



STATE OF TENNESSEE
FINANCE & ADMINISTRATION, BENEFITS ADMINISTRATION

**REQUEST FOR PROPOSALS # 31786-00151
AMENDMENT # ONE
FOR PHARMACY BENEFITS MANAGER SERVICES**

DATE: 11/8/2019

RFP # 31786-00151 IS AMENDED AS FOLLOWS:

1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		October 10, 2019
2. Disability Accommodation Request Deadline	2:00 p.m.	October 15, 2019
3. Pre-response Conference	9 a.m.	October 16, 2019
4. Notice of Intent to Respond Deadline	2:00 p.m.	October 17, 2019
5. Written "Questions & Comments" Deadline	noon	October 23, 2019
6. State Response to Written "Questions & Comments"		November 8, 2019
7. Response Deadline	noon	November 25, 2019
8. State Opening Cost Proposals		December 2, 2019
9. Cost Proposal Analysis		December 3, 2019 – January 8, 2020
10. State Completion of Technical Response Evaluations		January 8, 2020
11. State Notice of Intent to Award Released		Insurance Committee meeting January 24, 2020
12. RFP Files Opened for Public Inspection		January 27, 2020

13. End of Open File Period		February 3, 2020
14. State sends contract to Contractor for signature		February 4, 2020
15. Contractor Signature Deadline		February 5 -12, 2020

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

RFP SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE														
		1. Please detail the total LIVES on all three on the entities (The State Plan, The Local Education Plan, The Local Government Plan). Some are stated as members, some as employees. Please provide total member counts for both Commercial and Retirees	<p>Employees are the same as heads of contract (HOCs) while total members=total lives. Below are the total number of member counts (or lives) for October 2019:</p> <table> <tr> <td>State Retiree</td> <td>10,971</td> </tr> <tr> <td>Local Ed Retiree</td> <td>5,844</td> </tr> <tr> <td>Local Gov't Retiree</td> <td>259</td> </tr> <tr> <td>State Actives</td> <td>134,693</td> </tr> <tr> <td>Local Ed Actives</td> <td>105,609</td> </tr> <tr> <td><u>Local Gov't Actives</u></td> <td><u>25,436</u></td> </tr> <tr> <td>TOTAL</td> <td>282,812</td> </tr> </table> <p>This includes active employees and pre-65 retirees as well as their eligible dependents. The plan enrollment tends not to fluctuate greatly from month to month.</p>	State Retiree	10,971	Local Ed Retiree	5,844	Local Gov't Retiree	259	State Actives	134,693	Local Ed Actives	105,609	<u>Local Gov't Actives</u>	<u>25,436</u>	TOTAL	282,812
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		2. Is the State accepting all types of PBM bids such as Pass-Through and Traditional, or Only Pass-Through?	Only pass through. See Contract Sections A.2.vv, A.7.c., and A.16.b.														
		3. What is the pricing model requested? Traditional or Passthrough?	Pass through.														
		4. Please confirm bidders are only proposing commercial lines of business within this RFP.	The state confirms. This RFP is only for members of the self-insured SGIP.														
		5. Please clarify the current formulary the State of Tennessee utilizes.	The State currently utilizes CVS Caremark's preferred drug list with Advanced Control Specialty Formulary, which can be viewed here: info.caremark.com/stateoftn > Drug Lists > Preferred Drug List														

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		6. Can the State clarify any current customization to the current CVS formulary?	We have not customized the formulary that we use from CVS Caremark. Please see the answer to question #5 immediately above for more information.
		7. Does the state currently follow the advanced control specialty formulary or have there been modifications and if so, where and which products?	Yes, this is the formulary that we currently use. Please see the answer to question #5 above for more information.
		8. Does the state currently exclude any competing product categories from coverage on the formulary? CVS formularies all have products that are excluded from drug coverage and therefore we are seeking clarification.	No, the State does not currently align with the CVS national formulary that excludes 100-200 drugs each year.
		9. In terms of the advanced standard control formulary, is the formulary open or closed? Does the formulary have exclusions?	<p>The formulary is open.</p> <p>The only exclusions are those listed in the Plan Document. The advanced standard control formulary does have utilization management guidelines that have been agreed upon by the State during the current contract.</p> <p>The State is requesting an open formulary and any recommended utilization management guidelines may be proposed by the contractor during implementation and may be agreed upon by the State at the State's discretion, if any.</p>
		<p>10. With respect to the State of Tennessee managing their pharmacy benefit and determining the Formulary content:</p> <p>a. Does the State have a Formulary Development and Maintenance process, supported by a Pharmacy and Therapeutics (P&T) Committee that provides approved clinical rationale for prior authorization and appeal requests?</p> <p>b. If yes, how often does the State's P&T Committee meet?</p> <p>c. Will [redacted] Pharmacy Solutions' staff pharmacist(s) be permitted to attend P&T meetings and/or have a</p>	<p>The State does not have a P&T committee. We rely on the PBM and their own P&T Committee to make these decisions regarding the formulary and all utilization management suggestions, edits and programs.</p>

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		place on the Committee?	
		11. The State of Tennessee RFP mandates no deviations on rebates except 340B. If the industry law changes and rebates are prohibited, will the PBM be allowed to caveat this in their offering?	If state or federal law changes during the contract an impact analysis will occur and the State and PBM will mutually agree upon any contract changes. Amendments that may be required in order to comply will be determined by the State and follow the amendment process if deemed necessary.
		12. Received utilization files – 06091 TN RFP 1-4 – the files do not include cost information Will you be sending the files with cost information? (Ing. Cost, Plan Cost & member cost)?	The State has provided all of the information that a PBM needs in order to bid on this RFP. The ingredient cost, plan cost and member costs under the existing plan and contract are immaterial to how a PBM would bid on this RFP.
		13. What is the current admin fee paid for PBM services?	The current administration fee is \$0.90 PMPM.
		14. How many finalist responders will be selected?	Based on the procurement rules, all responsive respondents will be scored by our evaluation team. Please refer to the RFP Section 5: Response Evaluation & Contract Award.
		15. What is the current volume of clinical edits? How many authorizations? We would like to know the total number of prior authorizations in 2018. Were the prior authorizations completed for PA Required, Step Therapy, QL Limits exceed, Age or gender limit with PA, etc. Is it possible to have these listed separately?	In 2018 the State's current PBM received a total of 21,345 requests for PAs or appeals (20,329 for prior authorizations). Neither the State nor the PBM have a readily available breakout of the types of PAs.
		16. Do you have a clinical or formulary department? Or do you use the PBMs?	The State does not have a clinical or formulary department. We rely solely on the PBM for these and all other services requested in the RFP.
		17. Do you have your own member services call center? Or do you use the PBMs?	We do not have a member services call center; we rely on the PBM to provide member services to plan members regarding pharmacy benefits. Additionally, please note that the Benefits Administration service center staff serves only to assist our plan members with eligibility-related questions. All questions and member assistance regarding the pharmacy

