



THE TEXAS A&M UNIVERSITY SYSTEM

Office of HUB & Procurement Programs

REQUEST FOR PROPOSAL
RFP Number: RFP01 RISK-17-028
Prescription Drug Savings Program

PROPOSAL MUST BE RECEIVED BEFORE:
2:00 p.m. Central Time on July 19, 2017

MAIL, HAND DELIVER, AND/OR
EXPRESS MAIL PROPOSAL TO:

The Texas A&M University System
HUB & Procurement Programs
301 Tarrow 3rd Floor, Suite 366
College Station, TX 77840
Attn: Jeff Zimmermann

Show RFP Number, Opening Date and Time on Return Envelope

NOTE: PROPOSAL must be time stamped at **The Texas A&M University System Office of HUB & Procurement Programs** before the hour and date specified for receipt of proposal.

Pursuant to the Provisions of Texas Government Code Title 10, Chapter 2156.121-2156.127, sealed proposals will be received until the date and time established for receipt. After the due date, only the names of Respondents will be made public.

REFER INQUIRIES TO:
Jeff Zimmermann, Director
The Texas A&M University System
Office of HUB & Procurement Programs
Email: jzimmermann@tamus.edu

All proposals shall become the property of the State of Texas upon receipt. Proposals may be subject to public review after contracts have been executed. Refer to *Section 2.3j* for more information regarding confidential and proprietary information.

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SECTION 1 – INTRODUCTION

1.1 Scope

The Texas A&M University System (A&M System) is interested in receiving proposals from qualified and experienced proposers (RESPONDENTS) that provide Supplemental Prescription Drug Savings Programs (PDSP). The PDSP is intended to decrease the pharmacy spend of the A&M System Health Plan and save the A&M System money while providing quality care to participants via a Health Insurance Portability and Accountability Act (HIPAA) compliant, rules-driven, real-time, non-disruptive program that creates additional savings with minimal impact on the participating population. The program shall be accomplished with no benefit design or formulary changes as well as no additional prior authorization or step therapy components.

The PDSP provider shall:

- a. Reduce the pharmacy drug spend without changing benefits or plan designs.
- b. Perform contracted services/tasks and produce the required PDSP requirements by the due dates.
- c. Provide all hardware and software needed to meet all requirements in this RFP. This includes all necessary supplies, equipment, and staff support required to generate these requirements;
- d. Provide support services for the duration of the contract.

By submitting responses, each RESPONDENT (also referred to herein as “Vendor”) certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the work to be performed, the detailed requirements of the services to be provided, and the conditions under which the services are to be performed. Each RESPONDENT also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the RESPONDENT.

1.2 The Texas A&M University System

The Texas A&M University System is one of the largest systems of higher education in the nation, with a budget of \$4.2 billion. Through a statewide network of 11 universities and seven state agencies, the Texas A&M System educates more than 148,000 students and makes more than 22 million additional educational contacts through service and outreach programs each year. System-wide, research and development expenditures exceeded \$972 million in FY 2016 and helped drive the state’s economy. More information about the Texas A&M University System and all of its members can be found at <http://www.tamus.edu/about/>.

1.3 Benefit Philosophy

The A&M System’s benefit programs are viewed as an important part of the total compensation package. It is expected that the benefits offered will attract new employees, promote the retention of career employees and reward retired employees for their service. Therefore, superior quality and responsiveness to participants’ needs are essential.

The A&M System is committed to providing eligible employees, retired employees and their dependents access to group benefit plans of the highest quality at the lowest possible cost to the A&M System and to its employees. The manner in which the programs are funded demands strict containment of costs in order to maximize benefits for the beneficiaries.

The prescription drug plan is available to all benefit-eligible employees, graduate student employees, retirees, and their dependents at all System Members. Current pharmacy benefit manager is Express Scripts through a self-insured plan. The authority to plan, implement and control the A&M System's benefit programs has been assigned to the Director of Risk Management and Benefits Administration (the Director). The Employee Benefits Manager, reporting to the Director, has the responsibility for the design and development of System-wide health plans, and for the operation and administration of other employee benefit plans.

The System Office of Risk Management and Benefits Administration (SORMBA) staff monitors plan experience, negotiates carrier contracts, and maintains official records, and ensures quality, efficiency, and statutory compliance in the benefit plans. SORMBA also maintains, reports, and analyzes claims and financial data related to the plans. It is the responsibility of each System Member to inform employees and retirees of their insurance eligibility, advise them about options and perform enrollment and counseling functions. These activities are usually performed in the Human Resource and/or Payroll departments of each System Member.

The plan for which proposals are being sought is not an ERISA plan. However, for the most part, we do comply with ERISA.

1.4 Priorities/Expectations

RESPONDENTS should note the following priorities/expectations with regard to the possibility of the A&M System establishing a contractual relationship with any RESPONDENT:

- a. *Ensuring a Quality Level of Service.* This priority encompasses the quality of the level of service that can be provided to all A&M System customers in a timely, cost effective manner. The A&M System is seeking a RESPONDENT that will ensure the provision of such quality in its delivery of service through proven training techniques and established metrics.
- b. *Level of Experience and Expertise.* RESPONDENT must demonstrate its capabilities in providing the utmost level of experience and expertise to ensure a successful solution as determined by the A&M System. RESPONDENT shall provide information describing the RESPONDENT'S managed services and project execution experience, including the experience of the resources, account managers, and other key personnel on similar engagements, including past experience within the A&M System.
- c. *Delivery Efficiency as it Relates to Total Costs.* RESPONDENT must demonstrate its ability to deliver the required solution in a cost-effective and timely manner while not sacrificing the quality required by a Tier I research System.
- d. *Financial Stability.* RESPONDENT must demonstrate its financial stability and capabilities in providing the required solution.

