THE TEXAS A&M UNIVERSITY SYSTEM
Office of HUB & Procurement Programs

REQUEST FOR PROPOSAL
RFP NUMBER: RFP01 SBA-21-098
Pharmacy Benefit Management Services

PROPOSAL MUST BE RECEIVED BEFORE:
2:00 P.M. Central Time (CST), March 15, 2021

EMAIL RFP RESPONSES TO:
SOPROCUREMENT@TAMUS.EDU
SUBJECT LINE: RFP01 SBA-21-098
Attn: Jeff Zimmermann

NOTE: PROPOSAL must be received by **The Texas A&M University System Office** of Procurement and Business Services before the date and time specified for receipt of proposal in Section 2.3.

After the due date and time, only the names of Respondents will be made public.

REFER INQUIRIES TO:

Jeff Zimmermann, Director
The Texas A&M University System
Procurement & Business Services
email: soprocurement@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 4.15 for more information regarding public information.

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SECTION 1 – INTRODUCTION

1.1 Introduction

The Texas A&M University System ("A&M System") is soliciting proposals from qualified Pharmacy Benefit Managers (PBM) licensed to operate in the state of Texas to provide pharmacy benefit management services for the prescription drug program provided to employees, graduate student employees, retirees, and their dependents enrolled in the A&M Care plan, a self-insured, Preferred Provider Organization (PPO) employee group health plan, for a three-year period beginning September 1, 2021.

The A&M System also offers an Employer Sponsored Group Waiver Program with a benefit Wrap (EGWP plus Wrap), known as the 65 Plus Medicare Part D plan, for Medicare-eligible retired employees (and their Medicare-eligible dependents) who are enrolled in an A&M System medical plan. Proposers should clearly indicate their capacity to support the 65 Plus Medicare Part D plan, offered for the eligible subset of the population on a calendar-year basis during the contract period, in parallel with the commercial A&M Care Prescription plan offered on a fiscal year basis. Unless directly stated otherwise, all specifications and requirements detailed in this RFP apply to both the A&M Care Prescription plan and 65 Plus Medicare Part D plan equally. Should Proposer identify services and or requirements that must be treated differently between the two (2) plans, Proposer must specify in their proposal response. The A&M System desires proposals that represent the best combination of quality and cost.

Proposals shall be in accordance with the terms, conditions, and requirements set forth in this Request for Proposal (RFP).

1.2 Background

The A&M System is one of the largest systems of higher education in the nation, with a budget of $6.3 billion. Through a statewide network of 11 universities, a comprehensive health science center, eight state agencies, including the Texas Division of Emergency Management, and the RELLIS Campus. The A&M System educates more than 151,000 students and makes more than 22 million additional educational contacts through service and outreach programs each year. System-wide, research and development expenditures exceeded $1 billion in FY 2019 and helped drive the state's economy. More information about the A&M System and all of its members can be found at http://www.tamus.edu/about/.

1.3 Plan Background

The prescription drug plan is a carve-out program, utilizing a broad national network and providing prescription drug benefits only to those enrolled in the self-insured health PPO plan. The A&M System currently contracts with Blue Cross and Blue Shield of Texas for administration of the A&M Care self-insured medical plans and with Express Scripts for administration of the self-insured prescription drug plan.

In addition to the A&M Care self-insured health PPO plan, a fully-insured PPO plan is available as an option to graduate student employees and their dependents. Graduate student employees who choose to enroll in the Graduate Student Health Plan receive prescription drug benefits through the Graduate Student Health Plan and not the A&M Care Plan.

Proposers may link to the System Office of Benefits Administration website at https://www.tamus.edu/business/benefits-administration/health/ to review the details of the

current health and prescription drug plans offered by the A&M System

1.4 Enrollment

The A&M System has a total of approximately 41,600 benefit-eligible employees and retirees. Current enrollment in the self-insured A&M Care PPO plan is 31,665, with approximately 14,360 in the Bryan/College Station area. Of the 31,665 enrolled in the A&M Care plan, approximately 9,344 are retirees. There are 57,549 covered lives, including employees, retirees, survivors, COBRA participants, and dependents in the A&M Care plan.

Along with the RFP, you should have downloaded a file named *A&M Care Plan Demographics* which provides demographic information for all those who are currently enrolled in the A&M Care Health plan. Exhibit E provides further information about the data found on the file.

1.5 Purpose

This RFP provides detailed information about the A&M System and its benefit needs and provides the required format for the vendor's response. Proposals containing deviations are strongly discouraged. If included, deviations must be identified and described in detail in order to be considered. While a proposal with minor deviations from the RFP will not be disqualified, preference may be given to prospective vendors whose proposals contain the fewest and least significant deviations from the requirements presented herein.

The intent of this RFP is to allow all interested / prospective firms ("Respondent") to provide a sufficient amount of data that will enable the A&M System to assess the proposal and qualifications of the Respondent. To this end, each Respondent shall furnish, as a part of the proposal, a complete general description of experience in their respective fields.

By submitting responses, each Respondent certifies that it understands this RFP and has full knowledge of the scope and nature of the opportunity described herein. 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.

Respondent is to independently investigate and verify, at its own discretion, all information acquired from the A&M System or from any other source which is relied on by Respondent in the preparation of its proposal.

1.6 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. Funding is derived from the statutory contribution of the state of Texas, personal payments by participants (payroll deduction or accounts receivable), and plan reserves.

The self-insured A&M Care health plan and the associated prescription drug plan for which a PBM is being solicited are available to all benefit-eligible employees, retirees, and their dependents at all System Members. The authority to plan, implement and control the A&M System's benefit programs has been assigned to the Director of System Benefits Administration. The Associate Directors, reporting to the Director, also have 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 Benefits Administration (SBA) staff monitors plan experience, negotiates carrier contracts, and maintains official records, and ensures quality, efficiency, and statutory compliance in the benefit plans. SBA 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 a non-ERISA plan. However, for the most part, we do comply with ERISA.

One tool to provide the A&M System administration with a continuous evaluation of benefit plans is the System Employee Benefits Advisory Committee (SEBAC). SEBAC consists of representatives from each System Member, retired employee representatives, and ex-officio members. Meetings are held several times per plan year between September and May to update participants on new developments and provide a forum for public comment. The conclusions of the committee are forwarded as recommendations to the Director of Risk Management and Benefits Administration for consideration or action.

1.7 RFP Calendar Of Events

Issue RFP .... February 10, 2021
Deadline to Submit Questions .... February 22, 2021
Release of Addendum (if applicable) .... February 26, 2021
Deadline for Receiving Proposals .... March 15, 2021 by 2:00 PM CST
Finalist notifications .... March 26, 2021
Interview Top Proposal Teams (A&M System's Option) .... March 31, 2021
Anticipated Award Date .... April 7, 2021

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.

1.8 Schedule of Implementation

May 15, 2021	Transitional information finalized
June 2021	Summary Plan Descriptions written and edited by the A&M System and submitted to carriers

June 2, 2021	Enrollment information materials finalized and mailed
July 1 – July 31, 2021	Annual Enrollment period for all A&M System employees and retirees for September 1, 2021 effective date
July 31, 2021	All documents necessary for claim processing and Summary Plan Descriptions available to Benefits Administration staff
August 1, 2021	Administrative agreement, business associate agreement, HIPAA agreement and any other required legal documentation completed and signed by both parties
August 15, 2021	Initial Annual Enrollment file provided to PBM
August 25, 2021	New member ID cards and informational packets mailed by PBM
September 1, 2021	Effective date of plans

1.9 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* High *Quality of Service*. This priority encompasses the quality of service that can be provided to the A&M System 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 techniques and established metrics.

(b) *Past Experience and Expertise*. Respondent must demonstrate its capabilities in providing the utmost level of experience and expertise to ensure a successful project as determined by the A&M System.

(c) *Delivery Efficiency and Total Costs*. Respondent must demonstrate its ability to deliver the required services in a cost-effective and timely manner while not sacrificing the quality required by the A&M System.

(d) *Financial Stability*. Respondent must demonstrate its financial stability and capabilities in providing the required services.

1.10 Period of Performance

An initial three-year period of performance under a contract pursuant to this RFP will commence on September 1, 2021. Rates must be guaranteed for the three-year period through August 31, 2024. Assuming satisfactory performance and terms and fees are mutually agreed upon in writing prior to the expiration of the agreement, an affirmative renewal for up to three years may be allowed. In the event of successive affirmative renewal(s), the maximum period of performance pursuant to this RFP ends August 31, 2027. Any renewal must be agreed to in writing by both parties.

SECTION 2 - INSTRUCTION FOR RESPONDENTS

2.1 General Information

This RFP outlines the services and proposal requirements in Section 3. Proposals are to be in accordance with the outline and specifications contained herein, are to remain in effect a minimum of 180 days from the date of submission, and may be subject to further extensions as negotiated. A statement to this effect should be contained in the Respondent's cover letter.

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

This RFP contains specific requests for information. Respondents are encouraged to examine all sections of this RFP carefully, in that the degree of interrelationship between sections is critical. In responding to this RFP, Respondents are encouraged to provide any additional information they believe relevant.

Clause headings appearing in this RFP have been inserted for convenience and ready reference. They do not purport to define, limit or extend the scope or intent of the respective clauses. Whenever the terms "must", "shall", "will", "is required", or "are required" are used in the RFP, the subject being referred to is to be a required feature of this RFP and critical to the resulting submittal.

In those cases where mandatory requirements are stated, material failure to meet those requirements could result in disqualification of the Respondent's response. Any deviation or exception from RFP specifications must be clearly identified by the Respondent in its submittal.

Expenses for developing and presenting proposals shall be the entire responsibility of the Respondent and shall not be chargeable to the A&M System. All supporting documentation submitted with this submittal will become the property of the A&M System.

By submitting a proposal, Respondent agrees that Respondent and Respondent'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.

The A&M System reserves the right to alter the specifications of its benefit programs and subsequently negotiate with the selected Respondent as needed to comply with any required changes.

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 Respondent'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.

In the event of a change in condition which may affect the group health plan administrative services for which proposals are solicited, the A&M System will expect a good-faith effort from any Respondent selected, to absorb additional liabilities during the term of the contract without requiring rate increases until the next following renewal date. Such changes in condition include, but are not limited to, the following:

- Rules of the Texas Department of Insurance.
- Opinions of the Attorney General of the state of Texas.
- Federal and State statutes, court decisions and regulations from agencies and departments that may affect employment and benefit programs.

2.2 Examination of the Request for Proposal

Before submitting, each Respondent will be held to have examined the A&M System requirements outlined in this RFP, and satisfied itself as to the existing conditions under which it will be obligated to perform in accordance with specifications of this RFP.

No claim for additional compensation will be allowed due to unfamiliarity with the specifications and/or existing conditions. It shall be understood that the Respondent has full knowledge of all the existing and/or revised conditions and accepts them "as is."

2.3 Proposal Submission Instructions

Submission Requirements

All proposals must be received by the A&M System, no later than **2:00:00 p.m. CST, March 15, 2021** electronically via email to soprocurement@tamus.edu with the subject line of "**RFP01 SBA-21-098 – PBM Services**". The sent time indicated within the A&M System email server shall be used for the receipt and acceptance of the response. **Late proposals will not be considered under any circumstances.**

Alternate Delivery Method

Due to the size of some data files required for submission, Respondents may submit the entire proposal or a portion of the files on a CD or portable flash drive in lieu of the email submission. If submitting a CD/portable flash drive it must be delivered to the address listed below.

Delivery Address:
The Texas A&M University System
Attn: Jeff Zimmermann
301 Tarrow St., Suite 273
College Station, TX 77840

All components as listed below whether submitted through email, delivered to the above address, or a combination of the two delivery methods **must be received by March 15, 2021 by 2:00:00 p.m. CST**. **Late submission of any required component will be grounds for disqualification.**

Proposal Components

The following components are to be returned as part of your proposal response. **Failure to**

include these documents will be basis for response disqualification.

I. **Proposal** (Section 3.16)

II. **Forms**

- ✓ Signed Execution of Offer (Exhibit A)
- ✓ Non-Collusion Affidavit (Exhibit B) signed and notarized
- ✓ HUB Subcontracting Plan (Section 3.17)

Submittal Format

The submittal shall be saved as two separate files in Adobe Portable Document Format (PDF) unless specified otherwise for items within Section 3.16. The first file shall contain the Proposal (Section 3.16) and named "***company name*** **– Proposal SBA-21-098**". The second file shall contain the Execution of Offer, Non-Collusion Affidavit, and the HUB Subcontracting Plan and named "***company name*** **– Forms SBA-21-098**". All files provided in response to Section 3.16 should be provided in the specified format (excel, text file, etc.). Deviations from the specified formats in this section are not permitted.

