliance with Rule 69L-7.602, Florida Administrative Code. The Proposer shall be approved by DWC for electronic submission of these forms and data. The Proposer shall indicate in its response, the date it was approved by DWC to electronically file medical data in the format defined in the Florida Workers’ Compensation Medical EDI Implementation Guide, 2010 and revisions. The Proposer shall also provide the date of completion of first filing and proof of successful filings, as specified in Rule 69L-7.602, Florida Administrative Code, and all subsequent updates.

B. The Proposer shall also provide evidence of its performance since January 20, 2010 including accuracy of payment, timeliness of payment, timeliness of filing, resolution of rejections, and any other applicable standards as specified in Florida Statutes and administrative rules.

C. The Proposer shall provide staff to timely and accurately monitor the DWC Centralized Performance System (CPS) weekly and, shall advise the Contract manager or his designee. The Proposer shall develop a policy and procedure to comply with this requirement. The Proposer shall develop a policy and procedure for review and approval by the Division within 30 days of the inception of the Contract.

D. Proposer’s staff shall evaluate fines and penalties assessed to the Division and respond via the website with corrected data and explanations. The Proposer shall also correct and file all claim forms listed as Rejections on CPS, as specified in Rule 69L-7.602, Florida Administrative Code.

E. The Proposer shall be liable for timely payment of all fines and penalties resulting from Proposer’s non-compliance with Rule 69L-7.602, Florida Administrative Code, upon notification by the Division.

IV. Method of Payment for Services

A. Payments for Services

Subject to the terms and conditions established by this Contract and the billing procedures established by the Department, the Department agrees to pay the Contractor for services rendered as follows: Each Payment for Service Invoice shall have an associated Reimbursement for Provider Payment Invoice. Payments shall be paid to the Contractor on a weekly basis after services are rendered, paid by the Contractor, and invoiced by the Contractor to DRM. Payments may be remitted to the Contractor by ACH (electronic funds transfer), and shall be paid in accordance with Section 215.422, Florida Statutes. The Contractor must provide DRM with an accurately completed IRS Form W-9 upon commencement of the contract term. DRM’s Contract Manager shall have final approval of the invoice for payment, and shall approve the invoice for payment only if the Contractor has met all terms and conditions of the Contract. The Contractor’s invoice submitted to DRM shall meet the requirements established by DRM. Invoices not meeting DRM’s requirements shall be rejected and shall be returned to the Contractor for correction. Original Payment for Service invoices submitted for payment shall be reduced due to exceptions in the Reimbursement of Provider Payment importation process. This reduction shall reduce the payment amount for the invoice and payment remitted to the Contractor shall be for the adjusted amount. The re-submission of an “exception” (defined in the paragraph below) invoice shall be received by DRM within ten (10) business days from the original notification by DRM. All “exceptions” re-submitted for reimbursement shall be re-submitted on a separate invoice, identified as such, and shall contain only the excepted items from that week’s original invoice. The approved invoice shall be submitted to DRM’s finance section for
budgetary approval and processing. Disputes arising over invoicing and payments shall be resolved in accordance with the provisions of Section 215.422, Florida Statutes. All payments pursuant to this paragraph are subject to an annual appropriation by the State Legislature.

B. Reimbursement of Provider Payments

Each Reimbursement for Provider Payment Invoice shall have an associated Payment for Service Invoice. The Contractor shall invoice DRM weekly for the reimbursement of payments made to providers. The invoice shall charge only for services rendered and submitted electronically, in a DRM approved format, to DRM for importation into DRM’s Risk Management System. Invoices shall contain auditable supporting documentation of the billed items, and shall clearly specify the time period and services billed. Supporting documentation shall be sent by overnight mail to DRM when the weekly invoice and electronic file is submitted. The electronic file submitted by the Contractor shall be imported by authorized DRM staff. Invoices shall be reconciled to actual records imported for that invoice by authorized DRM staff. Each invoice shall be reduced for any payments that cannot be successfully imported by DRM. The Contractor shall be notified electronically by DRM of any records that cannot be imported (known as exceptions) from each week’s file submission, and the Contractor shall submit each week’s corrected exceptions on a separate electronic file within ten (10) business days of DRM’s electronic notification of exceptions. The resubmission invoice shall be a separate invoice, identified as such, and shall contain only exceptions. The electronic file and invoice for the exceptions shall clearly identify the time period in which the exceptions occurred.
ATTACHMENT D
Proposed Contract between the Department of Financial Services and Contractor

THIS CONTRACT ("Contract") is entered into by and between the State of Florida, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0300 ("Department") or its successor, and _____________________________ ("Contractor"), effective as of the last date signed below.