1.5 Period of Performance

Should the A&M System, in its sole discretion, enter into an agreement with the successful RESPONDENT as a result of this RFP, the agreement shall be effective as of the date that is agreed upon by the A&M System and successful RESPONDENT. The A&M System anticipates that the initial term of such Agreement will extend for three (3) years, with the option to renew for up to an additional two (2) one-year terms, providing all parties mutually agree on the extension. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by the A&M System and

negotiated in writing with the successful RESPONDENT. The A&M System reserves the right to amend the terms of the Agreement as necessary to meet state or federal requirements.

SECTION 2 – INSTRUCTIONS TO PROPOSERS

2.1 Schedule of Proposal Process

| | |
|--|------------------------------|
| Issue RFP | June 26, 2017 |
| Deadline to Submit Questions | July 6, 2017 |
| Release of Addendum (if applicable)..... | July 10, 2017 |
| Deadline for Receiving Proposals..... | July 19, 2017 by 2:00 PM CDT |
| Interview Top Proposal Teams (A&M System’s Option) | Week of July 31, 2017 |
| Anticipated Award Date | TBD |

The A&M System will make every effort to adhere to the above schedule. The schedule, however, is subject to change. This may be in the event that further clarification of responses or terms of contract are in the best interest of the A&M System and/or in the event the A&M System requires more time to assure that the selection of the Respondent is in accordance with its policies, rules, and regulations, as well as actual timing needs.

2.2 Qualifications of Proposers

To affirm financial capability, the Proposer must submit all documentation as requested in the Company Profile to be included in *Section d.* of your RFP response (*See Section 2.3d.*).

2.3 Structure of Proposal

The A&M System will not consider a proposal unless one (1) original and two (2) additional hard copies of the proposal are received no later than 2:00 p.m. CDT, July 19, 2017. The package containing the proposal must be clearly marked “RFP01 RISK-17-028 Prescription Drug Savings Program”. In addition, one (1) electronic copy of the complete proposal response shall be provided as specified below. Late responses will not be considered under any circumstances. Late proposals properly identified will be returned to Proposer unopened. Telephone or facsimile proposals or proposals submitted electronically are not acceptable under any circumstances. All proposals must be submitted according to the following guidelines:

- Hard copies of the proposal should be submitted as a booklet or in notebook form with appropriate indices and the name of the proposing organization and “RFP01 RISK-17-028 Prescription Drug Savings Plan” on the front cover.
- The CD/flash drive should be placed in a sealed envelope with the name of the proposing organization and “RFP01 RISK-17-028 Prescription Drug Savings Plan” written across the front. The electronic copy must either be in Microsoft Office software or Adobe Portable Document Format (PDF). All image files must be in one of the following formats: .jpg, .gif, .bmp, or .tif. Individual image files on the electronic media must be clearly named and referenced in your proposal response.
- All proposals must include *Section a.* through *Section l.* as described below. Each of these divisions of the notebook must be separated by index tabs titled to match each of the underlined titles in a. through l. below, i.e. “a. Contact Information”.

- Information or exhibits you wish to provide that are not specifically requested in *Section a.* through *Section k.* below should be included at the end of the proposal behind an index tab entitled “1. Supplemental Information”.

Proposers are instructed to respond using the proposal format included in this RFP in order to expedite analysis and comparison of proposals received. Failure to use the stated format or failure to provide complete responses, may, at the A&M System’s option, disqualify the proposer.

A complete proposal will consist of the following:

- a. Contact Information – Provide a contact name for this RFP response, including title, address, telephone number, facsimile, and email address.
- b. Execution of Offer – The Execution of Offer provided in *Exhibit A* must be signed by Proposer’s company official duly authorized and having the authority to legally bind and commit the proposing organization.
- c. Non-Collusion Affidavit - The Non-Collusion Affidavit provided in *Exhibit B* must be signed and notarized.
- d. Company Profile – Complete the Company Profile, provided in *Exhibit C* by providing your answer after each question.
- e. Organizational Chart – Provide an organizational chart identifying the chain of authority through the company’s CEO for this account. Include names, addresses, titles, email addresses and telephone numbers for each individual.
 - Staffing – Describe the staff involved in the management of this group account. Include names, titles, addresses, email addresses, and brief biographies of the following individuals or their organizational equivalents who will be assigned to the A&M System account(s).
- f. Installation Team Staffing - Describe the installation team and provide the names, titles addresses, email addresses, and brief biographies of any individuals who are not included in *Section e.* above.
- g. References
 - Provide the name, address, email address, and telephone number of the primary contact at two public entities or corporations and two major universities of similar size and with decentralized administration that are current clients of your company.
 - Provide two references, including the name, address, email address, and telephone number for the individual who will have primary responsibility for the A&M System account.
 - Provide the name, address, email address, and telephone number of the primary contact at two large accounts that have cancelled their coverage with your organization within the past year.