- The Proposal must include all items listed within Section 3.16 (*a.* through *m.*) and labeled as such with a divider page to include the underlined titles in *a*. through *m*., i.e. "a. Contact Information".
- Information or exhibits you wish to provide that are not specifically requested in *Items a.* through *Section m.* should be included at the end of the proposal behind a divider page entitled "n. Supplemental Information".

Respondents 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 Respondent.

Note**:** Additional information regarding the Execution of Offer and Non-Collusion Affidavit.

Execution of Offer: The signature in the Execution of Offer within the electronic copy shall serve as the official signature of record. Signature can be done electronically with DocuSign, Adobe or another similar tool.

Non-Collusion Affidavit: The Respondent signature on this document may be done electronically with DocuSign, Adobe or another similar tool. While the document must also me notarized, this may be done at a later date due to the COVID-19 pandemic. An agreement may not be executed with the awarded Respondent until this document is fully signed and notarized.

2.4 Inquiries and Interpretations

All questions concerning this RFP are to be directed in writing to Jeff Zimmermann, Director of Procurement and Business Services at soprocurement@tamus.edu. Respondent may not contact other individuals at the A&M System to discuss any aspect of this RFP, unless expressly authorized by the A&M System Procurement & HUB Program office to do so. Questions regarding the RFP, including questions for more data or information beyond that included in this RFP and any referenced documents or addendums, shall also be presented in writing as stated above. **Deadline for submission of questions is February 22, 2021.** The A&M System will publish all questions with responses according to the schedule in Section 1.7.

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum/amendment and posted to the Electronic State Business Daily (ESBD) at the following site.

http://www.txsmartbuy.com/sp (Input Agency Number "710" and select "Posted" for the Status)

All such addenda/amendments issued by the A&M System prior to the time that proposals are received shall be considered part of the RFP, and the Respondent shall consider and acknowledge receipt of such in their proposal. 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.

In the event an amendment/addendum is posted to the ESBD, Respondents are requested to acknowledge receipt of such amendment/addendum in the Addenda Acknowledgment section of the Execution of Offer (*Exhibit A).*

2.5 Selection Process

Proposals submitted in response to this RFP shall be evaluated on the basis of the criteria listed below with the selection being the proposal that the A&M System deems to represent the **best value** to the A&M System. The list of criteria is not exhaustive and is not listed in order of importance. While the criteria shall provide the basis for an objective evaluation of each proposal, the experience and judgment of the SBA staff and the evaluation committee shall also be important in the selection process.

- Compliance with the requirements listed in the RFP
- Retail pharmacy network
- Required data files, including PBM Price Proposal Worksheet
- Financial Strength and Stability
- Administrative Capability/network Management
- Past experience
- Customer/Member services
- Costs
- Organizational flexibility
- References
- Finalist presentations
- Site visits

The A&M System is not required to select the lowest priced proposal, but will take into consideration other factors such as those enumerated above.

The RFP provides the information necessary to prepare and submit proposals for consideration by the A&M System. All properly submitted proposals will be reviewed, evaluated, scored and/or ranked by the A&M System. The A&M System may compile a final ranking of the Respondents in the order that they provide the overall "best value" to the A&M System based on an evaluation of the responses to the RFP. The A&M System may interview one or more of the top ranked Respondents as part of the evaluation process.

After proposal tabulation and such investigation of Respondents as the A&M System deems

appropriate, an award may be made to the Respondent whose proposal it judges to represent the best value to the A&M System. Final determination for award of the contract will be made on the overall best value to the A&M System. The A&M System reserves the right to reject any or all proposals.

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 Respondents. The A&M System shall not disclose any information derived from the proposals submitted by competing Respondents in conducting such discussions.

All proposals must be complete and convey all of the information requested to be considered responsive. If a 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 and therefore not considered for award.

A&M System may perform reference checks and seek further information, as needed from all Respondents whose proposals A&M System, at its discretion, considers viable, based on the initial evaluation and scoring. The Respondent’s response to this requirement officially authorizes A&M System to contact these organizations to discuss the services and other considerations which the Respondent has provided to such organizations and authorizes the organizations to provide such information to A&M System and Respondent shall and hereby does release and hold harmless A&M System, the state of Texas, and the organization 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.

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 Respondents. The A&M System shall not disclose any information derived from the proposals submitted by competing Respondents in conducting such discussions.

By submitting its proposal in response to this RFP, Respondent accepts the evaluation process and acknowledges and accepts that determination of the “best value” firm will require subjective judgments by the A&M System.

SECTION 3 – REQUIREMENTS & PROPOSAL

3.1 Required Services

Notwithstanding other sections of this RFP which describe administrative interactions, Respondents are advised of the administrative requirements listed in this section of the RFP. The selected Respondent will become responsible for these items and services to the A&M System upon the award of any contract. **Any cost associated with these items and services must be included in your proposal.**

a. Benefit contracts, affirmed by the A&M System as to form and content and approved by the Texas Board of Insurance in accordance with state and federal statutes, and technical and legal assistance in the administration thereof.

b. Administrative agreements, in addition to any benefit contracts, which formalize the A&M System's relationship with any carrier.

c. Communication materials necessary for the proper administration of the plans (including but not limited to claim forms and Explanation of Benefits forms) subject to editing of format, content and final approval by the A&M System.

d. Claim management and processing.

e. Monthly, quarterly, and annual management reports, including but not limited to, enrollment, claims, utilization, member satisfaction, and case management information as agreed to by the A&M System and the Respondent.

f. Ad hoc claim/utilization reports or analyses as requested by the A&M System and which do not represent extraordinary data processing effort by the claim administrator.

g. Process eligibility information on a weekly basis via secure FTP.

h. Preparation and submission of monthly payment request reports, detail claim files as back up, rebate reporting, and Employee Group Waiver Program (EGWP) subsidy reporting.

3.2 Current Funding

The A&M Care health plan and the associated carve-out prescription drug plan PBM services for which proposals are being requested are self-funded plans. The A&M System intends to maintain these coverages consistent with the current funding structure. The contract to be executed in accordance with this document shall involve no insurance or reinsurance.

The contract must be for administrative services, pharmacy network management and credentialing, establishment and maintenance of the formulary used in connection with the prescription drug benefit, formulary rebate administration, drug utilization review, and disease management services. The cost to meet the requirements described in this article shall be recovered by the Proposer only by making provision for such expense in the Proposer's PBM Price Proposal Worksheet included in *Section k*. of your response to this RFP.

Funding is derived from the statutory contribution from the state of Texas and personal payments by participants (payroll deduction or accounts receivable). The A&M System's plan year

corresponds to the State and A&M System fiscal year which begins on September 1, and ends on August 31.

3.3 Financial Strength

The Proposer must have a net worth of at least $500 million, as demonstrated by an audited financial statement as of the close of the Proposer's most recent fiscal year. 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.

3.4 Payment Methodology for Administrative Fees and Claims

For each month, the A&M System shall pay the Proposer per employee (employee/retiree) per month administrative fees which may become due under the Contract.

The Proposer shall process and pay all eligible claims submitted under the prescription drug plan. The Proposer shall be reimbursed only for actual payments to pharmacies. It is not acceptable for the Proposer to seek reimbursement from the A&M System in an amount that is different than the amount Proposer paid to the pharmacy. The Proposer shall be reimbursed only for paid claims, and shall not be reimbursed for claims that have been processed but not yet paid to pharmacies.

3.5 Rebates

The Proposer shall agree to administer rebates under a transparent arrangement such that the Proposer commits to pass through to the A&M System any and all federal funding, pharmaceutical manufacturer rebates and any other type of revenue generated from the prescription drug utilization of A&M Care participants.

3.6 Annual Experience Accounting

Within 90 days after the end of each Contract Year, the Proposer shall provide the A&M System with a complete accounting of the prescription drug plan financial experience under the Contract. The accounting must include detail regarding monthly enrollment, paid claims, administrative fees, rebates or other pharmaceutical manufacturer's revenue returned to the A&M System, contractual guarantees, federal subsidies and performance guarantees.

In addition, the Proposer shall provide the A&M System with any other experience data and accounting information that the System may reasonably require.

3.7 Average Wholesale Price

The current source for the Average Wholesale Price (AWP) used is Medi-Span. To be eligible for selection, a proposer must agree to use this source for calculating the AWP.

3.8 Run Off

Following termination of the Contract, the Proposer must continue to be responsible for processing and paying claims which were incurred during the term of the Contract. The cost of such run-off administration should be accounted for in the proposed administrative fee. The A&M System will not incur additional administrative fees during the run-off period. The currently contracted PBM is responsible for processing and payment of all claims incurred prior to September 1, 2021.

3.9 Detail Claims Dataset

The A&M System requires that the Proposer agree to provide detailed claims datasets as support for the monthly claims payments for analysis by the A&M System's consulting actuary. The A&M System also requires direct online access to claims information at all times at no additional charge.

At a minimum, the A&M System requires that a detailed claims dataset must be transmitted by the PBM to the A&M System monthly, no later than 15 days after the close of the month. In addition, the selected PBM will be required to send this same monthly claims dataset to the medical TPA, currently BlueCross BlueShield of Texas to assist with medical management programs.

The claims dataset must be provided in a HIPAA-compliant, NCPDP-standard format and should include all PDP claims (retail, mail, and direct claims submitted by participants) that were processed and paid during the previous month. A list of the minimum required data fields has been included below. The detailed claims dataset must be PGP encrypted and sent by SFTP via the Internet to the A&M System and the consulting actuary.

- Unique Claim ID
- Service Date;
- National Drug Code;
- Therapeutic Class Code (ex. GCN#);
- Drug Name;
- Drug Type Indicator (single source, multi-source, generic);
- Quantity;
- Days Supply;
- Maintenance Drug Indicator;
- Formulary Drug Indicator;
- Compound Code Indicator;
- Specialty Indicator;
- Adjustment Code (original claim, adjustment, etc.);
- Dispense as Written Code;
- Subscriber Social Security Number;
- Patient Social Security Number;
- Patient Date of Birth;
- Patient Relationship Code;
- Pharmacy Number (NABP);
- Pharmacy Dispense Type (mail, retail, specialty);
- Pharmacy Name;
- Date Pharmacy Paid;
- Adjudication Date;
- Average Wholesale Price (AWP);
- Wholesale Acquisition Cost (WAC);
- Ingredient Cost;
- Dispensing Fee;
- Member Pay the Difference Amount;
- Deductible Amount;
- Participant Copayment;
- Plan Payment;

- Pharmacy's Usual and Customary Charge;
- Coordination of Benefit Indicator
- Pricing Formula used to Determine Ingredient Cost (AWP formula, MAC, usual and customary charge, etc.);

3.10 Contract Documents

By May 1, 2021, the awarded Respondent will provide a first draft of the Administrative Services Agreement, HIPAA Business Associate Agreement, and any other required legal documentation to System Benefits Administration in electronic format (preferably MS WORD) for review and edits. **Completion of these documents is not required as part of the RFP response.** Final documents must be completed and signed no later than August 1, 2021.

Administrative Services Agreement - In addition to standard terms and conditions, the Administrative Services Agreement between the A&M System and the awarded Respondent must include the following items:

- Mandatory Dispute Resolution – This exact language.

  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 the A&M System and CONTRACTOR in attempts to resolve any claim for breach of contract made by CONTRACTOR:

  A CONTRACTOR'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, CONTRACTOR must submit written notice as required by subchapter B of Chapter 2260, in accordance with the notice provisions in this Agreement. CONTRACTOR'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 the A&M System allegedly breached, the amount of damages CONTRACTOR seeks, and the method used to calculate the damages. Compliance by CONTRACTOR with subchapter B of Chapter 2260 is a required prerequisite to CONTRACTOR'S filing of a contested case proceeding under subchapter C of Chapter 2260. The Deputy Chancellor and Chief Financial Officer, or such other officer of the A&M System as may be designated from time to time by the A&M System by written notice thereof to CONTRACTOR in accordance with the notice provisions in this Agreement, shall examine CONTRACTOR'S claim and any counterclaim and negotiate with CONTRACTOR in an effort to resolve such claims.