WHEREAS, the Department has determined that it is in need of certain pharmacy benefits management services as described herein; and

WHEREAS, the Contractor, as an independent contractor of the Department, has the expertise and ability to faithfully perform such services.

NOW THEREFORE, in consideration of the services to be performed and payments to be made, together with the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

1. Services and Deliverables.
The Contractor agrees to render the services as set forth in the Contractor's accepted proposal responding to the Department's Request for Proposals (RFP) for services, DFS RM RFP 11/12-03 and its Attachments. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said RFP and the attachments to the RFP and PUR 1000 and 1001 incorporated by reference into the RFP, copies of which are attached hereto.

2. Delivery Schedule.
The services or other units of deliverables specified in Paragraph 1 above shall be delivered or otherwise rendered on behalf of the Department in accordance with the schedule in the Contractor's accepted proposal and consistent with the RFP. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said RFP and the attachments to the RFP.

3. Term of Contract.
The term of the Contract is four (4) years and is subject to renewal. By mutual agreement of the parties, and pursuant to Section 287.057(13), Florida Statutes, the Department may renew the Contract for one or more renewals totaling four (4) years. The renewals shall be contingent upon availability of funds and satisfactory performance by the Contractor. The renewal price is set forth in Attachment ___. No other costs for the renewal may be charged. Any renewal is subject to the same terms and conditions as the original contract. The Department shall have the right to unilaterally terminate or suspend the Contract, by providing the Contractor nine (9) months written notice. (see PUR 1000 ¶ 27)

4. Payment.
a. Payments for Services.
Subject to the terms and conditions established by this Contract and the billing procedures established by the Department, the Department agrees to pay the Contractor for services rendered as follows:
Each Payment for Service Invoice shall have an associated Reimbursement for Provider Payment Invoice. Payments shall be paid to the Contractor on a weekly basis after services are rendered, paid by the Contractor, and invoiced by the Contractor to DRM. Payments may be remitted to the Contractor by ACH (electronic funds transfer), and shall be paid in accordance with Section 215.422, Florida Statutes. The Contractor must provide DRM with an accurately completed IRS Form W-9 upon commencement of the contract term. DRM’s Contract Manager shall have final approval of the invoice for payment, and shall approve the invoice for payment only if the Contractor has met all terms and conditions of the Contract. The contractor's invoice submitted to DRM shall meet the requirements established by DRM. Invoices not meeting DRM's requirements shall be rejected and shall be returned to the contractor for correction. Original Payment for Service invoices submitted for payment shall be reduced due to exceptions in the Reimbursement of...
Provider Payment importation process. This reduction shall reduce the payment amount for the invoice and payment remitted to the Contractor shall be for the adjusted amount. The re-submission of an "exception" (defined in the paragraph below) invoice shall be received by DRM within ten (10) business days from the original notification by DRM. All "exceptions" re-submitted for reimbursement shall be re-submitted on a separate invoice, identified as such, and shall contain only the excepted items from that week's original invoice. The approved invoice shall be submitted to DRM's finance section for budgetary approval and processing. Disputes arising over invoicing and payments shall be resolved in accordance with the provisions of Section 215.422, Florida Statutes. All payments pursuant to this paragraph are subject to an annual appropriation by the State Legislature.

b. Reimbursement of Provider Payments.
Each Reimbursement for Provider Payment Invoice shall have an associated Payment for Service Invoice. The Contractor shall invoice DRM weekly for the reimbursement of payments made to providers. The invoice shall charge only for services rendered and submitted electronically, in a DRM approved format, to DRM for importation into DRM's Risk Management System. Invoices shall contain auditable supporting documentation of the billed items, and shall clearly specify the time period and services billed. Supporting documentation shall be sent by overnight mail to DRM when the weekly invoice and electronic file is submitted. The electronic file submitted by the Contractor shall be imported by authorized DRM staff. Invoices shall be reconciled to actual records imported for that invoice by authorized DRM staff. Each invoice shall be reduced for any payments that cannot be successfully imported by DRM. The Contractor shall be notified electronically by DRM of any records that cannot be imported (known as exceptions) from each week's file submission, and the Contractor shall submit each week's corrected exceptions on a separate electronic file within ten (10) business days of DRM's electronic notification of exceptions. The resubmission invoice shall be a separate invoice, identified as such, and shall contain only exceptions. The electronic file and invoice for the exceptions shall clearly identify the time period in which the exceptions occurred.