The Proposer’s response to this requirement officially authorizes the A&M System to contact these organizations to discuss the services and other considerations which the Proposer has provided to such organizations and authorizes the organizations to provide such information

to the A&M System. Proposer shall and hereby does release and hold harmless the A&M System, the state of Texas, and the organization providing responses to the A&M System's questions of any and all liability whatsoever, in connection with providing and receiving all such information. Any negative responses received from reference checks may be grounds for disqualification of the proposal.

h. HUB Subcontracting Plan

It is the policy of the state of Texas and the A&M System to encourage the use of Historically Underutilized Businesses (HUBs) in our prime contracts, subcontractors, and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in A&M System contracting and purchasing.

Subcontracting opportunities are anticipated for this RFP and therefore a HUB Subcontracting Plan (HSP) is **required**. Failure to submit a comprehensive, acceptable HSP will be considered a material failure to comply with the requirements of the RFP and will result in rejection of the submittal. The HUB Subcontracting Plan shall be submitted **with** the RFP response by the date and time specified.

The HSP form can be found at:

http://assets.system.tamus.edu/files/budgets-acct/pdf/hub_reports/HSP_rev1016.pdf

Complete the HSP and submit it in *Section j.* of your RFP response. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the respondent shall list those vendors as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the vendor will be expected to make a good faith effort according to the HSP instructions.

If the Respondent is completing as **self-performing** a statement which attests that the respondent shall perform the subcontracting opportunities identified by the agency, with its own employees and resources is required. The sections in the HSP form to be completed for self-performing are Sections 1, 2a (check No), 3 with your statement included in the open text field, and 4.

For information regarding the HUB Subcontracting Plan requirements, please contact Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410 or jzimmermann@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP. Respondents have the opportunity to submit a draft of the HSP prior to submittal of their response to the RFP for review by Mr. Zimmermann.

i. Questionnaire – This section should include the completed Questionnaire found in *Exhibit D*.

j. Confidential and Proprietary Information –In order to protect and prevent inadvertent access to confidential information submitted in the response, the Respondent is to provide a schedule of all pages that the Respondent in good faith, and with legally sufficient due diligence, considers to contain any confidential and/or proprietary information.

Information in any tangible form which is submitted by Respondents will be treated as confidential until such time as a contract is executed. After that time, the A&M System is required to provide access to certain records in accordance with the provisions of Chapter 552, Tex. Government Code, now known as the Texas Public Information Act (TPIA),

formerly known as the Open Records Act. By submitting a response, the Respondent acknowledges and agrees that the A&M System shall have no liability to the Respondent or to any other person or entity for disclosing information in accordance with the TPIA. The A&M System shall not have any obligation or duty to advocate the confidentiality of the Respondent's material to the Texas Attorney General or to any other person or entity. The Respondent further understands and agrees that upon the A&M System's receipt of a TPIA request for a copy of the Respondent contract, including the response and any exhibits to the contract and response, the only documents that the A&M System shall treat as the Respondent's confidential and proprietary information shall be the documents the Respondent identifies as required above. It is the Respondent's sole obligation to advocate in good faith the confidential or proprietary nature of any information it provides in its response, and the Respondent understands that the Texas Attorney General may nonetheless determine that all or part of the claimed confidential or proprietary information shall be publicly disclosed.

In addition, the Respondent specifically agrees that the A&M System may release the Respondent's entire response, including alleged confidential or proprietary information, upon request from individual members, agencies or committees of the Texas Legislature where needed for legislative purposes, as provided for in the TPIA or to any other person or entity as otherwise required by law.

- RESPONDENT acknowledges that the A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this RFP, as well as any other disclosure of information required by applicable Texas law.
 - Upon a the A&M System written request, RESPONDENT will provide specified public information exchanged or created under this RFP that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to the A&M System in a non-proprietary format acceptable to the A&M System. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which the A&M System has a right of access.
 - RESPONDENT acknowledges that the A&M System may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
- k. Deviations – Although deviations to the RFP are strongly discouraged, the Proposer shall enumerate and provide a detailed description of any deviations to provisions contained in the RFP.
- l. Supplemental Information – Information or exhibits provided that are not specifically requested in *Sections a. through k.* above should be included at the end of the proposal behind an index tab entitled "l. Supplemental Information".

2.4 General Instructions

1. Each proposal shall be prepared simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of this RFP. Emphasis shall be on completeness, clarity of content and responsiveness to the offer requirements.

2. Proposals are to be valid for a minimum of 180 days from the submittal deadline date to allow time for evaluation, selection, and any unforeseen delays.
3. The Proposer agrees to indemnify and hold the A&M System and the State harmless from claims involving infringement of patents or copyrights as it relates to this RFP response.
4. By submitting a proposal, Proposer agrees that Proposer and Proposer's employees and agents are independent vendors and have no employer-employee relationship with the A&M System. The A&M System shall not be responsible for the Federal Insurance Contribution Act payments, federal or state unemployment taxes, income tax withholding, Workers' Compensation Insurance payments, or any other insurance payments, nor will the A&M System furnish any medical or retirement benefits or any paid vacation or sick leave.
5. Any agreement resulting from this RFP shall be construed and governed by the laws of the State of Texas.
6. Written approval by the A&M System will be required for any news releases or the use of the A&M System's name as a reference regarding a contract awarded to a Proposer.
7. Questions about the A&M System and this RFP should be submitted by email no later than 5:00 p.m. CDT on June 23, 2017 and directed to Jeff Zimmermann at jzimmermann@tamus.edu.
8. Responses to all inquiries which directly affect an interpretation or change to this RFP will be issued in writing by amendment/addendum and posted to the ESBD. The amendment/addendum will include a list of all questions submitted by all firms, with responses, and will be available to all firms. All such amendments/addendums shall be considered part of the RFP, and the Respondent shall be required to consider such in its response. Only those inquiries replied to by formal written amendment/addendum shall be binding. Oral and other interpretations or clarification will be without legal effect. It is the responsibility of the interested vendors to regularly check the ESBD for any possible amendment/addendum to this RFP. (http://esbd.cpa.state.tx.us/sagencybid.cfm?startrow=1&endrow=25&ag_num=710&orderby=Agency)