  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 CONTRACTOR's sole and exclusive process for seeking a remedy for any and all of CONTRACTOR's claims for breach of this Agreement by the A&M System.

  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 the A&M System nor any other conduct, action or inaction or any representative of the A&M System relating to this Agreement constitutes or is intended to constitute a waiver of the A&M System's or the State of Texas' sovereign immunity to suit, and (ii) the A&M System has not waived its right to seek redress in the courts.

The submission, processing and resolution of CONTRACTOR'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.

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 CONTRACTOR in whole or in part. The A&M System and CONTRACTOR agree that any period set forth in this Agreement for notice and cure of defaults are not waived.

The designated individual responsible on behalf of the A&M System for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 shall be the Deputy Chancellor and Chief Financial Officer.

- General Release and Indemnification – Language should be included that Respondent will defend, release, hold harmless, and unconditionally indemnify the A&M System, each and all of its System Members, its officers and employees, and the State of Texas from:
    - Any liability that might result from discriminatory organizational practices; and
    - Any liability that arises from the acts or omissions of any officer, employee, agent, or representative of the contractor or individual or organization under contract to the contractor for specific services related to the administration of the A&M System's benefit plans.

- HIPAA Business Associate Agreement – The A&M System will require the execution of a HIPAA Business Associate Agreement documenting the awarded Respondent's compliance with both the privacy and security rules as set forth by the Health Insurance Portability and Accountability Act. The HIPAA Business Associate Agreement is attached as Exhibit F for your review. **It is not necessary to sign the HIPAA Business Associate Agreement and include it in your response.**

- Ability to Audit – Language should be included that will allow for audits to be performed by either the State Auditor's Office, A&M System internal audit staff or a third party auditor contracted with the A&M System.

3.11 Eligibility

Newly-eligible A&M System employees have a 45-day initial enrollment eligibility period. Depending upon the submission date, coverage may begin as early as the date of hire, or as late as the first of the month following the 60th day after the hire date.

The A&M System will, in all cases, determine eligibility for coverage and effective dates of coverage in accordance with its rules and procedures. If these rules and procedures differ from those normally utilized by the Respondent, it is understood that the A&M System's determination

will prevail. In addition, the A&M System will maintain employee/retiree eligibility records.

The eligibility conditions listed below currently apply for all benefit plans offered by the A&M System. An employee and his/her dependents are eligible for benefits if he/she meets one of the following criteria:

a. eligible to participate in the Teacher Retirement System of Texas (TRS) or Optional Retirement Program (ORP), and the employee works at least 50% time for at least 4 ½ months or for a semester of more than 4 months
b. a graduate student employee who works at least 50% time for at least 4 ½ months or for a semester of more than 4 months
c. a retired employee who has met the eligibility requirements for retirement under TRS, whether or not he/she was a member of TRS

Dependents eligible for coverage include:

a. the employee's spouse
b. the employee's children younger than age 26, regardless of where they live or whether they are enrolled in school; or disabled dependent children over the age of 26
c. grandchildren residing with the employee

Other categories of individuals eligible for coverage include COBRA participants, survivors, and postdoctoral fellows as described in Section 1601 of the Texas Insurance Code.

3.12 Communications and Enrollment

The A&M System will conduct an annual enrollment period for its eligible employees during the month of July, for the plan year beginning the following September 1. Between twenty and twenty-five voluntary annual enrollment meetings are held across the state and the selected Respondent will be required to have personnel available to make presentations at some meetings. Benefits Administration will produce a booklet summarizing the benefit plans, and employees will make benefit selections using the A&M System's enrollment process. Over 70% of annual enrollment benefit selections are done online by employees and retirees. During this enrollment period, the successful bidder for the Self-Insured Employee Group Prescription Drug Plan may wish to send promotional material, **approved in advance** by Benefits Administration staff, to employees via U.S. Mail. The **approved in advance** requirement includes general material as well as any solicitation material developed specifically for A&M System employees.

The A&M System requires the PBM to distribute identification cards and additional new member information to employees' and retirees' homes. Costs associated with this process must be included in your proposal. All employee communication materials must be reviewed by SBA prior to release.

On a weekly basis throughout the year, the A&M System will report new employees who have enrolled in the plan. Identification cards and new member information should be mailed to home addresses as soon as enrollment information is received.

The A&M System will make personnel available during normal business hours to respond to inquiries regarding the status or eligibility of a participant.

3.13 Qualifications of Respondents

All entities must be able to demonstrate sufficient financial stature and operational capacity to accommodate the needs of the A&M System. To affirm financial capability, the Respondent must submit all documentation as requested in the Company Profile to be included in the RFP response (*see Section 3.16d)*.

All entities responding to this RFP must certify (*see Section 3.16i*.) that they are licensed to do business in the state of Texas and permitted to contract with the State or any of its subdivisions. The organization must also certify in *Section 3.16i.* that it is in good standing with the Texas Department of Insurance (TDI) and disclose any actions that are pending or in process with TDI.

3.14 Plan Design

Below is a summary of plan design for the prescription drug benefit program currently offered through the A&M Care Plan. No deviations from these required benefits shall be allowed as part of a response to this RFP. While no significant changes in the existing A&M Care benefit design are currently planned for the 2021-2022 plan year, the A&M System may elect to make changes to the benefit design based on plan experience or other factors during the contract period. The Proposer should be prepared to make adjustments as needed.

A summary of prescription drug coverage and exclusions can be found in the A&M Care Plan SPD at https://assets.system.tamus.edu/files/benefits/pdf/ae/Fy21/SPD/SPDAMCare.pdf .

- Annual Deductible
  Member: $ 50
  Family Maximum: $150

- Retail Network Pharmacy
  Copayments: $10 generic / $35 brand formulary / $60 brand non-formulary
  (Up to a 30-day supply)

- 90-day at Retail Select Network Pharmacy
  Copayments: $30 generic / $105 brand formulary / $180 brand non-formulary
  (Up to a 90-day supply)

- Mail-service Program – Commercial (A&M Care Plan)
  Copayments: $20 generic / $70 brand formulary / $120 brand non-formulary
  (Up to a 90-day supply)

- Retail Network Pharmacies & Mail-service Program

  Mandatory Generic Substitution – If a brand name prescription drug is dispensed when a generic drug is available, the participant must pay the difference in cost between the brand name and the generic drug, in addition to the brand name formulary or non-formulary copayment.

  Appeals – A physician can request a medical override for an individual to receive a brand drug rather than a generic drug and not pay the cost difference. The physician must call

the PBM and provide information documenting why the patient cannot tolerate the generic drug. The volume of these requests is small.

A physician can request a medical override for an individual to receive a non-formulary drug for a formulary copayment. The physician must call the PBM and provide information documenting that the patient cannot tolerate a formulary medication for the condition. The volume of these requests is very small.

Prior authorization and step therapy protocols are currently in place for a number of drugs. Additional protocols are currently under review for implementation later in the plan year. You can view the current coverage management programs in place at: http://www.tamus.edu/assets/files/benefits/pdf/ae/2014/aepages/priorreqauthdrugs2014.pdf.

MAC pricing – MAC pricing is utilized for generic drugs.

- Retail Non-Participating Pharmacies

  Full retail price is paid by the employee at the time of purchase. The employee must file a claim and will be reimbursed 75% of the reasonable and customary charges and will still be responsible for the deductible and/or copayments as listed above.

- Retail Network Pharmacies

  To be considered for selection, a proposer must be prepared to maintain throughout the entire contract period a retail network that meets or exceeds the current retail network through which A&M Care members currently receive prescription drug benefits. A list of the current retail pharmacies in Texas utilized by A&M Care members has been provided with the supplemental data files to be downloaded along with the RFP as described in *Section 3.15*. Proposers must be able to provide network services that are at least as comprehensive as the pharmacies currently utilized. Proposers must submit retail pharmacy network discounts determined in accordance with this network of retail pharmacies as instructed in *Section 3.16.k.* of the RFP.

- Retail Network Reimbursement

  Network pharmacies shall be reimbursed based on an amount determined as the lesser of (i) the pharmacy's usual and customary price, as submitted (U&C), (ii) the maximum allowable cost (MAC), where applicable, plus dispensing fee contracted with the pharmacy, or (iii) the sum of the ingredient cost plus dispensing fee. The payment to the pharmacy is equal to the amount determined above less applicable participant out-of-pocket costs, up to and including 1) the amount of deductible owed and 2) the applicable retail copayment. There may be a minimum charge at retail of the lower of (a) the U&C or (b) the applicable Copayment. For prescriptions where this minimum charge applies, there will be no charge to the A&M System.

- Mail Service and PBM Operated Specialty Pharmacy Reimbursement

The A&M System reimburses the vendor for covered drugs dispensed by mail service and PBM Operated Specialty Pharmacy based on an amount equal to i) ingredient cost, less ii) applicable deductible and the mail service and PBM Operated Specialty Pharmacy copayment. The Proposer must submit its proposed mail service and PBM Operated Specialty Pharmacy reimbursement levels in the *PBM Price Proposal Worksheet* as instructed in *Section 3.16.k* of this RFP.

- Formulary

The current prescription drug benefit has a three-tiered formulary with copayment levels varying by tier. To be eligible for selection, the proposing PBM must have a viable formulary covering each of the categories of drugs that are covered under the current formulary. A list of current formulary NDC utilized by A&M Care members has been provided with the supplemental data files to be downloaded along with the RFP as described in *Section 3.15*.. If you failed to download this file, you can do so by returning to the ESBD. As noted in *Section 3.16.k.* proposals must include the specific formulary to be offered to A&M Care participants. During the term of the contract the PBM must not make changes to nor implement a new formulary without prior notification to and approval by the A&M System.

The A&M System also provides a Medicare Part D Employer Group Waiver Plan (EGWP) through the 65 Plus plan for Medicare primary retirees and Medicare primary covered dependents. This plan does not have a deductible for the members and has a separate out of pocket maximum from medical. The prescription out of pocket maximum is $400 while the medical is $1,000. The EGWP plan has a plan year that follows the calendar year January 1 – December 31 as required by CMS. The proposer must be able to support the 65 Plus Medicare Part D EGWP plan along with the A&M Care plan.

3.15 Historical Experience

You should have downloaded a supplemental file listed in Exhibit E named *Historical Data*. If you failed to download this file, you can do so by returning to the ESBD. The file contains several worksheets which provide various summary statistics regarding prescription drug utilization and cost data for the A&M Care Prescription plan (Commercial) and 65 Plus Medicare Part D Plan (EGWP). The worksheets include the following exhibits described below. Each exhibit is separated into two worksheets to present the experience for the Commercial and EGWP plans.

- Worksheet 1 – This worksheet presents the number of scripts, gross pharmacy cost and plan cost by month of service and pharmacy type.
- Worksheet 2 - This worksheet presents the number of scripts, gross pharmacy cost and plan cost by pharmacy number (NABP) for the September 1, 2019 through August 31, 2020 (FY2020) period. The exhibit is ranked in order of gross payments.
- Worksheet 3- This worksheet presents the experience by pharmacy type for the top 100 drugs ranked by plan cost for the September 1, 2019 through August 31, 2020 (FY2020) period..
- Worksheet 4 – This worksheet presents number of scripts by NDC and by formulary indicator for the September 1, 2019 through August 31, 2020 (FY2020) period.

3.16 Proposal

Respondents 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 shall consist of the following items:

a. Cover Letter – This letter shall summarize interest and ability to provide the scope of this RFP, include a statement to the validity of the proposal, and 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 Respondent'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 as provided in Exhibit C.