c. Vendor Rights.
Contractors providing goods and services to an agency should be aware of the following time frames. Upon receipt, an agency has five (5) business days to inspect and approve the goods and services, unless the Proposal specifications, purchase orders, or Contract specifies otherwise. An agency has twenty (20) calendar days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) calendar days are measured from the date the invoice is received after the goods or services are received, inspected, and approved. The Department is to approve the invoice in the state financial system within twenty (20) calendar days.

If a payment is not available within forty (40) calendar days, a separate interest penalty, computed at the rate determined by the State of Florida Chief Financial Officer pursuant to Section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the Contractor. To obtain the applicable interest rate, please refer to http://www.myfloridacfo.com/aadir/interest.htm. Invoices returned to a Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the State agency with the proper tax payer identification information documentation to be submitted before the prompt payment standards are to be applied. Interest penalties of less than one (1) dollar will not be enforced unless the Contractor requests payment.

A Vendor Ombudsman has been established with the Department of Financial Services. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516.

d. Taxes.
The Department is exempted from payment of Florida state sales and use taxes and Federal Excise Tax. The Contractor, however, shall not be exempted from paying Florida state sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its
FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Department its taxpayer identification number upon request.

e. Expenses.
The Contract is a fixed price contract with invoicing after approval of the final deliverable, and no separate expenses or travel will be paid.

f. Payment Processing.
All charges for services rendered shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed. All payments for professional services will be paid to the Contractor only upon the timely and satisfactory completion of all services and other units of deliverable such as reports, findings and drafts, which are required by Paragraphs 1 and 2 above and upon the written acceptance of said services and units of deliverables such as reports, findings and drafts by the Department's designated contract manager. Interim payments may be made by the Department at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the Department's contract manager.

g. Contingency.
If the terms of this Contract extend beyond the current fiscal year, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

5. Acceptance.
All of Contractor’s Deliverables related to these commodities or services shall be submitted to the Department’s contract manager for review and approval. The Department's approval and inspection of Contractor's services shall require no longer than five (5) business days from date of delivery of services, and fifteen (15) business days for delivery of documentary deliverables such as reports and procedures. The Department reserves the right to reject deliverables as outlined in the Scope of Services as incomplete, inadequate, or unacceptable due in whole or in part to Contractor’s lack of satisfactory performance under the terms of this Contract. The Department, at its option, may allow additional time within which Contractor may remedy the objections noted by the Department and the Department may, after having given Contractor a reasonable opportunity to complete, make adequate or acceptable said deliverables, including but not limited to reports, declare this Contract to be in default. All status reports must be submitted timely showing tasks or activities worked on, attesting to the level of services provided, hours spent on each task/activity, and upcoming major tasks or activities. Failure to use the appropriate technical requirements as identified in the Scope of Services will result in automatic task rejection and may not be invoiced or paid until correction of the task. Failure to complete the required duties as outlined in the Scope of Services may result in the rejection of the invoice. Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable does not foreclose the Department’s remedies in the event those performance standards that cannot be readily measured at the time of delivery are not met.

6. Information and Data Security and Confidentiality.
(a) Contractor, its employees, subcontractors and agents shall comply with all security procedures of the Department in performance of this Contract. The Contractor shall provide immediate notice to the Department in the event it becomes aware of any security breach and any unauthorized transmission of State data or of any allegation or suspected violation of security procedures of the Department. Except as required by law or legal process and after notice to the Department, Contractor shall not divulge to third parties any confidential information obtained by Contractor or its employees, subcontractors or agents in the course of performing the services. Contractor shall not be required to keep confidential information that is publicly available through no fault of Contractor, material that Contractor developed independently without relying on the State’s confidential information, or information that is otherwise obtainable under state law as a public record.

(b) Loss of Data. In the event of loss of any State data or record where such loss is due to the negligence of Contractor or any of its subcontractors or agents, Contractor shall be responsible for recreating
such lost data in the manner and on the schedule set by the Department at Contractor’s sole expense, in addition to any other damages the Department may be entitled to by law or the Contract.

(c) Data Protection. No DFS data or information will be transferred or stored offshore or out of the United States of America.