In the event an amendment/addendum is posted to the ESBD, Respondents are asked to acknowledge receipt of such amendment/addendum in the Addenda Acknowledgment section of the Execution of Offer (*Exhibit A*).
9. No reimbursement will be made by the A&M System of any expenses incurred in the preparation or presentation of proposals.
10. Officers and employees of the A&M System may not have a direct or indirect financial interest in the gains or profits of any contract pursuant to this RFP, and may not receive pay or emolument for any service performed for the contractor(s).
11. The A&M System will not designate an Agent of Record or any other such commissioned representative. All requests for the A&M System to provide such a designation will be rejected. The A&M System will communicate and negotiate only with principals of the Proposer. The A&M System will not pay commissions in the event that the Proposer chooses to name an agent of record and such an agent will not be recognized by the A&M System. In addition, no commission, broker or finders fees may be paid by the A&M System.

12. Any planned or proposed use of subcontractors must be clearly documented in the proposal. The Proposer shall be and remain solely responsible for all contract services. All agreements between the Proposer and its subcontractors shall include a provision agreeing to hold harmless and indemnify the A&M System.
13. The execution of a contract pursuant to this RFP is dependent upon the negotiation of a contract with the selected Proposer and approval by the appropriate officials in accordance with the policies and regulations of the A&M System.
14. The A&M System reserves the right to reject all offers and re-solicit or cancel this bid if it is deemed to be in the best interest of the A&M System.
15. While it is the A&M System's intention to select one Proposer to provide the services requested in this RFP, the A&M System reserves the right to select none, one, or more Proposers.
16. The A&M System reserves the right to alter the specifications of its benefit programs and subsequently negotiate with the selected Proposer as needed to comply with any required changes.
17. The A&M System is not required to select the lowest priced proposal, but will take into consideration other factors such as ability to service contracts, past experience, financial stability, flexibility, and other relevant criteria.
18. In the event the selected organization fails to perform any of its duties or obligations as provided by the contract which will include the RFP and the Proposer's response to the RFP, the A&M System without limiting any other rights or remedies it may have by law, equity or under contract, shall have the right to terminate the contract immediately. The selected organization understands and acknowledges that, notwithstanding any termination of the contract, certain obligations shall survive the termination of the contract.

In addition to and without restricting or waiving any other legal, contractual or equitable remedies otherwise available to the A&M System, the A&M System may terminate the contract without cause by giving the selected organization ninety (90) days written notice.
19. Information provided to the Proposer, including lists of covered employees or other employee data may not be used to solicit any other insurance coverage, annuity product, or any other product, unless specifically approved in advance by the A&M System.
20. The A&M System is exempt from the payment of premium taxes under Chapter 1601, *Texas Insurance Code*. No provision for the payment of premium taxes will be included in the calculation of premium rates.
21. Your proposal may be rejected if:
 - it is not completed in accordance with RFP instructions,
 - it contains significantly inaccurate information, or
 - the A&M System believes that rejection of the proposal is in the best interest of the State and its employees and retirees.

2.5 Contract Documents

It is anticipated that within three weeks from notice of award the A&M System will provide a first draft of the contract documents to the selected RESPONDENT in electronic format for review.

HIPAA Business Associate Agreement – In the interest of safeguarding our employees' and retirees' protected health information, the A&M System will require the execution of a HIPAA Business Associate Agreement documenting the selected Proposer's compliance with both the privacy and security rules as set forth by the Health Insurance Portability and Accountability Act. The draft Business Associate Agreement is attached as *Exhibit E*. **Completion of this document is not required as part of your response to this RFP.** It is just to make you aware of the requirement and the proposed document to be used.

SECTION 3 – FUNDING

3.1 Funding

Any PDSP considered must decrease expense while not decreasing the care or options to the employee group. Savings should be guaranteed at a rate above any applicable fees.

The A&M System's plan year corresponds to the State and A&M System fiscal years which begin on September 1, and end on August 31.

SECTION 4 – GENERAL ADMINISTRATION

4.1 Required Services

RESPONDENTS are advised of the administrative requirements listed in this section of the RFP and will be responsible for these items and services to the A&M System upon the award of any contract.

1. Communication materials necessary for the proper administration of the program subject to editing of format, content and final approval by the A&M System.
2. File transfer and exchange with the A&M System's pharmacy benefit manager.
3. All outreach to physicians and/or employees in regard to the program.

SECTION 5 – EVALUATION OF PROPOSALS

5.1 Evaluation Information

Proposals submitted in response to this RFP shall be evaluated on the basis of the criteria and weightings listed below.

Evaluation Metrics

| Evaluation Criteria | Assigned Weight |
|-------------------------------|------------------------|
| Savings Methodology | 25 |
| Physician/Patient Interaction | 35 |
| Planned Approach | 20 |
| Cost/ Savings Guarantee | 20 |
| Total | 100 |

The A&M System may cancel this RFP or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. The selection of the successful proposal may be made by the A&M System on the basis of the proposals initially submitted, without discussion, clarification, or modification. In the alternative, selection of the successful proposal may be made by the A&M System on the basis of negotiation with any of the Proposers. The A&M System shall not disclose any information derived from the proposals submitted by competing Proposers in conducting such discussions.