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.

f. 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:
   - National Sales/Governmental Accounts Manager
   - Account Executive
   - Account Manager(s)
   - Clinical Account Executive
   - Reporting/Analytics Representative
   - Customer Service Manager

g. 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 f*. above.

h. 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 A&M System may perform reference checks and seek further information, as needed from all Respondents whose proposals the System, at its discretion, considers viable, based on the initial evaluation and scoring. The Respondent's response to this requirement officially authorizes the A&M System to contact these organizations to discuss the services and other considerations which the Respondent has provided to such organizations and authorizes the organizations to provide such information to the A&M System and Respondent shall and hereby does release and hold harmless the A&M System, the state of Texas, and the organization 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.

i. <u>Certification</u>

- Certify that the proposing organization is legally able to contract with the State or any of its subdivisions.
- Certify that the organization has a current license from the Texas Department of Insurance (TDI) to serve in Texas as a TPA, if applicable, is in good stead with the TDI and disclose any actions that are pending or in process with TDI.
- Certify that no commissions, broker or finders fees are included in the quoted fees/premiums or will be paid to any individual, agency or company, if your company is selected to provide coverage for the A&M System.
- Certify that enrollment of any employee, retired employee, or dependent of the A&M System will not be limited or discouraged by "quota" or other restriction.
- Certify against discriminatory selection or segregation of the total group of eligible employees of the A&M System by excluding, or seeking to exclude, or otherwise discriminating against any of the following classes:
  - Women: Title VII of the Civil Rights Act of 1964, as amended; Executive Order 11246 of 1965, as amended
  - Pregnant Women: Pregnancy Discrimination Act of 1978, PL95-555
  - Racial Minorities: Title VII of the Civil Rights Act of 1964, as amended
  - Aged and Retired: Age Discrimination in Employment Act of 1967, as amended; Tax Equity and Fiscal Responsibility Act of 1983 (TEFRA); Deficit Reduction Act of 1984 (DEFRA); Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)
  - Disabled Individuals and those with catastrophic and terminal diseases: Sections 503 and 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990

j. <u>Questionnaire</u> – Complete the Questionnaire found in Exhibit D.

k. <u>Data Files</u> – When you downloaded the RFP, you should have also downloaded the supplemental files listed in Exhibit E which will be used for you to provide the data files requested below. If you failed to download these files, you can do so by returning to the ESBD. All data files requested below should be provided on CD in this section of your response.

  - <u>PBM Price Proposal Worksheet</u> – You should have downloaded a supplemental file named *PBM Price Proposal Worksheet*. The file should be completed in the requested format. No deviations from the requested pricing terms will be accepted at this time.

- Detailed Claims File – You should have downloaded a supplemental file named *Detailed Claims File*. This file contains A&M Care plan-specific prescription drug claim data for the period September 1, 2019 through August 31, 2020. There are two worksheets to present claims data for the A&M Care Prescription Plan (Commercial) and 65 Plus Medicare Part D Plan (EGWP). You are to provide an Excel file with the detailed claims along with the following information (i) whether the drug was included on the PBM's formulary, (ii) whether the drug was considered a specialty drug by the PBM, (iii) If the claim is included in the discount guarantee reconciliation as described in the PBM Price Proposal, (iv) if the claim is included in the per brand script rebate guarantee reconciliation as described in the PBM Price Proposal and (v) if the claim is included in the per script rebate guarantee reconciliation as described in the PBM Price Proposal. For the additional data items, please provide what the response would have been as of January 1, 2021. The Detailed Claim File must be completed in the format provided. The data should not be altered or reordered in any way. The only changes to the file should be those items listed in (i)-(v) above.

- Retail Network Reimbursement – You should have downloaded a supplemental file named *Retail Network Pharmacy Appendix*. The file should be returned in the format provided and include the following information (i) listing of pharmacies currently in the PBM's network, (ii) current PBM contract for AWP discount for brand drugs, (iii) the current PBM contract for brand and generic dispensing fees, (iv) if the pharmacy is currently contracted to provide up to 90 days at retail, (v) current PBM contract for AWP discount for brand drugs in excess of 30-days supply if offered and (vi) the current PBM contract for brand and generic dispensing fees for drugs dispensed in excess of 30-days supply at retail if offered. The data should not be altered or reordered in any way. The only changes to the file should be those items listed in (i)-(vi) above. The worksheets should be competed separately for the A&M Care Prescription Plan (Commercial) and 65 Plus Medicare Part D Plan (EGWP) and should include all pharmacies under contract in your proposed retail network as of January 1, 2021. Please note, a list of the current retail pharmacies in Texas utilized by A&M Care members has been provided with the supplemental data files to be downloaded along with the RFP as described in *Section 3.15*. Proposers must be able to provide network services that are at least as comprehensive as the pharmacies currently utilized.

- Formulary – You should have downloaded a supplemental file named *Formulary*. Please provide a list of all NDC and drug names for the proposed formulary separately for the A&M Care Prescription Plan (Commercial) and 65 Plus Medicare Part D Plan (EGWP). The file *Formulary* should be returned in the same format as provided. Please note, a list of current formulary NDCs utilized by A&M Care members has been provided with the supplemental data files to be downloaded along with the RFP as described in *Section 3.15*. You must have a viable formulary covering each of the categories of drugs that are covered under the current formulary. If multiple formularies are available you should specify which formulary has been used for price proposal purposes.

- Specialty Pharmacy Pricing – Please provide a list of all NDC and drug names that are dispensed through the PBM Operated Specialty Pharmacy separately for the

A&M Care Prescription Plan (Commercial) and 65 Plus Medicare Part D Plan (EGWP). The file *Specialty Pharmacy Pricing Appendix* should be returned in the same format as provided. The information provided should include the NDC, drug name, AWP discount and dispensing fee for all specialty drugs dispensed through the PBM Operated Specialty Pharmacy.

l. 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.

m. Deviations – In an effort to compare "apples to apples", deviations to the RFP and the current plan design are strongly discouraged. The Respondent shall enumerate and provide a detailed description of any deviations to provisions contained in the RFP. If your organization is unable to perform any of the required administrative services or unable to administer any portion of the current plan design please provide details.

n. Supplemental Information – Information or exhibits provided that are not specifically requested in *Sections a. through m.* above should be included at the end of the proposal behind a divider page entitled "n. Supplemental Information".

3.17 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.

Based on the scope of this RFP, Respondents must determine if they can perform the entire scope with their own resources or if it will be necessary to subcontract any portion of the scope. Subcontracting opportunities are defined as those opportunities contracted with a vendor to

provide services, supply commodities, or contribute toward completing work for a governmental entity.

Subcontracting opportunities are possible 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 HUB participation goal for this RFP is 11% for Other Services and every effort should be made to achieve this level of participation.**

Respondents shall complete the FY21 HSP form attached or as found on the following site; https://www.tamus.edu/business/hub-procurement/hub-programs-3/ and submit it with the RFP response. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the Respondent will show 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 Respondent will be expected to make a good faith effort according to the HSP instructions. Don't forget to include any backup documentation and sign the HSP form.

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 Section 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 Keith Williams from the A&M System's HUB Program at (979) 458-3265 or soprocurement@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. Williams.

SECTION 4 - GENERAL TERMS AND CONDITIONS

4.1 TERMS AND CONDITIONS

The A&M System reserves the right to accept, reject, modify, and/or negotiate any and all proposals received in conjunction with this RFP. It reserves the right to waive any defect or informality in the proposals on the basis of what it considers to be in its best interests. Any submittal which the A&M System determines to be incomplete, conditional, obscure, or which has irregularities of any kind, may be rejected. The A&M System reserves the right to award to the firm, or firms, which in our sole judgment, will best serve our long-term interest.

This RFP in no manner obligates the A&M System to the eventual purchase of any products or services described, implied, or which may be proposed, until confirmed by written agreement, and may be terminated by the A&M System without penalty or obligation at any time prior to the signing of an agreement.

4.2 GOVERNING LAW

The validity of any resultant agreement and all matters pertaining to any resultant agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.

4.3 NON-DISCRIMINATION

The parties agree that in the performance of any resultant agreement they shall not discriminate in any manner on the basis of race, color, national origin, age, religion, sex, genetic information, veteran status, sexual orientation, gender identity, or disability protected by law. Such action shall include, but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation. By submitting a submittal, Respondents certify that they will conform to the provisions of the federal Civil Rights Act of 1964, as amended.

4.4 IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting a proposal, the Respondent certifies it does not and will not, during the performance of any resultant agreement act, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as amended.

4.5 DEBARMENT STATUS

By submitting a statement of qualification, Respondent certifies it is not currently debarred from submitting proposals on contracts nor is it an agent of any person or entity that is currently debarred from submitting bids on contracts.

4.6 INDEMNIFICATION AND HOLD HARMLESS

The Respondent shall defend, indemnify and hold harmless the A&M System, its officers, employees and agents, against any and all liability of whatever nature which may arise directly or indirectly by reason of the Respondent’s performance under the resultant agreement.

4.7 RESPONDENT LIABILITY

The Respondent will be liable for any associated costs of repairs for damage to buildings or other A&M System property caused by the negligence of the Respondent's employees.

4.8 CIVIL RIGHTS REQUIREMENTS

All Respondents must comply with applicable civil rights laws.

4.9 ENTIRE AGREEMENT

The resultant agreement, when fully executed, shall supersede any and all prior and existing agreements, either oral or in writing, and will contain all the covenants and agreements between the parties with respect to the subject matter of the agreement. Any amendment or modification to the agreement must be in writing and signed by the parties hereto.

4.10 TERMINATION

In the event the successful Respondent fails to perform any of its duties or obligations as provided by any resultant agreement, which will include the RFP and the Respondent'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 resultant agreement immediately. The Respondent understands and acknowledges that, notwithstanding any termination of the resultant agreement, certain obligations shall survive the termination of the resultant agreement.

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 resultant agreement without cause by giving the Respondent ninety (90) days written notice.

In the event of a change in condition which may affect the Employee Assistance Program services for which proposals are solicited, the A&M System will expect a good-faith effort from any Respondent selected to absorb additional liabilities during the term of the resultant agreement without requiring rate increases until the next following renewal date. Such changes in condition include, but are not limited to, the following:

- Rules of the Texas Department of Insurance.
- Opinions of the Attorney General of the State of Texas.
- Federal and State statutes, court decisions and regulations from agencies and departments that may affect employment and benefit programs.

4.11 SEVERABILITY

It is understood and agreed that if any part, term, or provision of the resultant agreement is by the courts held to be illegal or in conflict with any law of the State of Texas, the validity of the remaining portions or provisions shall be construed and enforced as if the agreement did not contain the particular part, term, or provision held to be invalid.

4.12 PUBLICITY

Respondents must refrain from giving any reference to this project, whether in the form of press releases, brochures, photographic coverage, or verbal announcements, without specific written approval from the A&M System.

Information provided to Respondent by the A&M System, including but not limited to information from the members, officers, agents, or employees of the A&M System or any of its members, and information provided to Respondent by members of the public or any other third party shall belong to the A&M System.

4.13 INDEPENDENT CONTRACTOR

The successful Respondent agrees that in all respects its relationship with the A&M System will be that of an independent contractor, and that it will not act or represent that it is acting as an agent of the A&M System or incur any obligation on the part of the A&M System without written authority of the A&M System. As an independent contractor, Respondent will be solely responsible for determining the means and methods for performing the services described. Respondent shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of the A&M System relative to conduct on its premises.

4.14 AGENT OF RECORD

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 Respondent. The A&M System will not pay commissions in the event that the Respondent 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. You must certify in *Section i.* that you will abide by these stipulations.

4.15 PUBLIC INFORMATION ACT

(a) Respondent acknowledges that 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 any resultant agreement, as well as any other disclosure of information required by applicable Texas law.
(b) Upon A&M System's written request, Respondent will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System.
(c) Respondent acknowledges that 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.
(d) The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to any resultant agreement and the Respondent agrees that any resultant agreement can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

4.16 OWNERSHIP OF DOCUMENTS

Upon completion or termination of any resultant agreement, all documents prepared by the Respondent for the benefit of the A&M System shall become the property of the A&M System. At the A&M System' option, such documents will be delivered to the System Procurement Office. The A&M System acknowledges that the documents are prepared only for the contracted services specified. Prior to completion of the contracted services, the A&M System shall have a recognized proprietary interest in the work product of the Respondent.

4.17 SOLICITING

Information provided to the Respondent, 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.

4.18 INSURANCE

The Respondent shall obtain and maintain, for the duration of the resultant agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to the A&M System. By requiring such minimum insurance, the A&M System shall not be deemed or construed to have assessed the risk that may be applicable to the Respondent. Respondent shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Respondent is not relieved of any liability or other obligations assumed pursuant to the agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to the A&M System at least ten days before the effective date of the cancellation.

Coverage	**Limit**
A. **Worker's Compensation**	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	$1,000,000 Each Accident
	$1,000,000 Disease/Employee
	$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for the A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. **Automobile Liability**

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than $1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

C. **Commercial General Liability**

Each Occurrence Limit	$1,000,000
General Aggregate Limit	$2,000,000
Products / Completed Operations	$1,000,000
Personal / Advertising Injury	$1,000,000
Damage to rented Premises	$300,000
Medical Payments	$5,000

The required commercial general liability policy will be issued on a form that insures Respondent or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of the agreement.