Access to DFS data shall only be available to approved and authorized staff, including remote/offshore personnel, that have a legitimate business need. If that need changes, then access shall be removed promptly. Contractor shall encrypt all data transmissions. Remote data access must be provided via a trusted method such as SSL, TLS, SSH, VPN, IPSec or a comparable protocol approved by the Department.

Contractor agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to Contractor’s breach of data security or the negligent acts or omissions of Contractor related to this subsection.

All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Department. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department.

7. Performance Bond.
The Contractor agrees to provide the Department with a performance bond acceptable and payable to the Department for 100% of the contract value (i.e., an annually renewable bond equal to the Contractor’s charges for the Contract year). The Contractor shall provide the performance bond to the Department before any services commence. This bond shall be issued from a reliable surety company in accordance with the RFP, licensed to do business in the State of Florida and approved by the U.S. Department of Treasury.

8. Insurance.
During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. At a minimum, this includes the following types of insurance for anyone directly or indirectly employed by Contractor and the amount of such Insurance shall be the minimum limits as follows, unless otherwise approved by the Contract Managers:

a) Commercial general liability coverage, bodily injury, property damage: $1,000,000 per occurrence/$2,000,000 aggregate.
b) Automobile liability coverage, bodily injury, property damage: $1,000,000 Combined Single Limits.
c) Insuring clause for both bodily injury and property damage shall be amended to provide coverage on an occurrence basis.
d) Workers’ compensation and employer’s liability insurance covering all employees engaged in any Contract work, in accordance with Chapter 440, Florida Statutes.

Such coverage may be reduced with the consent of the Contract Manager since certain subcontractors have potentially less exposure in liability than other subcontractors. Except as agreed in a separate writing, no self-insurance coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular coverage listed above in the State of Florida, or is an in insured member of a self-insurance group that is licensed to self-insure in the State of Florida.

(a) The Department may, in its sole discretion, terminate the Contract at any time by giving nine (9) months written notice to the Contractor. The Contractor may terminate the Contract at any time by giving twelve (12) months written notice to the Department.
(b) All services performed by the Contractor prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Department for any fees or expenses that the Department may incur in securing a substitute provider to assume completion of those services.

(c) As provided in Section 287.058, Florida Statutes, the Department may terminate the Contract immediately in the event that the Department requests in writing that the Contractor allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, which are made or received by the Contractor in conjunction with the Contract, and the Contractor refuses to allow such access. However, nothing herein is intended to expand the scope or applicability of Chapter 119, Florida Statutes, to the Contractor. The Contractor shall not be required to disclose to the public any proprietary copyrighted trade secrets or other materials protected by law as pursuant to Section 119.07, Florida Statutes.

(d) As provided in section 287.135, Florida Statutes, the Department may terminate the Contract immediately in the event the Contractor as a company as defined in such statute, is found to have submitted a false certification as provided under s. 287.135 (5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

(e) If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a firm other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor. The Contractor agrees to provide, for up to six (6) months after termination or until the subsequent provider is fully operational, whichever occurs first, all reasonable termination assistance requested by the Department to facilitate the orderly transfer of such services to the Department or its designees. Such termination assistance shall be at no additional charge to the Department if the termination is due to Contractor default.

(f) The Department shall notify, in writing, the Contractor who fails to adhere to Contract terms and conditions. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notification will also provide that, should it fail to perform within the time provided, the Contractor will be found in default and removed from the Department's approved vendor list. If the Contractor defaults in the performance of any covenant or obligation contained in the Contract, including without limitation the minimum requirements contained in the Scope of Work, or in the event of any material breach of any provision of the Contract by the Contractor, the Department may, in its sole discretion, provide notice and an opportunity to cure the default rather than exercise the remedy of termination. If the default or breach is not cured within thirty (30) days after written notice is given to the Contractor specifying the nature of the alleged default or breach, then the Department, upon giving written notice to the Contractor, shall have the right to terminate the Contract effective as of the date of receipt of the default notice.

(g) After receipt of a notice of termination or partial termination, and except as otherwise directed by the Department, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Contractor shall accept no further work or new services related to the affected Deliverables, and shall, as soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate any orders and/or subcontracts related to the terminated Deliverables and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Department to the extent required, which approval or ratification shall be final for the purpose of this section.