All proposals must be complete and convey all the information requested to be considered responsive. If the proposal fails to conform to the essential requirements of the RFP, the A&M System alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable and therefore a candidate for further consideration, or not susceptible to being made acceptable and therefore not considered for award.

EXHIBIT A
EXECUTION OF OFFER

RFP01 RISK-17-028

DATE:

In compliance with this RFP, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services at the prices quoted.

A.1 Respondent Affirmation

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

This execution of offer must be completed, signed, and returned with the respondent's qualifications. Failure to complete, sign and return this execution of offer with the qualifications may result in rejection of the qualifications.

Signing a false statement may void the submitted qualifications or any agreements or other contractual arrangements, which may result from the submission of respondent's qualifications. A false certification shall be deemed a material breach of contract and, at the A&M System's option, may result in termination of any resulting contract or purchase order.

Addenda Acknowledgment

Receipt is hereby acknowledged of the following addenda to this RFP by entering yes or no in space provided and indicating date acquired. Enter "0" if none received.

| | | | |
|-------------|------------|-------------|------------|
| No. 1 _____ | Date _____ | No. 3 _____ | Date _____ |
| No. 2 _____ | Date _____ | No. 4 _____ | Date _____ |

A.2 Signature

By signing below, the Respondent hereby certifies as follows, and acknowledges that such certifications will be included in any resulting contract:

- (i) the Response and all statements and information prepared and submitted in response to this RFP are current, complete, true and correct;
- (ii) it is not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount trip, favor or service to a public servant in connection with the submitted response or any subsequent proposal. Failure to sign below, or signing a false statement, may void the response or any resulting contracts at the A&M System' option, and the RESPONDENT may be removed from all future proposal lists at this state agency;
- (iii) the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the RESPONDENT and to bind the Respondent under any contract which may result from the submission of the Response;
- (iv) no relationship, whether as a relative, business associate, by capital funding agreement or by any other such kinship exists between RESPONDENT and an employee of the A&M System;
- (v) Respondent has not been an employee of the A&M System within the immediate twelve (12) months prior to the RFP response;
- (vi) no compensation has been received for participation in the preparation of this RFP (ref. Section 2155.004 Texas Government Code);
- (vii) all services to be provided in response to this RFP will meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health law (Public Law 91-596) and its regulations in effect as of the date of this solicitation;

- (viii) Respondent complies with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action;
- (ix) to the best of its knowledge, no member of the Board of Regents of The Texas A&M University System, or the Executive Officers of the Texas A&M University System or its member institutions or agencies, has a financial interest, directly or indirectly, in the Project;
- (x) each individual or business entity proposed by RESPONDENT as a member of its team that will engage in the practice of engineering or architecture will be selected based on demonstrated competence and qualifications only;
- (xi) if the RESPONDENT is subject to the Texas franchise tax, it is not currently delinquent in the payment of any franchise tax due under Chapter 171, Texas Tax Code, or is exempt from the payment of such taxes. A false certification may result in the Respondent’s disqualification;
- (xii) under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate; and,
- (xiii) under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

RESPONDENT should give Payee Identification Number (PIN) (Formally Vendor ID), full firm name and address of Vendor (enter in block provided if not shown). Failure to manually sign submittal will disqualify it. The person signing the submittal should show title or authority to bind his/her firm in contract. The Payee Identification Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. Enter this number in the spaces provided on the Execution of Offer.

Federal EIN/TAX ID: _____

Vendor/Company Name: _____

Authorized Signature (INK): _____

Name: _____

Title: _____

Street: _____

City/State/Zip: _____

Telephone No.: _____

Fax No.: _____

E-mail: _____

* By signing this RFP, RESPONDENT certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Resident Bidder as defined in Texas Government Code, § 2252.001(4).

**EXHIBIT B
NON-COLLUSION AFFIDAVIT**

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing Proposal (such persons, firms and corporations hereinafter being referred to as the "RESPONDENT"), being duly sworn, on his or her oath, states that to the best of his or her belief and knowledge no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing Proposal, has directly or indirectly entered into any agreement or arrangement with any other RESPONDENTS, or with any official of the A&M System or any employee thereof, or any person, firm or corporation under contract with the A&M System whereby the RESPONDENT, in order to induce acceptance of the foregoing Proposal by said the A&M System, has paid or is to pay to any other RESPONDENT or to any of the aforementioned persons anything of value whatever, and that the RESPONDENT has not, directly or indirectly entered into any arrangement or agreement with any other RESPONDENT or RESPONDENTS which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing Proposal.

The RESPONDENT hereby certifies that neither it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other RESPONDENT, potential RESPONDENT, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other RESPONDENTS or potential RESPONDENTS, or to obtain through any unlawful act an advantage over other RESPONDENTS or the A&M System.