D. Respondent will deliver to the A&M System: Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of the agreement and prior to the performance of any services by Respondent under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by Respondent. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without unconditional written notice to the A&M System at least ten days before the effective date of the cancellation. ***All insurance policies*** will be endorsed to require the insurance carrier providing coverage to send notice to the A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by the A&M System prior to the performance of any services by Respondent under the agreement. Respondent is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by the agreement will be mailed, faxed, or emailed to the following the A&M System contact:

The Texas A&M University System
Attn: Jeff Zimmermann
301 Tarrow Street, Rm 361
College Station, TX 77840
Facsimile Number: (979) 458-6101
Email Address: jzimmermann@tamus.edu

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by the A&M System in writing.

4.19 PREMIUM TAXES

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.

4.20 DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the A&M System and Respondent to attempt to resolve any claim for breach of contract made by Respondent that cannot be resolved in the ordinary course of business. Respondent shall submit written notice of a claim of breach of contract under this Chapter to the Deputy Chancellor and Chief Financial Officer for the A&M System, who shall examine Respondent's claim and any counterclaim and negotiate with Respondent in an effort to resolve the claim.

4.21 VENUE

Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against the A&M System shall be in the county in which the primary office of the chief executive officer of the A&M System is located. At the date of this RFP, such county is Brazos County, Texas.

4.22 STATE AUDITOR'S OFFICE

Respondent understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Respondent agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Respondent will include this provision in all contracts with permitted subcontractors.

4.23 CONFLICT OF INTEREST

Respondent and each person signing on behalf of Respondent certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of any resultant agreement, or in the services to which the resultant agreement relates, or in any of the profits, real or potential, thereof.

4.24 NOT ELIGIBLE FOR REHIRE

Respondent is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in System policy 32.02, Section 4. Non-conformance to this requirement may be grounds for termination of any resultant agreement.

4.25 PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

To the extent that Texas Government Code, Chapter 2271 applies to the resultant agreement, Respondent certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of the resultant agreement. PROVIDER acknowledges the resultant agreement may be terminated and payment withheld if this certification is inaccurate

4.26 CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Respondent certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Respondent

acknowledges this Purchase Order may be terminated if this certification is or becomes inaccurate.

4.27 PROHIBITION ON CONTRACTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING

Under Section 2155.0061, Government Code, Respondent certifies that the individual or business entity named in this RFP is not ineligible to receive the specified agreement and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

4.28 RECORDS RETENTION

Respondent will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.

4.29 Respondent shall neither assign its rights nor delegate its duties under the resultant agreement without the prior written consent of the A&M System.

EXHIBIT A

EXECUTION OF OFFER

RFP01 SBA-21-098
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 has 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 scope of this RFP;

(x) 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;

(xi) 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,

(xii) 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.

(xiii) the requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this bid and resultant agreement and the Respondent agrees that the resultant agreement can be terminated if the PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.

Respondent shall provide their Federal Employer Identification Number (EIN), full vendor name, address and other information as requested in the spaces below. Failure to manually sign or with electronic signature (such as DocuSign) below will disqualify the proposal response. The person signing the submittal should show title or authority to bind his/her firm in contract.

Federal EIN/Taxpayer ID#: ____

Vendor/Company Name: ____

Authorized Signature (INK or electronic signature):______________________________

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 officer, 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 ________________, 2021.

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. **Financial Stability**. Respondent shall provide the following to verify financial stability:
- A copy of your company's audited financial statements for the past two (2) years; or
- 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. Describe your company's disaster recovery and contingency plans. Have you ever tested or actually implemented these plans?

f. 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.

g. 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.

h. 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 j* 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. Exhibits requested in the Questionnaire Section should be provided under Section j. of your response (see Section 3.16j.).

D. Fees, expense schedules, charges, and management arrangements must be guaranteed for the initial three-year period through August 31, 2024.

E. Please base quantitative responses on the 12 months ending August 31, 2020, or the most recent 12-month period available, unless otherwise specified.

F. The A&M System operates on a fiscal year beginning September 1 and ending August 31.

Confirmation and Acknowledgements

1. Confirm that you understand and can administer the A&M Care and 65 Plus Medicare Part D prescription drug plan according to the financial requirements outlined in *Section 3.2-3.10.*

2. Confirm that you understand and can administer the A&M Care and 65 Plus Medicare Part D prescription drug plan according to the plan design outlined in *Section 3.14.*

Background Information

3. Provide the names and addresses of all parties who would receive compensation as a result of your selection under this RFP, including, but not limited to, consulting fees, finder's fees, and service fees.

4. State the name and address of any sponsoring, parent, or other entity that provides financial support to you. Include an indication of the type of support (i.e., guarantees, letters of credit, etc.) provided as well as the maximum limits of additional financial support from other entities. If applicable, provide a copy of the sponsoring organization's most current audited financial statement.

5. Disclose any contractual relationships with affiliates that could present a conflict of interest with your role as administrator of the PDPs.

6. Are you owned by a pharmaceutical manufacturer and/or are there any understandings or financial agreements (other than rebate contracts) in place with pharmaceutical manufacturers? Describe the steps you have taken to ensure that such relationships do not create actual or

potential conflicts of interest as well as the action plan in place for addressing unforeseen conflicts as they arise.

7. What company/individuals maintain equity in your PBM?

8. How long has your PBM been in the business of managing a prescription drug benefit?

9. How many FTE's or full time employees work for your company? How many Pharmacists and how many of those are Pharm.Ds. What positions do they hold in the company? Please be specific. Differentiate clinical, account management and executive positions.

10. Is your plan for-profit or not-for-profit? If not-for-profit, under which IRS code do you operate?

11. Describe all areas of remuneration provided to you by pharmaceutical manufacturers. Include: rebates, administrative fees, data compilation fees, promotional grants directly related to utilization under the plans, and any other applicable areas of remuneration.

12. Provide your total commercial enrollment as of December 1, 2019 and December 1, 2020. Provide a statement of your capacity to enroll new participants and the likelihood of any future limitations on enrollment.

13. Explain your previous experience in providing commercial and EGWP PBM services for self-funded group prescription benefits, as applicable, to groups of 10,000 or more, especially higher education institutions and governmental organizations.

14. Would your employees use a secure e-mail system to communicate with us and, if so, what system do you use? Would you be able to establish a secure TLS channel between our organizations?

15. Do you own your electronic claims adjudication system or do you contract with an outside vendor? If so, whom?

16. Do you own your own specialty pharmacy? If not, who do you use and what are the arrangements?

17. Is your PBM or any part of your PBM in the process of being sold, merged or disbanded?

18. Does your PBM carry an Errors & Omissions policy? Please attach a copy of the face sheet.
    a) If yes, who is the carrier and what is the expiration date of the policy?
    b) What are the policy limits and deductible?
    c) Is the contract a claims-made policy?

19. Do you carry a comprehensive general liability policy? Please attach a copy of the policy face sheet.
    a) If yes, who is the carrier and what is the expiration date?
    b) What are the policy limits and deductible?

20. Does your company carry a fidelity bond? Please attach a copy of the policy face sheet.
    a) If yes, who is the underwriter?

b) What is the expiration date of the policy?
c) What are the limits and coverage for the policy?
d) What is the deductible?
e) What are the co-annual aggregate funds held for all clients?

21. Please verify the A&M System's contractual right to audit a PBM contractor is not limited to only certain types of audits

22. In case of audit, verify you will provide access to all financial records, contracts, medical records, and other information associated with the services you or your subcontractors provide to a plan.

23. Verify that all audits will be conducted in accordance with auditing standards.

Plan Design

24. Explain how out-of network claims are processed. If extra charges, explain.

25. Can pharmacies access your service representatives 24 hours/day? If not, what hours are available? Is a pharmacist available 24 hours a day? Explain any IVR system and how it works with the pharmacies.

26. Can certain drugs be limited to a specific diagnosis, specific specialty or require pre-authorization or step-therapy? Can certain drugs be limited to certain quantities and certain length of therapy?

27. Is your pre-authorization process administered in-house or by a third party? Do you have Administrative pre-auths and clinical pre-auths? How are they different? What are the charges for each?

28. Do you have the ability to provide a coordination of benefit (COB) provision? Please explain. Are there any charges for this process?

29. If a drug is denied or not covered explain how medical necessity is determined and then managed.

30. What is the fee per claim for paper claim filing? Describe the Paper claim process.

31. What is your generic substitution rate for plans similar in size and employee/retiree mix to the A&M System? (Retail, Mail-order, Total)

32. What is your generic substitution rate for your entire book of business? (Retail, Mail-order, Total)

33. Based on enrollment and claims information given, if you are selected to administer the plan, what would you expect the A&M System's generic substitution rate to be? (Retail, Mail-order, Total) Are you willing to put some amount of fees at risk as a performance guarantee based on your expected generic substitution rate?

34. For generic substitution to take place, what must a generic be rated?

35. What is your standard policy with regard to the coverage of compound prescriptions?

36. Describe the policies or programs you have in place to control compound-drug expenditures.

Mail Services

37. Describe your mail-order pharmacy program, including:

    - Current volume of prescriptions handled and projected capacity over the upcoming three (3) years;
    - Where mail facilities are located and which location(s) would be responsible for servicing PDP participants;
    - The days and hours of operation for these facilities; and
    - The hours of operation for Proposer’s pharmacy help desk and how this function relates to regular customer service operations provided by Proposer.

38. Provide a detailed description of your dispensing process for the mail service, from the time a new prescription arrives until the medication is mailed out. Be sure to discuss the quality assurance program, including:

    - Procedures targeting quality control for all aspects of processing;
    - The shipping process, including the primary shipping service used and the procedures for handling of temperature sensitive medications;
    - Online integration, if any, with retail pharmacies to ensure non-duplication and to identify potential adverse drug reactions;
    - The role of registered pharmacists in the dispensing process; and
    - The steps that are completed by a registered pharmacist during the fulfillment of mail-order prescriptions.

39. Discuss how you currently administers therapeutic substitutions and how it will apply such practice to the plans and describe your policies regarding the substitution of A-rated and less than A-rated generics through the mail order process.

40. How would you handle the transition of existing mail service refills from the current PBM? Would you be willing to contact physician offices to transfer existing prescriptions into your mail service program?

41. Discuss how you handle issues that arise with mail service prescriptions including medications lost in the mail and cancellations of prescriptions. Address how charges and credits to the participant and the plan are handled in these kinds of situations.

42. Discuss how you handle medications with fixed package sizing and repackaging for mail service prescriptions. Address the effect on AWP as well as how these processes may impact payments under the PDP.

43. Explain how state and federal regulations impact dispensing practices for your mail service in relation to faxed prescriptions, dispensing of controlled substances, etc.

Pricing

44. Fully describe all actuarial assumptions regarding brand, generic, and specialty pricing as well as utilization trends. This information must be provided separately for the A&M Care Prescription

plan and the 65 Plus Medicare Part D Prescription plan.

45. Provide a listing of standard programs and services that are included in your base pricing arrangement.

46. Provide a listing of additional services not included in the base pricing and their applicable costs. Provide in PMPM format.

47. Confirm that you use Medi-Span as its source for determining Average Wholesale Price (AWP).

48. Describe your Maximum Allowable Cost (MAC) program in detail, including information about:
    a) How are drugs selected?
    b) How many drugs are covered?
    c) How is MAC pricing established?
    d) Are various MAC pricing levels available or do you have only one set of MAC pricing? If more than one explain why.
    e) Of the total generics available on the market what percentage of those are on your MAC list.
    f) How many drugs are on your MAC list? Define by number of GPI's and NDCs.
    g) How is it updated? How frequently? By Whom?

49. Confirm that you have the ability to allow participants to obtain a 90-day supply of maintenance medication at a retail pharmacy under the same or better terms and conditions, including pharmacy reimbursement rates and participant out-of-pocket costs, that would be applicable if the same medication was obtained through the mail service. Describe any limitations necessary to implement this requirement, including narrow network provisions, as well as how implementation of this arrangement would impact the PBM Price Proposal submitted in *Section 3.16k* of this RFP.

50. What additional charges (ex. Clinical programs, ad hoc reports) are included in your quote if not covered under questions 62 and 63 above?