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			benefit will be provided by the PBM under this contract and the PBM should never refer members back to the State for assistance unless it is for an eligibility-related issue.
Appendix 7.1		18. "All brand drugs on the PBM's Specialty Drug worksheet will be included in the specialty pricing guarantees. Brand drugs not on the PBM's Specialty Drug list will be included in non-specialty guarantees, and the channel of distribution dictates the pricing guarantees for any drug moving off the specialty drug list. Any Generic Specialty Pharmacy claims will fall into the retail generic category." Please confirm that only the 452 NDCs within the "Specialty Pricing Worksheet" should be considered for the "All Brand Specialty Pharmacy Claims" rate.	The State does not confirm. The 452 NDCs represent historical utilization. This list and provided claims files should be considered for your underwriting. However, all Brand Specialty Pharmacy Claims as defined by the contract will be included within the All Brand Specialty Pharmacy Claims rate you are proposing.
		19. The instructions below reference national and statewide networks. Should there be two separate analyses? The instructions in Appendix 7.18 Section B1, to include all ZIP Codes, appear to indicate only a nationwide analysis. Please confirm that all census members should be analyzed regardless of whether or not they are in Tennessee and that all pharmacies also should be included.	The State thinks that this is intended to refer back to the GeoAccess instructions in Appendix 7.7 and the zip codes provided in Appendix 7.3. (Appendix 7.18 is a different subject). All respondents should utilize the zip codes provided in Appendix 7.3 to measure their networks against the count of plan members in this appendix – regardless of where the member resides. There should not be 2 separate analyses.
A.2.c.	45	20. Please clarify if the State will allow the contractor to report the ASA for the dial-back feature separately from callers that wait on the line and do not use the dial-back feature? Will the State allow the Contractor to exclude from the ASA for the dial-back feature when caller requests a call back for a specific date and time?	The State has modified the language. See Amendment item #4 below.
A.2.kk.	48	21. Would the State consider adding, "MAC Lists vary among PBMs and customers "	The State declines to adding this requirement.
A.2.III		22. The parenthetical "(including its parents, affiliates, subsidiaries, subcontractors, or any other contracted entities)" purports to contractually involve entities that are not party to this	The State declines but has modified the language. See Amendment item #5 below.

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		<p>agreement. Bidder may be affiliated with pharmacies or other entities that receive “value” from pharmaceutical manufacturers in the form of product discounts or fees for care management or other services provided in connection with the dispensing of products (i.e. “bona fide service fees”). Further, Bidder may have corporate relationships or utilize subcontractors that provide services to the State under separate contracts, awarded independently of this procurement. Bidder and State cannot change those contractual relationships through this procurement.</p> <p>Would the State consider a revision to delete the parenthetical?: “(including its parents, affiliates, subsidiaries, subcontractors, or any other contracted entities)”</p>	
A.2.t.		<p>23. Dispense as Written-9 (“DAW-9”) – “An all-purpose code used whenever an existing code does not accurately describe the note required when a pharmacist or pharmacy technician enters the prescription into the POS system at the pharmacy.” To more accurately describe the purpose of a DAW9 code please consider rephrasing this to reflect the standard definition as provided by NCPDP: “DAW 9 is a DAW code used when Substitution Allowed by Prescriber But Plan Requests the Brand – Patient’s Plan Requested Brand Product To Be Dispensed.”</p>	<p>The State agrees. See Amendment item #6 below.</p>
A.2.vv.		<p>24. The State clarifies that bidders are not prohibited from earning margin on drugs dispensed from their own pharmacies that they operate. To ensure consistency among the definitions, can the State please confirm that “Rebates,” as defined in section A.2.III of the Pro Forma Contract, refer to revenues received by the PBM with respect to Plan Member Claims and not amounts that may be received by Bidder’s dispensing pharmacy in such capacity?</p> <p>If so, will the State revise the second</p>	<p>The State does not confirm and will not revise the language.</p>

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		sentence of this definition to read as follows: “ Also, the <u>These revenues consist of all</u> amounts paid to the contractor (i) pursuant to the terms of an agreement with a pharmaceutical manufacturer, (ii) in consideration for the inclusion of such manufacturer’s drug(s) on the Contractor’s Formulary, and (iii) which are directly related and attributable to, and calculated based upon, the specific and identifiable utilization of certain prescription drugs by Members.”	
A.3(b)	53	25. How should the contractor plan to obtain contract modifications in the event the State makes changes to the structure of the pharmacy benefits available to the members, including changes to the formulary?	Pharmacy benefit changes have not historically required contract modifications. However, should the State approve changes that warrant a change in contract terms, any contract modifications would be determined by the State and would follow the amendment process.
A.4.j.	55	26. Please confirm that the scale used to determine satisfaction with the implementation process will be mutually agreed upon.	State does not confirm. We will perform our own implementation performance assessment survey and provide our response and results to the Contractor to advise how satisfied or dissatisfied the State is with various areas of the implementation.
A.7(f)	61	27. Please provide further detail on how the Contractor is required to assist the State in the recovery of claims.	If a member is retroactively terminated and claims are found to have been paid during the time when coverage should not have been in effect, the State may request that the Contractor assist by reversing said claims, deducting it from future payments to the applicable pharmacy (or pharmacies) and crediting those in error payments against future claims ACHs from the State. See also Contract Sections A.7.f, A.29.o, and C.3.d
A.8.a(3)		28. Requires the provision of a nationwide retail pharmacy network through which retail 90-day prescriptions would adjudicate at the same cost share and pricing as through the mail order service pharmacies. Does the State require the bidder to propose only what	Respondents should only provide responses and counts of pharmacies that members will be able to use starting on 1/1/2020. The awarded contractor will be expected to deliver what is proposed