10. Events of Default.

Provided such failure is not the fault of the Department or outside the reasonable control of the Contractor, the following events, acts, or omissions, shall include but are not limited to, events of default:

(a) Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;
(b) Failure to complete and maintain, within the timeframes specified between the Department and the Contractor, the applicable system installation, ongoing performance, maintenance, and provision of Services;

(c) The commitment of any material breach of this Contract by the Contractor, failure to timely deliver a material deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract;

(d) Employment of an unauthorized alien in the performance of the work;

(e) One or more of the following circumstances, uncorrected for more than thirty (30) calendar days unless within the specified thirty (30) day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract:
   (1) Entry of an order for relief under Title 11 of the United States Code;
   (2) The making by the Contractor of a general assignment for the benefit of creditors;
   (3) The appointment of a general receiver or trustee in bankruptcy of the Contractor’s business or property;
   (4) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
   (5) Entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;

(f) The Contractor makes or has made an intentional material misrepresentation or omission in any materials provided to the Department or fails to maintain the required insurance.

11. Liability and Indemnification
   (a) In addition to the provisions in PUR 1000 regarding liability, the following provisions apply: no provision in this Contract shall require the Department to hold harmless or indemnify the Contractor, insure or assume liability for the Contractor’s negligence, waive the Department’s sovereign immunity under the laws of Florida, or otherwise impose liability on the Department for which it would not otherwise be responsible. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this contract.

   (b) The Department’s maximum liability for any damages, regardless of form of action, shall in no event exceed the fees paid to Contractor for the relevant products or services giving rise to the liability, prorated over a three year term from the installation of products or the date of performance of the applicable services.

12. Damages for Delay.
   Contractor acknowledges that its failure to meet an agreed upon deadline for delivery of services will damage the Department but that by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. Accordingly, the parties agree upon a reasonable amount of liquidated damages which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. Accordingly liquidated damages shall be assessed on the contractor for $an amount to be determined per business day for each day the Contractor fails to complete agreed upon work after expiration of the time allowed by the Contract, subject to the force majeure provisions of the Contract. Allowing completion after the time allowed shall not act as a waiver of liquidated damages.

Nothing in this section shall be construed to make the Contractor liable for delays that are beyond its reasonable control. Nothing in this section shall limit the Department’s right to pursue its remedies for other types of damages.

The Contractor agrees that the State shall have the right to liquidate such damages, through deduction from the Contractor’s invoices, in the amount equal to the damages incurred, or by direct billing to the Contractor.
13. **State property.**
Title to all property furnished by the Department under this Contract shall remain in the Department, and Contractor shall surrender to the Department all property of the Department prior to settlement upon completion, termination, or cancellation. All documentation shall become and remain the Department’s property upon receipt and acceptance. Contractor shall surrender all documentation to the Department upon Department’s request. All work materials developed or provided by Contractor under this Contract and any prior agreement between the parties shall be deemed to be work made for hire and owned exclusively by the State of Florida, Department of Financial Services. Upon completion, termination, or cancellation, the Contractor will provide all data in a standard industry format or format to be designated by the Department.

14. **Contract Modification.**
This Contract may be amended only by a written agreement between both parties subject to the provisions of Chapter 287, Florida Statutes.

15. **Nonexclusive Contract.**
This procurement will not result in an exclusive license to provide the services described in the RFP or the resulting contract. The Department may, without limitation and without recourse by the Contractor, contract with other Vendors to provide the same or similar services.

16. **Statutory Notices.**
The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A (e) of the Immigration and Nationality Act. Such violation shall be cause for unilateral cancellation of this Contract. An entity or affiliate who has been placed on the public entity crimes list or the discriminatory vendor list may not submit a Proposal on a contract to provide any goods or services to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity pursuant to limitations under Chapter 287, Florida Statutes.

17. **Background and employment eligibility verification.**
The Contractor is responsible for payment of costs if any, and retaining records relating to, employment eligibility verification, which records are exempt from Chapter 119, Florida Statutes.

   (a) Under the Governor’s Executive Order 11-116, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the “Memorandum of Understanding” with the federal Department of Homeland Security governing the program if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify “Edit Company Profile” screen, which contains proof of enrollment in the E-Verify Program.

   (b) The Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the “Edit Company Profile” screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.

   (c) Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the Contract and the Department may treat a failure to comply as a material breach of the Contract.