51. Will you guarantee a generic utilization percentage? If so, what is the guarantee generic dispensing rate?

52. Will you guarantee a generic substitution rate? If so, what is the guarantee generic substitution rate?

Formularies and Rebates

53. How is your prescription formulary developed and administered? How often is the formulary changed? Are you willing to provide documentation explaining the reason for changes in the formulary, at a minimum including the medical and financial reasons for the addition, removal, or change in drug placement?

54. Do you provide prior notification of changes to the formulary? How are employees, employers, and physicians notified of changes? Provide a sample of correspondence that would be sent to the above parties.

55. Are the formularies based on the lowest cost prescriptions available? If not describe how the financials are calculated into the preferred and non-preferred products.

56. Do you offer different formularies, i.e a closed formulary or generic only formulary, open or restrictive formularies, etc…?

57. Describe your plan to ensure minimal member disruption in converting to its formulary.

58. How often are AWP price updates applied to your adjudication system?

59. Do all drug manufacturers whose products are listed as preferred in your formulary provide rebates? What percentage of preferred products have rebates?

60. Do any non-preferred products get rebates? What percentage?

61. What percentage of total formulary products has rebates?

62. Explain the structure and function of your Pharmacy and Therapeutics Committee. How often does your Pharmacy & Therapy (P&T) committee meet and how often does a therapy class get reviewed?

63. How do you report rebates to the client? Are audits available? If so, how are they done? Are audits down to the drug level or only to the aggregate rebate level?

64. Are you willing to report the rebate amount received for each drug and strength and the net cost of the drugs after rebates? At what level do you report rebates? Can you provide a point of sale rebate program? Is there an additional cost?

65. Can specific formularies be developed for clients? Will this custom formulary affect rebate rates?

66. Do you share rebates on specialty medications? If so please indicate either the number of product rebate contracts or the percentage by Dollar volume of specialty products that do receive rebates.

67. Do you accept any rebate administrative fees and if so, what is the average percentage? Do you share or give back to client?

68. Do you accept any commissions, therapeutic interchange fees, communication fees or any other fees or payments from Pharmaceutical companies?

69. Do your rates or fees vary based on the formulary selected? Please give a detailed explanation. What type of savings could be expected by using the various formularies? Is your organization willing to establish performance guarantees associated with expected savings in regard to the various formularies? Which formulary was utilized in developing the rate quoted to the A&M System and why? As requested in *Section 3.16.k.* please provide a copy of the formulary used to develop the A&M System rates.

70. Provide a sample copy of the formulary brochures that are distributed to employees.

71. Do you have a list of prescription drugs that are excluded from coverage? If so, how is this list developed and what are the criteria for exclusion? Are there exceptions to this exclusion should

a member require use of one of these prescriptions? Please provide an Excel file on CD with the NDC Number and Label Name for any excluded drugs. This list should not include over the counter medications.

72. Is your company affiliated with any drug manufacturer? If yes, please describe the relationship.

73. In order to verify the accuracy of rebate amounts received by the A&M System, access to source-level documentation supporting the total rebate amounts received by the PBM, such as manufacturer contracts and total ingredient cost amounts for all PBM clients, are required. Is your organization agreeable to the State Auditor's Office, A&M System's Internal Audit staff or an outside audit firm having access to such source-level documentation?

Pharmacy Contracting

74. Do all network pharmacies have the same contract rates? If not explain how contracts are negotiated and developed.

75. Do you or can you develop custom networks? Please describe and indicate any contract differences.

76. Can you manage an in network and out of network plan design for pharmacies?

77. Can a client request a pharmacy be added to the network? If so how long does it typically take to become fully operational where Rx's can be filled there under the clients plan?

78. How frequently are pharmacies paid? How are they paid?

79. Do you re-negotiate pharmacy contracts? How long is the normal pharmacy contract? How does that new contract affect your existing clients if there is an increase in discounts?

80. How do you manage the quality of services provided by your network pharmacies? How does a client report a service issue? How often are pharmacies reviewed? How many pharmacies were removed from your network last year and why?

Third Party Fees

81. Do you pay fees or provide reimbursement to any of the following:

    a) Physicians - Formulary Compliance? Generic Rx rate? Other?
    b) General agents ? Marketing fees, survey fees?
    c) Insurance agents/brokers/consultants? Commissions?
    d) Pharmacy consultant service fees?
    e) Marketers?
    f) Pharmaceutical manufacturers?
    g) Pharmacies? Other than dispensing fees.
    h) Insurers, third party administrators?
    i) Switch operators? Envoy, NDC etc.?
    j) Electronic Processors?

    If so, please explain the fee/reimbursement structure.

Member Services

82. Does your plan have a 24-hour toll-free number for member services? Is it an IVR, or does a real person answer? Where is the member service team that will be servicing A&M System members located?

83. Can members review their preferred drug listing (formulary) on-line?

84. Does the member get a comparative list of medications to those they are taking that indicates lower cost alternative products are available? Does the program show the cost savings for the member? For the plan? Is this available online? Via a letter to member? Via a letter to the physician?

85. Please describe your member services program.

86. How would you monitor and control the level of service provided to A&M System employees?

87. Briefly discuss procedures for employees who desire to call your customer service office to select a pharmacy, inquire as to whether a specific drug is on the formulary, request information, discuss the status of unpaid claims, payments received but not understood, and/or appeal processed claims.

88. How are patterns of customer service inquiries monitored and used to improve claims processing activities?

Eligibility/Maintenance Services

89. Will you provide SBA staff with the ability to access your eligibility system on an inquiry basis?

90. How do you insure that terminated members are removed from coverage? Would the A&M System be held accountable for any charges if a terminated member receives benefits?

91. Are employees and dependents listed separately? Can their pharmacy utilization be reported separately? How do you manage multiple dependents with the same birthday? (Twins, Triplets, etc.)

92. Since eligibility is determined online at point of sale, do you have a toll-free number the member can call if there is problem? Are dependents listed by name on the pharmacy identification card? Or is only the employee listed on the card?

93. How often is membership updated?

94. Who is financially responsible if a retail outlet fails to check eligibility and dispenses to an ineligible person?

95. Are there any charges specific to the provision of identification cards? How many are included in the initial mail out to the member? Is there a charge for additional or replacement cards?

96. Can you put the plan sponsor name and logo on the ID card? Is there any additional charge for this?

97. Briefly describe your organization's internal audit and quality control programs as they relate to claims administration.

98. How long is an individual claimant's payment history maintained on line?

99. The System Office currently provides eligibility information for all System Members (System Member identification is not required) on a weekly basis in the most current HIPAA 834 format via secure FTP from our server to the carrier's server. We send weekly full files and a monthly full-file for AUDIT PURPOSES ONLY. You will have a central point of contact in SBA and a technical contact. We expect to have a discrepancy report emailed to the SBA eligibility contact for review and assistance in resolving outstanding issues within a few days of your receipt of an eligibility file. We have a separate vendor, currently P&A Group, that administers COBRA. A secure file exchange will need to be established for file exchange. Please indicate if you have any deviations from this process, or suggestions for it.

100. The A&M System has implemented Workday as its Human Capital Management System. Benefits were included in this implementation. Does your organization currently have a relationship with Workday? Do you have an existing Cloud Connect for Benefits (CCB) integration with Workday? Do you use weekly full files for your eligibility transfers? We believe that using full files is more reliable than using change files. Can you support the use of weekly full files for your eligibility integrations?

101. What administrative process is in place to address rejects or errors identified after loading the routine eligibility update information sent from the employer?

102. Who has the ability to alter eligibility information in your organizational structure?

103. Does your system accept future termination dates for participants?

104. Is eligibility checked on a "real time" basis?

105. What is your turnaround time goal for loading eligibility information received from the employer? What has your actual performance been for the last six months?

106. Occasionally the A&M System will retroactively terminate an employee/dependent in the self-insured plan due to their being enrolled in error. Does this pose any system problems for your organization?

107. Does your system accommodate multiple addresses for employees who may have dependents living in a different location and utilizing the mail-order program?

108. What is the length of the street address field in your system?

109. The A&M System has assigned each employee and dependent a unique identifier (a 9-digit number with the 4th and 5th digits equal to 0.) The A&M System has the capability to pass both the SSN and the unique identifier on the eligibility file. We strongly prefer to supply our unique identifier instead of SSN whenever possible. Please confirm your ability to use our unique identifier for the member's ID cards.

Reporting Services

110. What are your reporting capabilities? Please attach a portfolio of all available reports. Each should have a short description.

111. Which reports are provided as standard? How often are they generated? Please confirm that there will be no charge for standard reports.

112. What is the fee for non-standard report production? Is this fee generated on a fixed cost per report or billed on an hourly basis? Give examples of non-standard reports.

113. Are reports available online? Can the client request their consultant have online accessibility? Is there a charge for online accessibility? Any special computer specifications to get online reports?

114. How often are reports provided and can they be reported by division, location, department or union subdivision within a single employer group at no additional charge?

115. Are paper and electronic claims all included in the reports?

116. Does the client have the ability to access your database in real time for purposes of tracking plan experience, utilization patterns, and other available plan information?

117. How is this ability provided? Is there any additional charge to the A&M System?

118. Do you track and monitor prescription utilization outliers?

    a) Physicians
    b) Pharmacists

Drug Utilization Review

119. Please describe your clinical cost management programs and do you include any of the following:

    a) Anti-fungal
    b) Appropriateness of use
    c) Daily Average Consumption
    d) Gastrointestinal
    e) Generic Solutions
    f) Maximum Daily Dose
    g) Migraine
    h) NSAIDs
    i) PAIN medication
    j) Substance Abuse

120. Do you report clinical savings each month? Can you guarantee savings?

121. Do you offer a specialty pharmacy program? If yes, please describe the details of the program, including:

    a) Do you contract with, or own, one or more specialty pharmacies? If yes, please identify.

b) How long has the specialty pharmacy program been in place?

c) What are the reimbursement arrangements and the total annual purchasing volume for the specialty pharmacy program?

d) How many clients currently participate in the specialty pharmacy program?

e) How do you manage specialty/Injectable drugs? Indicate the types of management you currently use to target specific specialty drugs or conditions associated with specialty drug utilization.

f) How are services provided by your specialty pharmacy program integrated with the medical TPA to manage specialty spend?

122. Provide a description of key specialty drug management programs that differentiates you from others.

123. Describer the criteria used in developing the specialty drug list.

124. Do you have step therapy programs? Please describe how the program works?

125. Can you do a step therapy program within a specific therapy class? Please describe for each therapy class.

126. Do you ever encourage prescribers to switch a patient from a lower net cost drug to a higher net cost drug? Please explain if yes.

127. Do you have comprehensive concurrent drug utilization review (DUR) capabilities at the point-of-service? Please describe the process in detail.

128. Under what circumstances do you prohibit the dispensing of a prescription due to a drug interaction warning? (Hard edits)

129. Is the utilization review on a “real time” basis?

130. Do the DUR edits access both mail-order and retail activity?

Cost Containment

131. Describe any programs you have to manage drug utilization, abuses, and fraud by a dispenser, participant or physician.

132. Fully describe your cost-containment programs, including the cost associated with each and whether such costs are accounted for the price proposal.

133. Under the current pharmacy benefit, the A&M System contracts with SaveOnSP in order to offset the high cost of certain medications. The program leverages manufacturer dollars in order to reduce the overall plan and member cost for certain medications. Do you offer any type of similar program? If so, please describe the program and indicate the cost.

134. Under the current pharmacy benefit, the A&M System contracts with Prescription Care Management (PCM) to assist in the transition of members from brand drugs to lower cost

therapeutic equivalents. PCM engages the physician to discuss potential therapeutic equivalents before contacting the member and the pharmacy to assist in the substitution. Do you offer any type of similar program? If so, please describe the program and indicate the cost.

135. Describe your fraud prevention program in detail. Include how you would communicate with the participant, physician, and the A&M System once a fraud or abuse issue has been identified.

136. Provided that you receive adequate notice of termination from the A&M System, will you guarantee that the plan will not be billed for claims that were processed after a participant's coverage has been terminated?

137. What methods do you use to drive utilization to the most cost-efficient delivery channels? Will there be future methods implemented and if so, when?

138. How frequently do you review utilization for new cost and trend drivers and what measures are in place to address emerging issues?

139. Please describe your experience in aggressively managing and controlling costs for your customers. Please include strategies to increase generic fill rates, increase use of lower costing formulary products, generic substitution within therapy classes and OTC strategies.