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		it has currently contracted with its pharmacy network, or may the bidder provide a proposal based on its estimate of how many pharmacies may accept this arrangement, even if not contracted at the time of proposal submission?	in their RFP response. Please also refer to RFP question number C.8 – sub questions A through D for additional information.
A.8.h.8.		29. Requires member notification within 15 days and client notification within 5 days. As the State has a custom Specialty Network, in order to coordinate this arrangement internally, bidder requests that member notification be increased to 30 days and client notification be increased to 10 days.	The State agrees. See Amendment item #7 below.
A.9(c)	66	30. Will the State accept formulary implementation within seven (7) business days after receipt of the State's approval In Writing?	The State agrees. See Amendment item #8 below.
A.9.e.		31. PBM must implement changes to the formulary, step therapy, PA and other clinical edits within 30 business days of the Stat's approval or request. The section goes on to require written notice of such changes be provided to Plan members 30 days prior to implementation and that the State must be permitted to approval member communications. Would the State agree to modify the section to clarify that the PBM would always have at least 15 days after approval of the communications to send them to Members (i.e., that the State would always approve communications at least 45 days prior to the effective date of the change, so that the PBM has sufficient time to produce and distribute the communications)?	The State agrees. See Amendment item #9 below.
A.9.i.		32. requires that the PBM allow a member impacted by a State-approved formulary management program change at least 60 days to comply with the change, unless otherwise agreed to by the State, and shall allow member exceptions and grandfathering at the State's request. Will the State agree that if such exceptions or grandfathering caused the PBM to fail to achieve a minimum Rebate guarantee that the State would negotiate an equitable adjustment to	<p>In the event of State-approved benefit changes which impact the rebates in this contract, the Contractor may request approval from the State to make adjustments to their rebate guarantees.</p> <p>Such adjustments must be prior-approved In Writing by the State and must result in cost neutrality or cost savings to the State, as compared to the terms that were in place prior to the adjustments going into effect. The</p>

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		the minimum Rebate guarantees with the PBM?	Contractor must provide the State and/or its consulting actuary adequate information to analyze the request and its impact prior to its implementation. The State may deny any such requests and all decisions of the State are final.
A.15.(b)4.	77	33. Will the State consider the following edit, "In the event of substantial changes in the marketplace that are outside of the Contractor's control which impact the pricing components of this agreement, the parties will mutually agree the Contractor may request approval from the State to make adjustments to their pricing and guarantees. Such adjustments must be prior-approved In Writing by the State and must result in cost neutrality or cost savings to the State, as compared to the terms that were in place prior to the adjustments going into effect. The Contractor must provide the State and/or its consulting actuary adequate information to analyze the request and its impact prior to its implementation. The State may deny any such requests and all decisions of the State are final.	The State does not agree to this revision.
A.15(b)5.	77	34. Please provide additional clarification on the intent of this requirement assuming member cost share, AWP discounts, U&C, etc.	For further clarification, this section states that plan and member will not pay a higher unit cost for the same NDC dispensed at Mail Order/90-Day-at-Retail vs. Retail-30.
A.15(b)5.	77	35. MAC lists vary based on line of business including health plans, health systems, clients that own pharmacies, etc. Will the State allow for additional language stating, "The contractor will employ its most aggressive MAC list for "similar" clients?"	The State does not agree to this revision.
A.15(b)5.		36. Requires that the MAC list "must include a minimum of ninety-five percent (95%) of all Generic Drugs." Due to factors beyond the contractor's control (drug mix, generics launches, marketplace conditions, etc.), the percent of generics included on the MAC list will vary. Will the state consider removing this requirement or change the percentage to a range of	The State does not agree to this revision.

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		90-95% to account for this variance.	
A.15(b)5.		37. Requires that the PBM “will employ its most aggressive MAC list”. Because MAC lists can change as often as weekly to meet individual client needs we cannot guarantee the most aggressive list will be used at all times. Will the State consider changing the language to read “The Contractor will employ the most aggressive MAC list needed to meet the generic minimum guarantees....”?	The State agrees. See Amendment item #10 below.
A.16.c.	78	38. Can the State please further describe, "material impact" as utilized in this requirement?" Also, please provide further explanation of this statement," Any changes the State then decides to pursue may result in a Contract amendment without requiring any contract amendment or Contractor Rebate guarantee change.	<p>Though the State is not aware of any changes that may be initiated by the State during the term of this contract, it is always possible.</p> <p>This clause is intended to cover a situation where, for example, the State chooses to stop coverage on all drugs in a particular class. In this example situation, if the Contractor determines that it would have a large enough impact on the Contractor’s ability to meet their minimum rebate guarantees due to a specific manufacturer’s rebates decreasing in response, then the Contractor must notify the State within 30 calendar days. If the State decides to pursue the formulary change anyway, then a Contract amendment would be initiated by the State in order to adjust the minimum rebate guarantees for the balance of that particular plan year and any future calendar years to the benefit of the Contractor.</p>
A.16.f.		39. “No rebate guarantee exclusions are permitted, with the exception of 340B claims” It is standard industry practice that vaccines, paper claims, COB/secondary payor claims, compounds and 340B claims are excluded from pricing guarantees. Please confirm acceptance of these standard exclusions.	<p>This looks to be a reference to A.16.e. The State agrees in part. See Amendment item #11 below.</p>
A.16.h.		40. Requires the PBM to administer a POS Rebate option if elected by the State. Because a POS Rebate option requires the PBM to advance the value of Rebates prior to collection from the Manufacturer, will the State permit	<p>The State does not agree to any additional lines in the cost proposal.</p> <p>Any alternative POS rebate program design details may be discussed with the State during the contract term</p>

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		<p>bidders to include a fee for such service in their proposals? Alternatively, would the State consider replacing this provision with a provision that required the PBM to apply Rebate value at POS for purposes of calculating Member costs share, but with Rebates paid to the State after adjudication as otherwise set forth in the Contract?</p>	<p>should the State choose to implement such a program.</p>
A.17.a.	78	41. PBMs have clients across all types of business (MCOs, Medicaid, Health plans, 340B, etc.) Would the state add additional language around "similar" or "like" clients?	<p>The State will not agree to this revision.</p> <p>For clarification, the State's intent is for a comparison of groups of approximately our same size (~250,000-300,000 members/lives) offering similar benefits.</p>
A.17	78-79	42. Will the State consider modification to clarify what criteria constitute "any similar account" and "similar employer groups for size and benefit structure"?	<p>The State will not agree.</p> <p>See question #41 for further clarification.</p>
A.17.a.	79	43. Would the State be willing to add language with a minimum threshold, similar clients, mutual agreement, and evidence of analysis?	<p>The State will not agree. See question #41 for further clarification.</p>
A.21.e		44. "The Contractor shall respond to all inquiries In Writing from the State within one (1) week after receipt of said inquiry. In cases where additional information to answer the State's inquiry is required, the Contractor shall notify the State immediately as to when the response can be furnished to the State.": Can the State provide additional information regarding what the expectation is regarding the response due to the State within 1 week?	<p>When the State provides an inquiry to the Contractor, the State expects an answer/response within a minimum of 1 week, unless noted otherwise.</p> <p>For example, during the legislative session, we often require 24-48 hour turnaround time on questions, analyses, or data requests. The deadline on these would be communicated to the Contractor with each request. The intent behind the greater 1 week deadline is to not have a Contractor ignore emails or questions from the State or an excessive amount of time to respond but does allow for a more in depth analysis or data pull if necessary for a comprehensive response.</p>
A.22	84-86	45. Please provide the call volume for member service calls handled by the incumbent Contractor for 2018. Please include the quarterly statistics for member service ASA as reported by the incumbent Contractor for 2018.	<p>Number of calls answered during CY 2018 by CVS Caremark: 32,432</p> <p>Quarterly ASA, 2018: 1Q2018 52.5 seconds</p>