18. **Compliance with Federal, State, and Local Laws.**
Contractor and all its agents shall comply with all federal, state, and local regulations, including, but not limited to, nondiscrimination, wages, social security, worker’s compensation, licenses, and registration requirements.
19. **Miscellaneous.**

(a) This Contract, and any referenced or attached addendum embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Contract supersedes all previous oral or written communications, representations, or agreements on this subject. In any conflict between this Contract and any referenced or attached addendum, the terms and conditions of this Contract shall take precedence and govern. Acceptance of service or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of any proposed modification to terms and conditions.

(b) Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who shall reduce the decision to writing and send a copy to the Contractor at a previously provided address. In the event a party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Contract will be in the courts of the State of Florida, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Contract.

(c) The laws of the State of Florida and the Department's rules govern this Contract.

(d) The Contractor agrees that no funds received by it under this Contract will be expended for the purpose of lobbying the Legislature or a state agency pursuant to Section 216.347, Florida Statutes, except that pursuant to the requirements of Section 287.058(6), Florida Statutes, during the term of any executed contract between the Contractor and the state, the Contractor may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that contract.

(e) The Contractor is an independent contractor, and is not an employee or agent of the Department.

(f) All services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Department. The Department may refuse access to or require replacement of any Contractor employee, subcontractor, or agent for cause, including but not limited to technical or training qualifications, quality of work, change in security status, or non-compliance with a Department policy or other requirement. Such action shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract.

(g) The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and limitations of liability, shall survive termination, cancellation, or expiration of this Contract.

(h) The Contractor hereby agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to the Contractor’s breach of this contract or the negligent acts or omissions of the Contractor.

(i) The Department shall not be deemed to assume any liability for the acts, omissions to act or negligence of the Contractor, its agents, servants, and employees, nor shall the Contractor disclaim its own negligence to the Department or any third party.

(j) If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

20. **Execution in Counterparts and Authority to Sign.**
This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
21. **Contract Administration.**
   (a) The Department’s Contract Manager is ____________ located at _____. Send invoices to _______.
   (b) The Contractor’s Contract Manager is ____________ located at _______.
   (c) All written and verbal approvals referenced in this Contract must be obtained from the parties’ Contract Managers designated in this Section or designees. Notices required to be in writing must be delivered or sent to the intended recipient by hand delivery, certified mail or receipted courier and shall be deemed received on the date received or the date of the certification of receipt.

   IN WITNESS WHEREOF, the Department of Financial Services and _____, by their duly authorized representatives, have signed this Contract.

______________________________  ________________________________
Contractor Representative:      Department of Financial Services
Title:                         Chief of Staff or Designee

Date: __________________________  Date: __________________________
ATTACHMENT E
Client References

The Proposer must list three (3) separate and verifiable clients of the Proposer's firm. The clients shall be listed on this form. Any information not submitted on this form shall not be considered. The Department shall not be responsible for errors in email addresses or other information listed below. If the information is erroneous, the Department shall be under no responsibility to correct it or make any further effort to communicate with the client. The clients listed shall be for services similar in nature to that described in this solicitation. Information on each client must be provided on this page:

1. _____________________________________________________________________
Name _____________________________________________________________________
Address ___________________________________________________________________
City State Zip Code ___________________________________________________________________
Phone Number Extension ___________________________________________________________________
Contact Person Title ___________________________________________________________________
Email address _______________________________________________________________________

2. ______________________________________________________________________
Name ______________________________________________________________________
Address ______________________________________________________________________
City State Zip Code ______________________________________________________________________
Phone Number Extension ______________________________________________________________________
Contact Person Title ______________________________________________________________________
Email address ______________________________________________________________________

3. ______________________________________________________________________
Name ______________________________________________________________________
Address ______________________________________________________________________
City State Zip Code ______________________________________________________________________
Phone Number Extension ______________________________________________________________________
Contact Person Title ______________________________________________________________________

I authorize the Department to contact these references.

Proposer Authorized Representative Signature
ATTACHMENT F
Conflict of Interest Certification

Company or Entity Name ________________________________

For the purpose of participating in the Request for Proposals process and complying with the provisions of Chapter 112, Florida Statutes, and Section 287.075 Florida Statutes (F.S.) the undersigned corporate officer states as follows:

Proposer (check the applicable block) certifies one or more of the following:

A. The persons listed below are current State employees who own an interest of five percent (5%) or more in the company/entity named above:

_________________________________  ___________________________________
_________________________________  ___________________________________
_________________________________  ___________________________________

B. To the best of its knowledge, the Proposer or its employees, agents, or subcontractors, have not knowingly participated, through decision, approval, disapproval, or preparation of any part of a purchase request, investigation, or audit, in the procurement of commodities or contractual services by a state agency from an entity in which the contractor, or its employees, agents, or subcontractors, has a material interest, in accordance with Section 287.075, F.S. According to Section 112.312 (15), F.S., material interest means “more than 5 percent of the total assets.” Agent means any other entity or person acting on behalf of a Proposer.