140. What measures do you have in place to discourage inappropriate utilization of low value/high cost treatments or services?

141. Discuss how you coordinate cost containment efforts with an affiliated Third Party Administrator (TPA) for the medical plan versus with an unaffiliated TPA. How are cost containment efforts integrated and what efficiencies are gained when working with an affiliated TPA?

Implementation and Administration

142. What is the normal lead time required to implement a group?

143. What is the shortest lead time you can implement a group?

144. Please explain your billing procedures and attach a sample billing.

    a) How frequently are clients billed?
    b) What charges do billings encompass?

145. Can a plan sponsor be issued separate billings for employee subdivisions, such as locations, divisions, union/non-union, etc.?

146. How much lead-time would you need to implement the program from the time you are selected? Please provide a detailed timetable for implementation based on a September 1, 2021 start date.

147. Describe the services you will furnish with respect to installation of the plan, and for maintenance, i.e., staff, printing, booklets, directory, forms, attendance at annual enrollment meetings, etc.

Network Management

148. Is the employer (plan sponsor) held harmless for negligence on the part of the participating pharmacy?

149. Do you conduct pharmacy audits? If so, what percent of claims and/or pharmacies are audited on an annual basis? What is the average amount recovered in an audit?

150. Define the reports you provide after conducting pharmacy audits. How often are they done? What information is reported? How often are they reported?

151. Does your company hire external auditors? How do they charge for the service?

152. What is the distribution of the money recovered as a result of either claims or pharmacy audits?

153. Do you sell, distribute or provide any claims data and client information to outside vendors? If so describe.

154. What was the turnover rate of pharmacies in your network in 2018, 2019, and 2020? Please differentiate between voluntary and involuntary turnover and list the reasons for each type of turnover.

155. Please describe your financial arrangements with the pharmacies. Include how often the contracting pharmacies are reimbursed and by what method they are reimbursed.

156. Do you collect fees from pharmacies to participate in your pharmacy network?

157. Do you collect fees from pharmacies to submit transactions?

158. Are all your retail pharmacies online and are claims processed on a “real time” basis? Describe the dispersing process when an insured fills a prescription in the retail setting.

159. Do you have various networks available based on breadth of providers? Is it correct to say that the narrower the provider selection offered, the greater the pharmacy discount, and thus the lower your rates or fees offered to the A&M System? Which network was utilized in developing the rate quoted to the A&M System and why?

160. Along with the RFP, you should have also downloaded a file named *A&M Care Plan Demographics*. If you failed to download the file, you can do so by returning to the ESBD. Exhibit E provides further information about the data found on the file. Based on this demographic data by zip code, what percentage of the participants enrolled in the A&M Care plans will have access to a network pharmacy, with access being defined as residing within 10 miles of a network pharmacy?

161. Along with the RFP, you should have also downloaded a file named *Detailed Claims File*. This file contains A&M Care plan-specific prescription drug claim data for a one-year period. If you failed to download the file, you can do so by returning to the ESBD. Based on the number of prescriptions filled as indicated on this file, what percentage of those pharmacy providers (NABP Code is provided) are in your network?

162. What type of education is done with physicians and contracted pharmacists?

163. Are formulary non-compliance reports communicated to physicians?

164. Please describe your approach to quality assurance (QA).

165. How do you handle provider performance problems?

166. How are providers monitored?

167. How is a provider removed from the network?

Performance Guarantees

168. Please indicate the items below for which you willing to put fees at risk:

a) Claim processing accuracy,
b) Claim payment turnaround time,
c) On-time ID card distribution,
d) Member service response time and accuracy,
e) Maintaining appropriate network access standards,
f) Achieving utilization objectives,
g) Customer Service standards,
h) Timely completion of Administrative agreement, business associate agreement, group policy, riders, and any other required legal documentation,
i) Other.

What methodology and standards do you propose for calculating and reporting this information?

Subcontracting

169. Are any activities subcontracted? If so, please provide the subcontractors name, services performed and detailed information describing under what circumstances subcontractors are used. Note: This information is in addition to the HUB Subcontracting Plan as required in *Section 3.17* of this RFP.

Disease Management Programs

The A&M System is interested in disease management programs that include patient self-management, provider education, evidence-based models and minimum standards of care, standardized protocols and participation criteria, and physician-directed or physician-supervised care.

We are interested in offering disease management programs that help improve member's health and help cut medical costs. However, we have found that there is a lack of accepted analytical methods for evaluating cost savings from disease management programs and that most carriers or disease management vendors do not have the ability to provide sound return on investment data.

170. Are you willing to provide a monthly detailed claims data set to the A&M Care medical carrier, currently BlueCross BlueShield of Texas (BCBSTX), in order to enhance disease management efforts? Do you currently provide monthly detailed claims data sets to BCBSTX or any other medical carriers for your clients?

171. Would you be interested in receiving a monthly detailed claims data set from our medical carrier and how would you use such data? Do you currently have this process in place with any medical carriers? If yes, which carriers?

172. BCBSTX currently provides ESI with a weekly file of individuals that BCBSTX case managers or chronic condition managers have been unsuccessful in contacting. If a member calls ESI and is on the list, ESI customer service can perform a warm transfer to BCBSTX after completing the call. Are you able and willing to accept a weekly file from BCBSTX and provide such a service? Are you currently providing this service for any of your clients?

173. How does your organization identify and attempt to close prescription drug-related gaps in care?

174. How does your organization identify and address members with adherence issues?

175. Do you outreach to physicians with regard to members identified as having a gap in care or an issue with adherence?

176. Are members identified in your system as having a chronic or complex medical condition? If yes, are inbound calls from such a member handled differently than those of other members?

Medicare Part D Requirements and Integration

180. How many clients do you currently support who are offering an Employer Group Waiver Plan (EGWP)?

181. What are the primary differentiators of your EGWP programs and solutions?

182. Has an EGWP managed by you ever been sanctioned by CMS? If so, why?

183. Describe your resources and staffing for the EGWP business (front line to leadership level).

184. Describe your strategy for driving consistency between commercial and EGWP programs.

185. Outline your end-to-end process for implementation of a new EGWP, including timeframes and quality control steps in place to ensure accurate benefit testing/setup has been completed internally and with all other impacted Contractors, including the contracted Third Party Administrator for the medical plan.

186. What efforts does your organization put forth with government agencies to further enhance opportunities for employers that offer retiree coverage?

187. Is your information systems integrated for all lines of business; commercial and EGWP? If not, describe how you ensure data integrity and consistency between commercial and EGWP plans.

188. Do you currently administer EGWP + Other Health Insurance (OHI)/Wrap? If yes, identify how those types of plans are administered? (e.g., issuance of multiple EOBs and/or member ID cards, multiple claims system benefit).

189. Do you offer multiple EGWP formularies? If yes, describe.

190. Do you offer an EGWP Supplement Drug List(s)? If yes, describe.

191. How do you protect clients from high-cost drugs that are new to market?

192. Describe any clinical programs you offer that exceed CMS requirements including any additional fees, if applicable.

193. Will you allow for grandfathering of UM programs? Explain.

194. Describe your transition fill process for the EGWP Wrap product.

195. Confirm that for members transitioning into the 65 Plus Medicare Part D plan, you can transfer deductible and out-of-pocket accumulators accrued from the A&M Care Prescription plan, an off calendar year plan.

196. Confirm you can operate an off calendar year EGWP Maximum Out-of-Pocket (MOOP) with a calendar year EGWP plan in support of members who transition between the A&M Care Prescription plan and 65 Plus Medicare Part D plan midyear. Also, confirm you have the ability to combine out-of-pocket amounts from both plans (e.g. for a retired employee in 65 Plus Medicare Part D plan whose spouse is in the A&M Care Prescription plan) into a family OOP total to be shared with the medical TPA via file feed.

197. Describe your call center support model for EGWP members.

198. Explain options available to your EGWP clients for handling low income premium subsidy.

199. Explain options available to your EGWP clients to assist with late enrollment penalties.

200. Describe the support you provide for EGWP member communications and provide samples of your EGWP member communications.

201. What efforts do you make to encourage EGWP members to receive electronic communications?

202. Describe your Client Services support model for the EGWP program. How does this align with the team that will support the Active population? Provide information about the suggested candidate for each role.

203. Explain the notification process for issues that impact just the EGWP line of business and for issues that impact both commercial plan and EGWP participants.

204. Confirm your pricing for EGWP is all inclusive. Describe any aspects of EGWP administration (CMS requirements, claims adjudication, etc.) that would be consider outside the normal course of business and incur additional administrative fees.

205. Outline areas of focus and any future initiatives planned for your EGWP line of business.

206. What additional services can you offer (grandfathering of drugs, extended transition periods, group-level prior authorizations, etc.) to create a seamless transition for EGWP members coming onto the 65 Plus Medicare Part D Plan?

207. What is your first submission enrollment acceptance/success rate with CMS without client or member intervention?

208. Describe your process for Medicare Beneficiary Identification number verification.

209. Describe your process for address verification upon enrollment. Can you accept PO Boxes for member addresses?

210. Outline your enrollment process from end-to-end, including your interventions, processes for eligibility outliers, and reporting provided.

211. How do you ensure compliance when handling enrollment and disenrollment requests? Confirm you will be responsible for all CMS required mailings and ensuring associated turn-around times are met.

212. Fully describe your standard enrollment file layout for EGWP plans. What customizations are allowable? Will you accept both changes only files and full enrollment files?

213. What tools and resources are made available to manage enrollment and eligibility requests, outside of the electronic file feed?

214. Explain additional levels of enrollment support provided to ensure member enrollment is successful.

215. Describe how you assist with involuntary and category three (3) retroactive enrollment and disenrollment requests.

216. Can you support member-level premium billing?

217. Outline the process for passing back all subsidies and rebates associated with the EGWP plan. Provide reporting samples for each.

218. Confirm that administrative fees for all lines of business will be billed on the same invoice and be subject to the same payment terms.

Digital Partners

219. Do you partner with digital vendors to could provide additional services to our employees, retirees, and covered dependents on your platform? (Examples: Sleepio, Happify, Emindful, Evive, Castlight, Grand Rounds, Livongo, etc.)

220. Please describe your level of integration with potential vendors. Describe any current integration in place including any file feeds or processes that might be leveraged for the A&M System.

Banking Arrangements

221. Describe your proposed banking arrangement/payment transfer and reconciliation procedures.

EXHIBIT E – SUPPLEMENTAL FILES TO RFP INSTRUCTIONS

You should have downloaded the following files along with the RFP. If you failed to download these files, you can do so by returning to the ESBD.

- PBM Price Proposal Worksheet.docx
- Detailed Claims File.xlsx
- Retail Network Reimbursement.xlsx
- Specialty Pharmacy Pricing.xlsx
- Formulary.xlsx
- Historical Data.xlsx
- A&M Care Plan Demographics.xlsx – this file contains demographic information for employees and retirees currently enrolled in the A&M Care Plan. The file provides demographic information based on the zip code and the employee/retiree age. The file represents a snapshot of enrollment as of December 1, 2020.

  An explanation of valid values appears below.

Field	Valid Values
Zip Code	Participant's Zip Code
Age	Participant's Age
Employee Status	A – Active, I – Incapacitated (disability retiree), L – Leave of Absence, R – Retired, S – Survivor, T – Terminated, W – Working Retiree
Tier	E – Employee Only, S – Employee & Spouse, C – Employee & Children, F – Employee & Family
Male Participants	Numerical Count
Female Participants	Numerical Count
Male Spouses	Numerical Count
Female Spouses	Numerical Count
Male Children	Numerical Count
Female Children	Numerical Count

IMPORTANT:

In order to arrive at the number of participants (employees and retirees), you will need to sum the "Male Participants" and the "Female Participants" columns and add them together. You cannot just count the number of lines in the file since many lines include multiple individuals. Similarly, you must sum the "Male Spouses," "Female Spouses," Male Children," and "Female Children" columns and add them together to arrive at a total dependent count.

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

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "Agreement") between The Texas A&M University System ("A&M System"), an agency of the State of Texas, on behalf of the A&M Care Plan **("Covered Entity")** and **("Business Associate")**, shall be effective **(the "Effective Date")**. All terms used in this Agreement and not defined herein which are defined under Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"), including *45 C.F.R. Parts 160* and *164* ("Privacy Rule"), shall have the meanings set forth in the applicable definition under HIPAA.