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			2Q2018 22.0 seconds 3Q2018 21.2 seconds 4Q2018 10.5 seconds
A.22.k		46. "The Contractor's call center shall maintain a (1) telephone service factor ("TSF") of 80-20 meaning that eighty percent (80%) of calls are answered within twenty (20) seconds": Would the State consider revising the TSF to be revised for 80% of calls within in 30 seconds?	The State will not agree to this revision
A.22.k.		47. Identifies a telephone service factor requirement that does not appear to align to a Service level Agreement in Attachment D. Can the State please clarify that the Service Level Agreements in Attachment D control?	All contract requirements are expected to be fulfilled, although not all contract requirements are reported or listed in Attachment B, C, or D.
A.22.u		48. Can the State provide the coding scheme required?	No, the State has provided all of the information that a PBM needs in order to bid on this RFP. This information is immaterial to how a PBM would bid on this RFP. During implementation, the State will review and either approve or request changes that can reflect a variety of call types and reasons.
A.23.g.		49. Requires that all marketing and communications materials shall become property of the State. Can the State please confirm that, while the State will retain the right to use any such materials, any pre-existing marketing and communications materials of the PBM and/or materials that the PBM provides to substantially all of its clients, and not specifically developed for the State, will remain the property of the PBM, who may continue to use such materials in its normal operations?	The State agrees and confirms.
A.23.n.		50. Requires the PBM to distribute Member notifications of changes to the benefit, Plan or program at least 30 business days prior to the implementation date of the change. Will the State agree to change this requirement to 30 calendar days, which is a more customary notice period and easier to calculate and comply with consistently throughout the year?	The State agrees. See Amendment item #12 below.

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A.23.n.		51. Requires the PBM to distribute Member notifications of changes to the benefit, Plan or program at least 30 business days prior to the implementation date of the change. Because communications must be approved by the State, will the State agree that the PBM will always have at least 14 days after the State approves a communication before it must be delivered so that the PBM has adequate time to perform an accurate mail merge, generate the communications and distribute them?	The State confirms. See State response and change in question #50.
A.24.d	90	52. Will the State please consider modifying this provision to read as follows: "Initial ID cards will be mailed at least fourteen (14) business days prior to Plan's effective date; the State and the Contractor will work collaboratively to verify that (1) standard member communication packets are used (2) member materials are approved by the State (3) the Contractor has received a clean eligibility data within a mutually agreed upon timeframe prior to the Contractor's effective date.	The State will not agree to this revision.
A.24.g	90	53. Please consider modifying the timeframe to a mutually agreed upon timeframe, or please define the timeframe.	The State agrees. See Amendment item #13 below.
A.25.d(6) and A.25.h(9)		54. Requires the Contractor's website to link to other State contractors' websites. Will the State provide a list of vendors whose websites must be linked? Will the Contractor have the opportunity to include text on the website to ensure that links to other vendors' websites are included at the direction of the State and do not signify an endorsement or relationship with such vendors?	Yes, the State would agree to the Contractor adding language stating that the links are provided at the request of the State. The State's current contractors are found on our website at: www.tn.gov/partnersforhealth
Section A.25.e.5 and		55. Regarding Prescriber Pages and Pharmacist Pages. At this time we have portals for pharmacies and	Yes.

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A.25.e.6,		prescribers. Does a link directing the user to the appropriate portal meet the State's requirements?	
Section A.25.f,		56. The Contractor's website shall contain Member accessible secure messaging capabilities." Are these capabilities specific to the Contractor's Customer Service team or to provide access to a pharmacist?	The State's intent is to allow members to send and receive secure messages from the Contractor's Customer service/care team.
A.25.n.	92	57. Will the State please consider modifying the 99.9% continuous uptime provision to 99.4%	The State will not agree to this revision.
A.25.t	93	58. Will the state please consider removing the provision for single sign-on?	The State will not agree to this revision. Customer service is important to the State and single sign-on is becoming more prevalent in order to assist plan members in viewing all of their health benefits related activity.
A.26.i.	94	59. Will the State accept rebate reconciliation on a quarterly basis 90 days after the end of each quarter, with a true-up to minimums on an annual basis?	The State will not agree to this revision.
A.26.i		60. "The Contractor shall provide the State a report, no later than sixty (60) days following the end of each quarter, illustrating the Rebate payments due to the State summarized at the NDC or NDC-11 level. The Contractor shall also provide an annual reconciliation report demonstrating true-up to one hundred percent (100%) no later than one hundred fifty (150) days after the end of each calendar year. See item #12 in Contract Attachment C." Does the State also require payment of rebates within 60 days following the end of the quarter?	Yes. See pro forma contract Section C.3.u.
A.27	97	61. Please confirm that the survey shall be designed by the contractor and reviewed and approved by the State. Additionally, does the state have final approval rights or will the final survey be mutually agreed upon?	The member satisfaction survey shall be designed by the Contractor, then reviewed and approved by the State in writing prior to members being surveyed. The State has final approval rights.
A.29.j.	97	62. For this requirement "One hundred percent (100%) of all drugs dispensed and paid for from the go-live date on January 1, 2020 until the termination	The State will not agree to this revision. The State, in conjunction with our