The above information is true and correct to the best of my knowledge. Signed on this day of __________________, 20__.  

_________________________________
Signature

_________________________________
Print Name and Title

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ATTACHMENT G
Affidavit as to Compliance with Preferred Pricing Clause

Pursuant to section 3 of the Contract, the undersigned Contractor hereby attests that the Contractor is in compliance with the preferred pricing clause contained in the Contract.

PRINT CONTRACTOR NAME: ______________________________

By: ______________________________ Date: ________
   Signature of Authorized Representative

Print Representative’s Name/Title: ______________________________

STATE OF __________
COUNTY OF __________
Sworn to (or affirmed) and subscribed before me this _____ day of __________, by ___________________.

Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] _____ Personally Known   OR   _____Produced the following I.D. ___________________

<table>
<thead>
<tr>
<th>Vendor Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor’s Authorized Representative Name and Title</td>
<td>______________________________</td>
</tr>
<tr>
<td>Address</td>
<td>______________________________</td>
</tr>
<tr>
<td>City, State, Zip</td>
<td>______________________________</td>
</tr>
<tr>
<td>Phone Number</td>
<td>______________________________</td>
</tr>
<tr>
<td>Email Address</td>
<td>______________________________</td>
</tr>
</tbody>
</table>
**ATTACHMENT H**  
**Evaluation Score Sheet**

**Experience, qualifications, and financial strength of the company** (Does Proposer’s corporate structure, references, proposed staffing, etc., reveal that experience, financial strength and qualifications have been met?) ...................................................................................................................................  
60 points

A. Experience in workers’ compensation PBM industry ................................................................. 10 points
B. Proposer’s business structure- financial and managerial stability .............................................. 20 points
C. Proposer’s key staff experience and skill sets ............................................................................... 20 points
D. References .................................................................................................................................. 10 points

**Quality of services** .................................................................................................................  
160 points

A. Network .................................................................................................................................. 10 points
B. Drug Standards .......................................................................................................................... 10 points
C. Formulary .................................................................................................................................. 10 points
D. Customer Service ....................................................................................................................... 10 points
E. Claim Eligibility Data (receipt and updating) ............................................................................... 5 points
F. Mail Order .................................................................................................................................. 5 points
G. Patient Education and Verification .............................................................................................. 5 points
H. Physician Education .................................................................................................................... 5 points
I. Concurrent Drug Utilization Review (point of sale) ..................................................................... 15 points
J. Retrospective Case Management and Peer Review ....................................................................... 15 points
K. Audits ....................................................................................................................................... 5 points
L. Processing of Pharmacy Bills ........................................................................................................ 20 points
M. Grievance/Complaint Procedure ................................................................................................. 5 points
N. Division of Workers’ Compensation (DWC) Electronic Filing Services ..................................... 15 points
O. Reports ....................................................................................................................................... 15 points
P. Miscellaneous Services .................................................................................................................. 10 points

**Cost Proposal**

Total Costs for product/services .................................................................................................. 20 points

**GRAND TOTAL** ....................................................................................................................... 240 points
ATTACHMENT I
Vendor Certification Regarding Scrutinized Companies Lists

Respondent Vendor Name: _____________________________________________________
Vendor FEIN: ___________________
Vendor’s Authorized Representative Name and Title: ___________________________________
Address: ______________________________________________________________________
City: _____________________ State: _____________________________ Zip:  ______________
Phone Number: ____________________________________
Email Address: _______________________________________________________________

Section 287.135, Florida Statutes, prohibits agencies from contracting with companies, for goods or services over $1,000,000, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists are created pursuant to Section 215.473, Florida Statutes.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above in the section entitled "Respondent Vendor Name” is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. I understand that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney’s fees, and/or costs.

Certified By: __________________________________________________________, who is authorized to sign on behalf of the above referenced company.
Authorized Signature Print Name and Title:_________________________________________