The prices submitted herein have been arrived at in an entirely independent and lawful manner by the RESPONDENT without consultation with other RESPONDENTS or potential RESPONDENTS or foreknowledge of the prices to be submitted in response to this solicitation by other RESPONDENTS or potential RESPONDENTS on the part of the RESPONDENT, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

CONFLICT OF INTEREST

The undersigned RESPONDENT and each person signing on behalf of the RESPONDENT certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the A&M System, nor any employee, or person, whose salary is payable in whole or in part by the A&M System, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

Signature _____

Company Name _____

Date _____

Subscribed and sworn to before me this

_____ day of _____, 2017.

Notary Public in and for the County of _____, State of

_____. My commission expires: _____

THE EXECUTION OF OFFER AND NON-COLLUSION AFFIDAVIT MUST BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S SUBMISSION. FAILURE TO SIGN AND RETURN THESE DOCUMENTS WILL RESULT IN THE REJECTION OF YOUR SUBMISSION.

EXHIBIT C – COMPANY PROFILE

- a. Please provide the following:
 - Legal Name
 - DBA Name
 - Number of Years in Business
 - Type of Operation (i.e., Individual, Partnership, Corporation)
 - Number of Employees
 - Annual Revenues
- b. Provide a general overview of the company, including where the company is headquartered, if it has a major base of operation in Texas, and if it has operated under other names.
- c. Include a narrative history of the firm and its background in providing employee group benefits. Explain the added value or service that your organization provides that distinguishes it from all others.
- d. Provide a financial rating of your company and any documentation (such as a Dunn and Bradstreet Analysis) which indicates the financial stability of your company.
- e. Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- f. Provide details of all past or pending litigation or claims filed against your company that would negatively impact your company's performance under an agreement with the A&M System.
- g. Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.

EXHIBIT D – QUESTIONNAIRE

Complete the attached questionnaire as instructed and include it in *Section i* of your RFP response.

General Instructions

- A. When responding, please restate the question and provide your answer immediately thereafter.
- B. Do not change the format of the Questionnaire. Do not change the numbering system within the Questionnaire. Do not leave any question blank. Do not change any questions. Do not provide an answer such as “it is in another exhibit” or “can be found under another question.”
- C. Provide all exhibits requested in the Questionnaire at the end of the Questionnaire.
- D. Proposed fees must be guaranteed for the initial three-year term through August 31, 2020.
- E. The A&M System operates on a fiscal year beginning September 1 and ending August 31.

Background Information

1. Where will the account representative be located? Will this individual have responsibility for other clients? If yes, how many?
2. Would your employees use a secure e-mail system to communicate with A&M System benefit staff and, if so, what system do you use? Would you be able to establish a secure TLS channel between the two organizations?
3. Please provide the location of the offices which will be servicing the A&M System account.

Proposal Content

Corporate Background/Introduction

The A&M System wishes to engage an experienced company with a proven supplemental PDSP. The PDSP Proposal should address the following:

1. Provide an overview of your Scope of Services as they relate to your prescription drug saving program.
2. What is your primary business and its function?
3. Explain your role as a Fiduciary to your clients.
4. Explain any relationships you currently have with pharmaceutical manufacturers.
5. Do you currently have an office in the state of Texas? If not, could one be created?
6. Do you currently have any clients in the state of Texas? If so provide a list to include the name of the client and the scope of services provided.
7. Describe how your organization proposes to generate cost savings for the plan participants of the

A&M System.

Clinical / Claims Review

The A&M System wishes to implement a supplemental PDSP with minimal disruption to its participating population. Maintaining quality of care while creating cost savings opportunities is a key factor in the selection process. The PDSP Proposal should address the following:

1. Explain how your cost savings criteria developed.
2. Explain how much of your claims review is cost driven.
3. Is any piece of your cost savings strategy to shift patients to mail order pharmacy? If so, what percentage?
4. Provide a specific example of your company's prescription savings program at the participant level that provides cost savings.
5. Does your organization perform internal analyses of client specific data to develop recommendations for program improvement? Please describe.
6. What factors would you take into consideration when evaluating cost savings opportunities for the A&M System?
7. What is the anticipated average percentage of savings from your prescription drug savings program?
8. Do you sell or distribute any claims data and client information to outside vendors? If so, describe.
9. Describe in detail the electronic claims process utilized in administering the A&M System PDSP.

Program Implementation/Reporting

The A&M System will actively participate in the program's implementation and will monitor program progress on a regular basis. The reporting schedule will be determined by the A&M System and will include:

- i) Monthly invoices
- ii) Quarterly savings reports
- iii) Quarterly activity reports

The PDSP Proposal should address the following concerning these and other reports:

1. Which reports are standard? How often are your reporting periods? Please provide a list of metrics reported.
2. Describe your methods of tracking the dispensing patterns of participants' physicians.

3. Describe methods of calculating and tracking savings for your proposed program?
4. How will you roll out/introduce this program to the A&M System plan participants? Describe the steps and any example communications you would use.
5. What is the estimated lead time required to implement a PDSP?

Physician Interaction

The A&M System recognizes the physician/patient relationship is a key factor in the quality of care of the participating population. Experience working with physicians on the care options of the population is important. The PDSP Proposal should address the following:

1. Please describe how participants' physicians participate in your savings program?
2. What is your history of interaction with physicians in the state of Texas?
3. What information is shared with a participant's physician?

Patient Interaction

The A&M System wishes to implement this program with minimal disruption to plan participants. The PDSP Proposal should address the following:

1. Does your company directly notify patients when a change is made to his or her medication? Please describe this process.
2. How does your pharmacy savings program interact with plan participants and plan participants' pharmacies?
3. When contacting the plan, participant what is communicated regarding this program? Please describe.

Pricing

The PDSP Proposal should address the following regarding pricing:

1. Explain your company's billing procedures and attach a sample invoice.
2. How frequently are clients billed?
3. Do you guarantee your fees? Please explain.
4. Outline your fees for the proposed Prescription Drug Savings Program for the A&M System.