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		of benefits shall be included in any kind of pharmacy audit, regardless of tier level..." Will the State agree to the changing 100% to the "top 10 manufacturer contracts based off of utilization"?	benefits consultants, will determine which manufacturer contracts are to be included in the audit and may be done on any drug manufacturer of any size or prescription volume.
A.29.o.	97-98	63. Can you please clarify what the State would identify as an "unusual transaction"? Does this only apply to cases of suspected fraud and abuse or does it also include cases where an error is suspected? Also, are "all possible actions" limited to commercially reasonable actions?	<p>There is not a defined definition of "unusual transaction." This means a transaction that causes suspicion that a plan member is receiving goods and services that were not legitimately prescribed, the cause of which could be fraud or error on the part of either the plan member or other people involved in the transaction.</p> <p>An example could be a plan member who lives in a rural area and typically has all of his or her prescriptions filled at a pharmacy close to home and by the same physicians – within reason – but for whom your system edits suddenly show a new prescription being prescribed for an expensive non-specialty medication by a different physician and filled by an out of state retail pharmacy. This is something we would want the Contractor to investigate further by either contacting the plan member to inquire if it is a legitimate fill and/or bring the oddity to the State's attention for review and direction. All possible actions are not limited to commercially reasonable actions, but are limited actions allowable under state and federal laws.</p>
Section B	103	64. Can the State please identify the breakdown of the 64 months? What is the actual term of transition in, operations, and transition out?	The contract term includes 10 months (3/1/2020 – 12/31/2020) for implementation; 48 months (1/1/2021 – 12/31/2024) for benefits service period; and six months (1/1/2025 – 6/30/2025) for claims runoff period.
C.3.e.		65. Does not set forth the timing for the State's payment of Claims invoices. Can the State please specify how quickly it will issue payment after receipt on an invoice?	The Contractor is not issuing an invoice to the State for claims payments, but rather is initiating an ACH transaction to a specified bank account. Since the Contractor will be initiating the ACH transaction, the timing of receipt of funds would be based on the settlement date chosen by the Contractor.

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C.3.e.	112	66. Please confirm that claims funding will be made weekly. Within how many business days of the weekly funding requirement amount will the payment be made? What are the Contractor's remedies for non-payment?	Unless otherwise approved by the State and agreed to in writing, the claims funding will be made weekly. Since the Contractor will be initiating the ACH transaction, the timing of receipt of funds would be based on the settlement date chosen by the Contractor. To date, the State has never had an issue with non-payment. The Contractor's remedies against the State for breach of contract are set forth in pro forma contract Section D.26: Governing Law.
C.3.m.	104	67. Please provide membership history over the past 5 years and the forecasted membership for the next 5 years?	<p>CY 2015 273,731 CY 2016 277,792 CY 2017 278,836 CY 2018 280,096 CY 2019 YTD 283,288</p> <p>We are unable to forecast or project enrollment; however, enrollment (total number of covered lives) has usually always been in the 275,000-285,000 range.</p>
C.3.q.		68. Specifies that there will be no exclusions from the pricing discount guarantees except for Compound Prescriptions and powders. Can the State please confirm that Zero-Balance Due Claims will be included in the discount guarantee reconciliation?	The State confirms. Please see pro forma contract Section A.2.bbbb- ZBD claims must be included at the original discounted ingredient cost prior to the application of member cost share and not artificially inflated to a 100% discount or zero dollar amount.
C.6		69. Purchase Order in lieu of Invoice, can the State provide additional information regarding how purchase orders would be used in lieu of the invoice process?	The State will query its eligibility system as of the first day of the month to determine eligible members as of that date. The State will utilize the rates for administrative and clinical fees per member to generate the monthly payment to the Contractor.
C.6		70. Requires that the State will self-bill their PMPM fees. If so, the provision also follows that the eligibility would be reconciled within 10 days and discrepancies identified. Please note the PBM stores active eligibility counts which are provided directly from the plan and/or their designated third party vendor. The membership is pulled as of the 20th of the month and	Please refer to question #69 above. The State will not agree to change this requirement.

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		will directly tie to the plans active enrollment. This also reflects the total number of members with active pharmacy benefits as of the date which the counts are reconciled.	
C.7	106	71. Please confirm that the language in C.7 directly relates to the self-billed Administrative fees mentioned in C.6. Additionally, would the State consider increasing the turnaround time for reconciliation from 10 days to 30 days?	The State confirms that the language in C.7 relates to the requirement in C.6. The State will not agree to change this requirement.
D.32	114	72. Would the state accept this alternative language to the cyber liability/ coverage for data breach response expenses language: Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability), cyber liability and professional liability (errors and omissions) insurance. All policies, with the exception of cyber liability and professional liability , must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State.	The State will not agree to this revision, but has modified the language to reflect what the State can agree to. See Amendment item #15 below.
D.32c1, c2	116	73. Would the state accept this alternative language to the cyber liability/ coverage for data breach response expenses language: The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than five million dollars (\$5,000,000) per occurrence or claim and five million dollars (\$5,000,000) annual aggregate, covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage	The State does not agree to this revision but has modified the language. See Amendment item #15 below.

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		<p>to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for the legal liability to others for related regulatory fines, defenses, and penalties.</p> <p>Such coverage shall include the legal liability to others for data breach response expenses, in an amount not less than five million dollars (\$5,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.</p>	
D.32, paragraph 1		<p>74. Our Commercial General Liability, Workers Compensation/Employers Liability and any applicable Umbrella Liability are our only policies that will apply on a primary basis and noncontributory. We ask that this sentence be amended to just reflect the requirement for the three policies mentioned here:</p> <p>“Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers’ compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention (“SIR”) over fifty thousand dollars (\$50,000) must be approved by the State.”</p> <p>Additionally, we ask to add Cyber Liability to the exception list.</p>	The State will agree to this revision. See Amendment item #15 below.
D.32,		75. Our Commercial General Liability,	The State does not agree to this

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paragraph 1		<p>Workers Compensation/Employers Liability and any applicable Umbrella Liability are our only policies that will allow waiver of subrogation. We ask that this sentence be amended to just reflect the requirement for the three policies mentioned here: “All policies must contain an endorsement for a waiver of subrogation in favor of the State.”</p>	<p>revision but has modified the language. See Amendment item #15 below.</p>
D.32, paragraph 3		<p>76. We require subcontractors to maintain appropriate levels of insurance based on the services that they are providing. We request the following revision to this sentence: “Contractor shall provide the State evidence that all subcontractors maintain the required reasonable and customary types and limits insurance or that subcontractors are included under the Contractor’s policy.”</p>	<p>The State will agree to this revision. See Amendment item #15 below.</p>
D.32, paragraph 3		<p>77. As nearly all of our insurers require us to execute a confidentiality and non-disclosure statement as a precondition to obtaining preferential insurance coverage terms, we are unable to disclose copies of insurance policies outside of our organization. While we will gladly evidence insurance coverage via the industry-standard ACORD® Certificate of Insurance form, we request the following sentence be stricken: “The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.”</p>	<p>The State does not agree to this revision but has modified the language. See Amendment item #15 below.</p>
D.32, paragraph 5		<p>78. We request the following revisions: “The <u>minimum</u> insurance obligations under this Contract shall be <u>maintained as outlined in this Agreement:- (1) —all the insurance coverage and policy limits carried by the Contractor; or (2) —the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater.</u> Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which</p>	<p>The State will agree to this revision. See Amendment item #15 below.</p>

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		<p>are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits."</p>	
E.8.a.4		<p>79. Would the State allow us to hire a third party to perform independent testing, following which we will provide our third-party penetration testing report upon request?</p> <p>We request the following revision: "The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. "Penetration Tests" shall be in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment's features and data. The "Vulnerability Assessment" shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment."</p>	<p>Yes. The State would allow the contractor to hire an independent third party to perform the testing with the provision the results would be provided upon request.</p> <p>The State will not agree to this revision.</p>
E.8.a.4	119	<p>80. Contractor is requesting that the State strike the following language from this provision: "The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment."</p>	<p>See the State's response to questions #79 and 81.</p>
E.8.a.4		<p>81. Requires the PBM to permit the State to perform Penetration Testing and Vulnerability Testing of PBM's systems. Allowing the State to access Bidders' systems which house all of our clients' data would cause Bidder</p>	<p>The State has modified the language. See Amendment item #16 below.</p>

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		<p>to breach agreements with its clients, including the State. Similarly, Bidder believes that the State would not want other clients to be able to access the State's data by running such tests. However, Bidder recognizes the State's concern and is willing to accept a mutually agreed upon third party to perform such penetration tests and vulnerability assessments on our processing environment. Accordingly, will the State revise the last sentence of Section E.8.a(8) to read as follows: "Subject to mutually agreed upon protocols, the Contractor shall allow the State to utilize a mutually agreeable and accredited third party, to perform Penetration Tests and Vulnerability Assessments on the Contractor's Processing Environment once per year."</p>	
E.8.a.5	119	82. Contractor utilizes replicated backups to virtual tape libraries, which are disk based. In our experience, these disk based libraries are not in a format that are useable by state agencies. Would the state allow Contractor confirm that the use of disk based libraries would be agreeable to the State.	Contractor solution must provide the ability to provide a copy of the State's data in a format determined by the State. If the use of disk-based libraries dis-allows the contractor to provide the data as requested, the State cannot agree to their use.
E.8.a.5	119	83. Contractor's corporate policies, in line with contractual and regulatory requirements, dictate that system and database backups are performed daily and weekly. Contractor retains up to five versions of files and 21 versions of databases for operational recovery reasons. The single most recent copy of deleted files is retained for 90 days for non-database data. Daily database backups are incremental and held for 21 days. Weekly database backups are full system backups and are held for four weeks. Please confirm whether this operational standard would be acceptable practice for the State.	The Contractor sets any internal policies and requirements regarding maintaining records as long as the Contractor is able to maintain all State records as stated in the pro forma contract.
E.8.a.5		84. Requires that the State be provided a copy of all Confidential State Data upon request. To allow bidder to assess the potential cost of this provision, would the State consider setting more specific parameters	The State may request cost and utilization data at the group, fund, account level, and drug (NDC, GPI, manufacturer) levels extending back as far as the beginning of this contract

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		around the frequency with which such data can be requested, or detailing specific events that would trigger such requests?	<p>at any time or in case of contract termination. Examples of when the State might request such data includes, but is not limited to, Attorney General Litigation, Legislative requests, and Audits.</p> <p>This requirement also requires the Contractor to maintain a usable copy of all data for disaster recovery purposes.</p>
E.8.a.6	119	85. Please confirm that, should destruction be impossible due to technical difficulties, it is acceptable that data will be maintained using the same controls and protections until data retention policies call for deletion.	The State agrees only if contractor stipulates to the physical destruction of hardware (inclusive of backup) at end of life.
E.8.a.6	119	86. Contractor maintains a comprehensive cyber security program and as such typically is not able to comply with individual client policies that conflict with corporate security policies. Please consider a change to the language wherein Contractor can utilize security policies which comply with widely acceptable and established standards for cyber security.	See the response to Question #87 below.
E.8.b.1		87. Would the State object to us and our subcontractors following our corporate IT Security Policy, as opposed to the State's, provided that it is materially consistent?	Contractors should review the State's EISP and provide redlines. Please see Amendment #17 below.
E.8.c		<p>88. Would the State be willing to review our vendor management program and audit process in exchange of performing audits of our subcontractors? We request the following revisions:</p> <p>Upon reasonable notice and at any reasonable time and limited to once annually, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor.</p> <p>Contractor will maintain and cause its Subcontractors to</p>	The State does not agree to these revisions. However, the State is willing to discuss adjusting the right to audit language for Contractors and Subcontractors where the State will perform limited audit procedures in response to ineffective or incomplete SOC examinations.

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		<p>maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.</p> <p>The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.</p> <p>The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.</p> <p>For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.</p> <p>Each party shall bear its own expenses incurred while conducting the information technology controls audit.</p>	<p>The State has agreed in part by deleting this sentence. See Amendment item #20 below.</p>
E.8.c.		89. Requires that the State, the Comptroller of the Treasury or their duly appointed representatives be	The State does not agree to these revisions. However, the State is willing to discuss adjusting the right to

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		permitted to perform information control technology audits. Will the State agree to accept a SOC2 audit report in lieu of performing its own audit? If the State will not agree to accept a SOC2 audit, will it agree that such audits would not be performed more frequently than once per year to minimize disruption to PBM's day-to-day business operations?	audit language for Contractors and Subcontractors where the State will perform limited audit procedures in response to ineffective or incomplete SOC examinations.
E.8.d.2.	119	90. Please consider modifying the RPO from 1 hour to 24 hours for all systems besides claims processing.	The State agrees in part. See Amendment item #18 below.
E.8.(e)		<p>91. Requires State approval of "SOC audit control objectives." (a) Given that Bidder obtains a SOC 2 report on a book of business basis and has many hundreds of clients, obtaining the State's approval of the SOC audit control objectives will likely be infeasible. Will the State agree to revise this requirement to require that the Contractor provide its SOC audit control objectives to the State for review and those objectives must be commercially reasonable for the size and scope of Contractor's business?</p> <p>(b) Will the State agree to limit the requirement for Subcontractor SOC 2 reports to just those Subcontractors that maintain and store State plan member PHI and PII?</p>	<p>a) The SOC 2 Type 2 reports must include all Trust Services Criteria that are relevant to the scope of the contract. Contractor must provide written justification for why excluded Trust Services Criteria are not relevant.</p> <p>b) All subcontractors that maintain and store any state data relevant to this contract need to have SOC 2 Type 2 examinations. State can agree to discuss specific exceptions.</p>
E.8.e-f		<p>92. Would the State object to our providing our standard SSAE 18 SOC 2 Type II report in lieu of a specific report prepared for the State?</p> <p>e. We request the following revisions: "the Contractor and any Subcontractor used by the Contractor to host State data, including data center vendors, shall be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a System and Organization Controls for service organizations ("SOC") 2 Type II audit. The State shall</p>	<p>The State does not agree to these revisions.</p> <p>The SOC 2 Type 2 reports must include all Trust Services Criteria that are relevant to the scope of the contract. Contractor must provide written justification for why excluded Trust Services Criteria are not relevant.</p>