Third Party Fees

It is important to the A&M System that there is transparency with the program; this includes financial arrangements between Proposer and pharmaceutical manufacturers, pharmacies or physicians. The PDSP Proposal should address the following:

1. Do you collect any rebates or year-end settlements from any retail or mail-order pharmacies or drug manufacturers? If so, please explain.
2. Do you have any contracts that include any incentives for retail and/or mail order pharmacies regarding the dispensing of generics or preferred products? If so, please explain.
3. Explain any financial incentives established for providers to comply with your cost management program. Include withholds, bonuses or other arrangements.
4. Do you provide any financial incentives to pharmacists for participation or access to your program? If yes, please describe the nature of the financial arrangement and provide the amount of the compensation.

EXHIBIT E – HIPAA BUSINESS ASSOCIATE AGREEMENT – (DRAFT, DO NOT EXECUTE)

This agreement is between **THE TEXAS A&M UNIVERSITY SYSTEM**, and XXXXX. In consideration of the mutual benefits to be derived by both parties and in accordance with applicable state and federal laws, the parties hereto agree as follows.

- I) Definitions: Terms used, but not otherwise defined, in this Agreement shall have the same meanings as those terms in the Privacy Rule.
- A. Business Associate. “Business Associate” shall mean **XXXXX**.
 - B. Covered Entity. “Covered Entity” shall mean **THE TEXAS A&M UNIVERSITY SYSTEM**.
 - C. Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
 - D. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
 - E. Protected Health Information. “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR §164.501, limited to information created or received by Business Associate from or on behalf of Covered Entity.
 - F. Required by Law. “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR §164.501.
 - G. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- II) Obligations and Activities of Business Associate
- A. Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
 - B. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided by this Agreement.
 - C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
 - D. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
 - E. Business Associate will report to Covered Entity, the discovery of any “Breach” of “Unsecured Protected Health Information” as these terms are defined by HITECH. Business Associate shall cooperate with Covered Entity in investigating the Breach and in meeting the Covered Entity’s obligation under HITECH and any other security breach notification laws. Any such report shall include the identification (if known) of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach as required by law.

- F. Business Associate agrees to provide the services described in subsections a through i below as required by the HITECH Act, DHHS regulation and DHHS guidance.
- a. Investigate any unauthorized access, use, or disclosure of member protected health information (PHI).
 - b. Determine whether there is a significant risk of financial, reputational or other harm to any member as provided for in the HITECH Act.
 - c. Determine whether the incident falls under any of the HITECH Act Security Breach notification exceptions.
 - d. Document and retain each HITECH Security Breach risk assessment and exception analyses, and make this information available to members upon request.
 - e. Provide Covered Entity with written notification that describes the HITECH Security Breach incident in detail including a list of the impacted members and/or a copy of a member notification.
 - f. Notify each member impacted by the HITECH Security Breach by first class mail within the applicable statutory notification period, and provide toll-free numbers to the impacted members in order to handle any member questions regarding the incident. The notification will include the following:
 1. A brief description of the incident, including the date of the Security Breach and the date it was discovered;
 2. A description of the types of PHI involved in the Security Breach (i.e., name, birth date, home address, account number, Social Security Number, etc.)
 3. The steps that individuals might take to protect themselves from potential harm
 4. A brief description of what is being done to mitigate the harm and to avoid further incidents.
 - g. Provide a substitute notice, as described in the HITECH Act, to impacted members if there is insufficient mailing address information
 - h. Maintain a log and submit to DHHS an annual report of Security Breaches that impact fewer than 500 members Notify DHHS immediately, in the event the Security Breach impacts more than 500 individuals.
 - i. Notify media when required under the HITECH ACT and alert Covered Entity if any such notifications are needed.
- G. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- H. Business Associate agrees to provide access, at the request of Covered Entity and in a time and manner to be mutually agreed upon by the parties, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.
- I. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual in the time and manner mutually agreed to by the parties. When Covered Entity grants an individual's request for amendment, Covered Entity shall provide the granted amendment to Business Associate.
- J. Business Associate agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary, in the time and manner mutually agreed to by the parties for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- K. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- L. Business Associate agrees to provide to Covered Entity or an Individual in the time and manner mutually agreed to by the parties information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- M. When Business Associate conducts Standard Transactions on behalf of Covered Entity, Business Associate will comply with the HIPAA requirements for Standard Transactions and Data Code Sets.

III) Permitted Uses and Disclosures by Business Associate

A. General Use and Disclosure Conditions

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in agreements or arrangements between the parties, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity, or Business Associate's independent duties under the Privacy Rule.

B. Specific Use and Disclosure Provisions

- a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR §164.504(e)(2)(i)(B).
- d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

IV) Obligations of Covered Entity

- A. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- C. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the

extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

- D. Covered Entity acknowledges that an Individual may request a restriction on the Use or Disclosure of Protected Health Information in accordance with 45 CFR §164.522 and agrees that if such restriction would affect Business Associate's Use or Disclosure of Protected Health Information, Covered Entity will exercise its discretion and shall deny the Individual's request. Prior to responding to an Individual's request Covered Entity shall ask Business Associate if the proposed restriction will affect its functions, activities, or services under the Agreement.
- E. If Covered Entity or Business Associate receives a request from an Individual for confidential communication of Protected Health Information by alternative means or at alternative locations in accordance with 45 CFR §164.522(b), Covered Entity prior to responding to such a request shall ask Business Associate for information on the feasibility of implementing or accommodating the request and on whether there may be an additional cost. Covered Entity shall promptly notify Business Administrator of its decision on the request for confidential communication of Protected Health Information.
- F. If or when Covered Entity transmits information electronically to Business Associate or Covered Entity's Business Associates, Covered Entity shall comply with HIPAA requirements for Standard Transactions and Data Code sets.

V) Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

VI) Term and Termination

- A. Term. This Agreement shall be effective as of _____, 2017 and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the provisions in this Section.
- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - a. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - b. Immediately terminate this Agreement if Business Associate had breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- C. Effect of Termination
 - a. Except as provided in paragraph b of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health

Information.

- b. If returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible, and Business Associate shall extend the protections of this Agreement to such Protected Health Information, limiting further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII) Miscellaneous

- A. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- B. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- C. Survival. The respective rights and obligations of Business Associate under Section VI.C of this Agreement shall survive the termination of this Agreement.
- D. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- E. Execution and modification. This Agreement is binding only when signed by both parties. Any modifications or amendment must be in writing and signed by both parties.
- F. Assignment. This Agreement, with the rights and privileges it creates, is assignable only with the written consent of both parties.
- G. Force majeure. Each party shall be excused from any breach of this Agreement which is proximately caused by government regulation, war, strike, act of God, or other similar circumstance normally deemed outside the control of well-managed businesses.
- H. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all other written and oral agreements between the parties with respect to such. It is acknowledged that other contracts may be executed. Such other agreements are not intended to change or alter this Agreement unless expressly stated in writing.
- I. Governing Law. This Agreement is construed under the laws of Texas. Venue is in Brazos County, Texas.
- J. Independent Business Associate Status. This Agreement will not be construed as creating an employer/employee relationship between Covered Entity and Business Associate.
- K. Headings. Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- L. Provisions. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- M. Notice. Any notices required by this Agreement shall be delivered to the following addresses:

Covered Entity

Business Associate

Ms. Ellen Gerescher
Employee Benefits Manager
Moore/Connally Building
301 Tarrow, 5th Floor
College Station, TX 77840

Name
Title
Address Line 1
Address Line 2
Address Line 3

VIII) Mandatory Dispute Resolution

- A. To the extent Chapter 2260, Texas Government Code, as it may be amended from time to time (“Chapter 2260”) is applicable to this Agreement, and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Covered Entity and Business Associate in attempts to resolve any claim for breach of contract made by Business Associate:
1. Business Associate’s claim for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Business Associate must submit written notice as required by subchapter B of Chapter 2260, to Covered Entity in accordance with the notice provisions in this Agreement. Business Associate’s notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that Covered Entity allegedly breached, the amount of damages Business Associate seeks, and the method used to calculate the damages. Compliance by Business Associate with subchapter B of Chapter 2260 is a required prerequisite to Business Associate’s filing of a contested case proceeding under subchapter C of Chapter 2260. The Executive Vice Chancellor and Chief Financial Officer, or such other officer of Covered Entity as may be designated from time to time by Covered Entity by written notice thereof to Business Associate in accordance with the notice provisions in this Agreement, shall examine Business Associate’s claim and any counterclaim and negotiate with Business Associate in an effort to resolve such claims.
 2. If the parties are unable to resolve their disputes under subparagraph (1) of this Section, the contested case process provided in subchapter C of Chapter 2260 is Business Associate’s sole and exclusive process for seeking a remedy for any and all of Business Associate’s claims for breach of this Agreement by Covered Entity.
- B. Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. The parties specifically agree (i) neither the execution of this Agreement by Covered Entity nor any other conduct, action or inaction or any representative of Covered Entity relating to this Agreement constitutes or is intended to constitute a waiver of Covered Entity’s or the State of Texas’ sovereign immunity to suit, and (ii) Covered Entity has not waived its right to seek redress in the courts.
- C. The submission, processing and resolution of Business Associate’s claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
- D. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitutes grounds for the suspension of performance by Business Associate in whole or in part. Covered Entity and Business Associate agree that any period set forth in this Agreement for notice and cure of defaults are not waived.
- E. The designated individual responsible on behalf of Covered Entity for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 shall be the Executive Vice Chancellor and Chief Financial Officer.

The Texas A&M University System

Business Associate/Selected Proposer

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

The Texas A&M University System
HIPAA Business Associate Agreement– (DRAFT, DO NOT EXECUTE)

Security Rule

ADDENDUM

In addition to the Privacy Rule that safeguards protected health information (PHI), the Health Insurance Portability and Accountability Act of 1996 also established the Security Rule which focuses specifically on electronic information. The Security Rule, effective April 20, 2005, requires that covered entities and their business associates develop and implement administrative, technical, and physical safeguards to protect participants’ health information when it is maintained or transmitted electronically.

By signing below, the Covered Entity and its Business Associate agree to:

- Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that it creates, receives, maintains or transmits on behalf of the covered entity as required by the Security Rule;
- Ensure that its agents (including subcontractors) who receive Electronic PHI agree to implement reasonable and appropriate safeguards to protect such information; and
- Report any security incident involving our data of which it becomes aware to Ms. Ellen Gerescher, Employee Benefits Manager.

If the Covered Entity determines that the Business Associate has violated a material term of the Agreement, the Covered Entity may terminate the Agreement.

The Texas A&M University System

Selected Proposer

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____