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		<p>approve the SOC audit control objectives. The Contractor shall provide the State with the Contractor's and Subcontractor data center's annual audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor upon request and in addition to periodic bridge reports as requested by the State, see Contract Attachment C. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor and Subcontractor.</p> <p>f. If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report."</p>	<p>The State does not agree but we have removed this paragraph. See Amendment item #21 below.</p>
E.9.a.4.	130	93. Will the State accept HITRUST certification as a security standard? HITRUST has been acknowledged by the AICPA with the publication of a formal mapping of HITRUST controls against the SOC Trust Principles.	Yes, the State will accept HITRUST Certification.
Contract Attachment B, #4	126	94. Please provide the number of plan designs and any available details that are applicable to this performance guarantee.	<p>The 2021 plan benefits are not yet known and will not be known until spring 2020. However, as a general guide we currently in 2019 offer and in 2020 will offer a total of 5 health plan options:</p> <p>Premier PPO and Standard PPO to State, Local Education, and Local Government employees, as well as the CDHP/HSA to State employees and the Local CDHP to Local Education and Local Government employees as well as the Limited PPO to Local Education and Local</p>

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			<p>Government employees.</p> <p>Flat dollar copays currently apply to generics, preferred brands and non-preferred brands on the PPOs and specialty drugs have a 10% coinsurance with a min/max of \$50/\$150. The CDHPs have coinsurance on all pharmacy benefits. In addition, to incent drug adherence among some utilizing populations, we offer a reduced copayment or coinsurance (bypassing the CDHP deductible) if a 90 day supply is filled through either Mail Order or at a participating Retail-90 pharmacy on the following drug classes: statins, diabetes, depression, CAD, CHD, COPD/Asthma, anti-hypertensives. We will provide you with the GPI codes for the applicable drug classes during plan implementation. For an at-a-glance grid of our benefits, please go to:</p> <p>https://www.tn.gov/partnersforhealth/publications/publications.html</p> <p>and click on Insurance Comparison charts.</p>
Contract Attachment B, #7	126-127	95. Network Access, does the logic for the requested measurement include “where a pharmacy exists”? For example: Member(s) live within one and one-half (1.5) miles of a Retail Pharmacy participating in the Contractor’s network (where a pharmacy exists)	The State will allow for an exception to the access standards when requested in writing with documentation demonstrating the lack of a pharmacy in a geographical area with which to contract.
Contract Attachment B	125-130	96. In some instances, language appears to be unintentionally cut off in the following locations within Contract Attachment B—please provide full language: #4 “Plan Design” – Justification row, #5 “Enrollment File Set-Up” – Justification row, #6 “Key Staff Vacancies” – Justification row, and #16 “Privacy and Security of PHI Impacting 500 or more Members”— Justification row & unlabeled row. Additionally, please note that there is not a #14 listed. Please confirm that there should not be an additional item for Contractor to consider.	The spacing and numbering have been fixed. Please see RFP #31786-00151 Release #2.
Contract	131	97. Please confirm that #11 “Compliance	The State will agree to this revision.

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Attachment C		Report (aka report card)” of Contract Attachment C “Reporting Requirements” applies to Contract Attachment D “Service Level Agreement Scorecard”. We suggest the State add, “and Contract Attachment D” so that the language reads: “Compliance Report (aka report card), submitted no later than sixty (60) days following the end of each calendar quarter showing for the previous quarter the Contractor’s outcome for each of the measurements in the Contract Attachment B and Contract Attachment D of this Contract, as well as any payment amount due for that quarter (if applicable).”	See Amendment item #19 below.
Contract Attachment D	134	98. Please clarify if “uninterrupted telephone coverage 24x7 for claims, systems, customer service, and pharmacy inquiries” speaks to the requirement for “system uptime.”	The State confirms this is correct.

3. **Delete RFP # 31786-00151, in its entirety, and replace it with RFP # 31786-00151, Release # 2, attached to this amendment.** Revisions of the original RFP document are emphasized within the new release. **Any sentence or paragraph containing revised or new text is highlighted.**
4. **Delete Pro Forma contract section A.2.c. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**
 - c. **Average Speed of Answer (“ASA”):** The mean time between (a) the moment at which a caller to the Contractor’s call center first hears an introductory greeting and enters the queue and (b) the time at which a Member services representative at the call center answers the call. For this definition, the term “answer” shall mean begin an uninterrupted dialogue with the caller. If a Member services representative asks the caller to hold during the first sixty (60) seconds of the dialogue, the Contractor shall not consider the call to be answered for purposes of this definition until the Member services representative returns to the caller and begins an uninterrupted dialogue.
5. **Delete Pro Forma contract section A.2.III. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**
 - III. **Rebates** - All revenue received by the Contractor (**including rebate aggregators or any similar contracted entities**) from outside sources related to the Plan’s utilization or enrollment in programs also known as Total Manufacturer Value. Also, the amounts paid to the contractor (i) pursuant to the terms of an agreement with a pharmaceutical manufacturer, (ii) in consideration for the inclusion of such manufacturer’s drug(s) on the Contractor’s Formulary, and (iii) which are directly related and attributable to, and calculated based upon, the specific and identifiable utilization of certain prescription drugs by Members. These would include: access fees, market share fees, Rebates, Specialty Drug Rebates, onsite pharmacy claims, low day supply claims, Generic Drug

claims, Biosimilar Drugs, Formulary access fees, service fees, Rebate Administrative Fees and marketing grants from pharmaceutical manufacturers, wholesalers and data warehouse contractors, Discounts, credits, inflation protection, charge backs, commissions, and any fees received for sales of utilization data to a pharmaceutical manufacturer. Rebates will exclude purchase Discounts (e.g. prompt pay Discounts) from mail and specialty products. Drug manufacturer coupons cannot be considered manufacturer revenue and do not count toward the calculation or reconciliation of Rebates. There are no exclusions from the calculation of minimum rebate guarantees, except 340B claims.

6. Delete Pro Forma contract section A.2.t. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- a. **Dispense as Written-9 (“DAW-9”) – A code used when Substitution Allowed by Prescriber But Plan Requests the Brand – Patient’s Plan Requested Brand Product To Be Dispensed.**

7. Delete Pro Forma contract section A.8.h.(8) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- (8) The Contractor shall notify affected Members by letter within **thirty (30)** days after any Specialty Network Pharmacy drops out or leaves the Specialty Pharmacy Network. Upon notification that any Specialty Pharmacy is leaving the Specialty Pharmacy Network, the Contractor shall determine if any Members have utilized said pharmacy within the previous ninety (90) days and mail these Members a notification letter that the pharmacy is leaving the network on a specific date and also include with the letter a printed list of remaining contracted Specialty Network Pharmacies. The State has the right to review any such letter and make appropriate edits prior to approval and mailing. In addition, the Contractor must notify the State’s Director of Pharmacy Services In Writing within **ten (10)** Business Days any time a Specialty Pharmacy leaves the Specialty Pharmacy Network.

8. Delete Pro Forma contract section A.9.c. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- a. The Contractor shall implement the Formulary within **seven (7)** Business Days after receipt of the State’s approval In Writing. The Contractor shall allow Formulary customizations at the State’s request at no additional cost to the State, including the ability to add over-the-counter (“OTC”) products. The Contractor shall implement customized formularies within an acceptable timeframe proposed by the Contractor and approved by the State In Writing.

9. Delete Pro Forma contract section A.9.e. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- e. The Contractor shall implement changes to the Formulary, Step Therapy, PA, and other clinical edit requirements within **forty-five (45)** Business Days of the State’s approval or request. Additional time, beyond thirty (30) Business Days, may be granted with the State’s prior approval In Writing. Changes shall include modifications to the POS system and all supporting systems and documents. The Contractor shall notify pharmacy providers and affected Members In Writing at least **forty-five (45)** days prior to the implementation, unless the State requests a shorter notification time. The State must provide prior approval In Writing for all pharmacy provider and Member notifications.

10. Delete Pro Forma contract section A.15.b.(5). in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

(5) The Contractor shall apply a MAC List at Mail Order Service pharmacies and at 90-Day-At-Retail network pharmacies for Generic Drug medications. The list will have prices equivalent to or lower than the MAC List prices applied to retail claims and effective MAC Discounts are required to be more aggressive than effective non-MAC AWP Discounts. The Contractor shall use the same MAC List for network pharmacies (retail-30, 90-Day-at-Retail, Specialty and Mail Order Service) and shall, upon the State's request, provide the most current MAC List to the State on a quarterly basis in a spreadsheet format. **The Contractor will employ the most aggressive MAC List needed to meet the generic minimum guarantees** of ninety-five percent (95%) of all Generic Drugs. In addition, the MAC List pricing schedule at Mail Order Service and 90-Day-at-Retail (including Specialty) will include the same or more favorable pricing (lower per unit prices) than at retail-30 for every MAC drug. The Contractor's MAC pricing schedule at Mail Order Service and 90-Day-at-Retail will include a comparable list of low cost Generic Drugs included in retail Generic Drug fixed price programs at competitive pricing. In all cases when a member moves from the Retail Channel to the Mail Channel, the member will NOT be charged more unless there has been a manufacturer price increase or the retail pharmacy's Usual & Customary charge was the member's previous charge.

11. Delete Pro Forma contract section A.16.e. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

e. No rebate guarantee exclusions are permitted, with the exception of paper claims, COB/secondary payer claims, compounds, and 340B claims.

12. Delete Pro Forma contract section A.23.n. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

n. At any time and at the State's request, the Contractor shall notify Members, In Writing, of any benefit, Plan or program changes no less than thirty (30) **days** prior to the implementation of the change.

13. Delete Pro Forma contract section A.24.g. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

g. As directed by the State, the Contractor shall re-issue ID cards to reflect approved Plan design changes, included but not limited to changes in cost sharing, within **thirty (30) calendar days**.

14. Delete Pro Forma Contract section D.30 in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;

- b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes:
 - i. Contract Attachment A Attestation Re Personnel Used in Contract Performance;
 - ii. Contract Attachment B Performance Guarantees and Liquidated Damages;
 - iii. Contract Attachment C Reporting Requirements;
 - iv. Contract Attachment D Service Level Agreement Scorecard; and
 - v. Contract Attachment E HIPAA Business Associate Agreement;
- c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
- d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
- e. any technical specifications provided to proposers during the procurement process to award this Contract;
- f. the Contractor's response seeking this Contract; and
- g. any Contractor rules or policies contained in insurance policy filings by the Contractor with State regulators.

15. Delete Pro Forma Contract section D.32 in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability), cyber liability, and professional liability (errors and omissions) insurance. The Contractor's Commercial General Liability, Workers' Compensation and Employer's Liability and Umbrella Insurance policies shall contain a waiver of subrogation in favor of the State of Tennessee. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with

an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) Business Days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain **reasonable and customary types and limits insurance**. At any time, the State may require Contractor to provide a valid COI. The parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. **In the event of a claim, the Contractor agrees to provide the State with complete, certified copies of any applicable insurance policies, including all endorsements.**

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The **minimum** insurance obligations under this Contract shall be **maintained as outlined in this Contract**. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits..

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal

and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. § 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and

- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase “extended reporting” or “tail coverage” for a minimum of five (5) full years from the date of the final Contract payment.
 - 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
 - 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.
- d. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance
- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor’s profession in an amount not less than five million dollars (\$5,000,000) per occurrence or claim and five million dollars (\$5,000,000) annual aggregate, covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for the legal liability to others related regulatory fines, defenses, and penalties.
 - 2) Such coverage shall include the legal liability to others for data breach response expenses, in an amount not less than five million dollars (\$5,000,000), including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

16. Delete Pro Forma Contract section E.8.a.(4) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. Subject to mutually agreed upon protocols, the Contractor shall allow the State to utilize a mutually agreeable and accredited third party, to perform Penetration Tests and Vulnerability Assessments on the Contractor’s Processing Environment once per year. The results shall be provided to the State upon request.

17. Delete RFP Section C.18.(h) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

- h.** Please review and, if applicable, please provide any proposed redlines to the State's Enterprise Information Security Policies, see Contract section E.8.b(1). The State document must be the baseline, not the respondent's security policy document. Respondents not proposing any changes need to submit a statement stating there are no redlines proposed.

18. Delete pro forma Contract Section E.8.d.(2) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

(2) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:

- a. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: **twenty-four (24) hours**.
- b. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a Disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: **Seventy-two (72) hours**.

19. Delete Pro Forma Contract Attachment C #11 in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

11. Compliance Report (aka report card), submitted no later than sixty (60) days following the end of each calendar quarter showing for the previous quarter the Contractor's outcome for each of the measurements in the Contract Attachment B **and Contract Attachment D** of this Contract, as well as any payment amount due for that quarter (if applicable).

20. Delete pro forma Contract Section E.8.c. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application

controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

21. **Delete RFP section E.8.f in its entirety** (any sentence or paragraph containing revised or new text is highlighted).
22. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.