Covered Entity and Business Associate have entered into, are entering into, or may subsequently enter into, agreements or other documented arrangements (collectively, the "Business Arrangements") pursuant to which Business Associate may provide products and/or services for Covered Entity that require Business Associate to access, create, maintain, and use health information that is protected by state and/or federal law.

Pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the U.S. Department of Health & Human Services ("HHS") promulgated the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Standards"), at 45 C.F.R. Parts 160 and 164, requiring certain individuals and entities subject to the Privacy Standards (each a "Covered Entity", or collectively, "Covered Entities") to protect the privacy of certain individually identifiable health information ("Protected Health Information" or "PHI").

Pursuant to HIPAA, HHS issued the Security Standards (the "Security Standards"), at 45 C.F.R. Parts 160, 162 and 164, for the protection of electronic protected health information ("EPHI").

In order to protect the privacy and security of PHI, including EPHI, created or maintained by or on behalf of the Covered Entity, the Privacy Standards and Security Standards require a Covered Entity to enter into a "business associate agreement" with certain individuals and entities providing services for or on behalf of the Covered Entity if such services require the use or disclosure of PHI or EPHI.

On February 17, 2009, the federal Health Information Technology for Economic and Clinical Health Act was signed into law (the "HITECH Act"), and the HITECH Act imposes certain privacy and security obligations on Covered Entities in addition to the obligations created by the Privacy Standards and Security Standards.

The HITECH Act revises many of the requirements of the Privacy Standards and Security Standards concerning the confidentiality of PHI and EPHI, including extending certain HIPAA and HITECH Act requirements directly to Business Associates.

The HITECH Act requires that certain of its provisions be included in business associate agreements, and that certain requirements of the Privacy Standards be imposed contractually upon Covered Entities as well as Business Associates.

The Texas Legislature has adopted certain privacy and security requirements that are more restrictive than those required by HIPAA and HITECH, and such requirements are applicable to Business Associates as "Covered Entities" as defined by Texas law; and because Business Associate and Covered Entity desire to enter into this Business Associate Agreement, in consideration of the mutual promises set forth in this Agreement and the applicable Business Arrangements, and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

I. Definitions

a. Except as otherwise defined in this Agreement, all capitalized terms used in this Agreement shall have the meanings set forth in HIPAA.

b. "**Business Associate**" shall have the same meaning to the term "Associate" under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.

c. "**Breach**" shall mean the acquisition, access, use or disclosure of Protected Health Information in a manner not permitted by the HIPAA Privacy Rule that compromises the security or privacy of the Protected Health Information as defined, and subject to the exceptions set forth, in 45 CFR § 164.402.

d. "**Covered Entity**" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.

e. "**Data Aggregation Services**" shall mean the combining of PHI or EPHI by Business Associate with the PHI or EPHI received by Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of, payment to, and treatment of patients by the respective covered entities.

f. "**Electronic Protected Health Information**" shall mean Protected Health Information that is transmitted or maintained in Electronic Media.

g. "**HIPAA**" shall mean the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended and supplemented by the HITECH Act and its implementing regulations, as each is amended from time to time.

h. "**HIPAA Breach Notification Rule**" shall mean the federal breach notification regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Part 164 (Subpart D).

i. "**HIPAA Privacy Rule**" shall mean the federal privacy regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Parts 160 and 164 (Subparts A & E).

j. "**HIPAA Security Rule**" shall mean the federal security regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Parts 160 and 164 (Subparts A & C).

k. "**HITECH Act**" shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American recovery and Reinvestment Act of 2009, 42 U.S.C. §§ 17921-17954, and all its implementing regulations, when and as each is effective and compliance is required.

l. "**Protected Health Information of PHI**" shall mean Protected Health Information, as defined in 45 CFR § 160.103, and is limited to the Protected Health Information received, maintained, created or transmitted on behalf of, Covered Entity by Business Associate in performance of the Underlying Services.

m. "**Underlying Services**" shall mean, to the extent and only to the extent they involve the creation, maintenance, use, disclosure or transmission of Protected Health Information, the services performed by Business Associate for Covered Entity pursuant to the Underlying Services Agreement.

n. "**Underlying Services Agreement**" shall mean the written agreement(s) (other than this Agreement) by and between the parties as amended as set forth in the attached schedule by and between the parties pursuant to which Business Associate access to, receives, maintains, creates or transmits PHI for or on behalf of Covered Entity in connection with the provision of the services described in that agreement(s) by Business Associate to Covered Entity or in performance of Business Associate's obligations under such agreement(s).

II. Business Associate Obligations.

Business Associate may receive from Covered Entity, or create or receive or maintain on behalf of Covered Entity, health information that is protected under applicable state and/or federal law, including without limitation, PHI and EPHI. All references to PHI herein shall be construed to include EPHI. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the Privacy Standards, Security Standards the HITECH Act, or Texas law, including without limitation the provisions of Texas Health and Safety Code Chapters 181 and 182 as amended by HB 300 (82nd Legislature), effective September 1, 2012, in each case including any implementing regulations as applicable (collectively referred to hereinafter as the "Confidentiality Requirements") if the PHI were used or disclosed by Covered Entity in the same manner.

III. Use of Protected Health Information

Except as otherwise required by law, Business Associate shall use PHI in compliance with 45 C.F.R. § 164.504(e). Furthermore, Business Associate shall use PHI (i) solely for Covered Entity's benefit and only for the purpose of performing services for Covered Entity as such services are defined in Business Arrangements, (ii) for Data Aggregation Services (as herein defined), and (iii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. For avoidance of doubt, under no circumstances may Business Associate sell PHI in such a way as to violate Texas Health and Safety Code, Chapter 181.153, as amended by HB 300 (82nd Legislature), effective September 1, 2012, nor shall Business Associate use PHI for marketing purposes in such as manner as to violate Texas Health and Safety Code Section 181.152, or attempt to re-identify any information in violation of Texas Health and Safety Code Section 181.151, regardless of whether such action is on behalf of or permitted by the Covered Entity. To the extent not otherwise prohibited in the Business Arrangements or by applicable law, use, creation and disclosure of de-identified health information, as that term is defined in 45 CFR § 164.514, by Business Associate is permitted.

IV. Disclosure of Protected Health Information

Subject to any limitations in this Agreement, Business Associate may disclose PHI to any third party persons or entities as necessary to perform its obligations under the Business Arrangement and as permitted or required by applicable federal or state law. Business Associate recognizes that under the HIPAA/HITECH Omnibus Final Rule, Business Associates may not disclose PHI in a way that would be prohibited if Covered Entity made such a disclosure. Any disclosures made by Business Associate will comply with minimum necessary requirements under the Privacy Rule and related regulations.

Business Associate shall not, and shall provide that its directors, officers, employees, subcontractors, and agents, do not disclose PHI to any other person (other than members of their respective workforce), unless disclosure is required by law or authorized by the person whose PHI is to be disclosed. Any such disclosure other than as specifically permitted in the immediately preceding sentences shall be made only if such disclosee has previously signed a written agreement that:

a.) Binds the disclosee to the provisions of this Agreement pertaining to PHI, for the express benefit of Covered Entity, Business Associate and, if disclosee is other than Business Associate, the disclosee;

b.) Contains reasonable assurances from disclosee that the PHI will be held confidential as provided in this Agreement, and only disclosed as required by law for the purposes for which it was disclosed to disclosee; and,

c.) Obligates disclosee to immediately notify Business Associate of any breaches of the confidentiality of the PHI, to the extent disclosee has obtained knowledge of such breach.

Business Associate shall not disclose PHI to any member of its workforce and shall provide that its subcontractors and agents do not disclose PHI to any member of their respective workforces, unless Business Associate or such subcontractor or agent has advised such person of Business Associate's obligations under this Agreement, and of the consequences for such person and for Business Associate or such subcontractor or agent of violating them as memorialized in a business associate agreement pursuant to the HIPAA/HITECH Omnibus Final Rule. Business Associate shall take and shall provide that each of its subcontractors and agents take appropriate disciplinary action against any member of its respective workforce who uses or discloses PHI in contravention of this Agreement

In addition to Business Associate's obligations under Section IX, Business Associate agrees to mitigate, to the extent commercially practical, harmful effects that are known to Business Associate and is the result of a use or disclosure of PHI by Business Associate or Recipients in violation of this Agreement.

V. Access to and Amendment of Protected Health Information

Business Associate shall (i) provide access to, and permit inspection and copying of, PHI by Covered Entity; and (ii) amend PHI maintained by Business Associate as requested by Covered Entity. Any such amendments shall be made in such a way as to record the time and date of the change, if feasible, and in accordance with any subsequent requirements promulgated by the Texas Medical Board with respect to amendment of electronic medical records by HIEs. Business Associate shall respond to any request from Covered Entity for access by an individual within seven (7) days of such request and shall make any amendment requested by Covered Entity within twenty (20) days of the later of (a) such request by Covered Entity or (b) the date as of which Covered Entity has provided Business Associate

with all information necessary to make such amendment. Business Associate may charge a reasonable fee based upon the Business Associate's labor costs in responding to a request for electronic information (or the fee approved by the Texas Medical Board for the production of non-electronic media copies). Business Associate shall notify Covered Entity within five (5) days of receipt of any request for access or amendment by an individual. Covered Entity shall determine whether to grant or deny any access or amendment requested by the individual. Business Associate shall have a process in place for requests for amendments and for appending such requests and statements in response to denials of such requests to the Designated Record Set, as requested by Covered Entity.

VI. Accounting of Disclosures

Business Associate shall make available to Covered Entity in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual in accordance with 45 CFR § 164.528, as amended by Section 13405(c) of the HITECH Act and any related regulations or guidance issued by HHS in accordance with such provision.

VII. Records and Audits

Business Associate shall make available to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Covered Entity for the purpose of determining Covered Entity's compliance with the Confidentiality Requirements or the requirements of any other health oversight agency, in a time and manner designated by the Secretary.

VIII. Implementation of Security Standards; Notice of Security Incidents

Business Associate will use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement. Business Associate will implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate acknowledges that the HITECH Act requires Business Associate to comply with 45 C.F.R. §§164.308, 164.310, 164.312 and 164.316 as if Business Associate were a Covered Entity, and Business Associate agrees to comply with these provisions of the Security Standards and all additional security provisions of the HITECH Act.

Furthermore, to the extent feasible, Business Associate will use commercially reasonable efforts to secure PHI through technology safeguards that render such PHI unusable, unreadable and indecipherable to individuals unauthorized to acquire or otherwise have access to such PHI in accordance with HHS Guidance published at 74 Federal Register 19006 (April 17, 2009), or such later regulations or guidance promulgated by HHS or issued by the National Institute for Standards and Technology ("NIST") concerning the protection of

identifiable data such as PHI. Lastly, Business Associate will promptly report to Covered Entity any successful Security Incident of which it becomes aware. At the request of Covered Entity, Business Associate shall identify: the date of the Security Incident, the scope of the Security Incident, the Business Associate's response to the Security Incident and the identification of the party responsible for causing the Security Incident, if known.

IX. Data Breach Notification and Mitigation

HIPAA Data Breach Notification and Mitigation. Business Associate agrees to implement reasonable systems for the discovery and prompt reporting to Covered Entity of any "breach" of "unsecured PHI" as those terms are defined by 45 C.F.R. §164.402. Specifically, a breach is an unauthorized acquisition, access, use or disclosure of unsecured PHI, including ePHI, which compromises the security or privacy of the PHI/ePHI. A breach is presumed to have occurred unless there is a low probability that the PHI has been compromised based on a risk assessment of at least the factors listed in 45 C.F.R. § 164.402(2)(i)-(iv) (hereinafter a "HIPAA Breach"). The parties acknowledge and agree that 45 C.F.R. § 164.404 governs the determination of the date of discovery of a HIPAA Breach. In addition to the foregoing and notwithstanding anything to the contrary herein, Business Associate will also comply with applicable state law, including without limitation, Section 521 Texas Business and Commerce Code, as amended by HB 300 (82nd Legislature), or such other laws or regulations as may later be amended or adopted. In the event of any conflict between this section, the Confidentiality Requirements, Section 521 of the Texas Business and Commerce Code, and any other later amended or adopted laws or regulations, the most stringent requirements shall govern.

Discovery of Breach. Business Associate will, following the discovery of a HIPAA Breach, notify Covered Entity without unreasonable delay and in no event later than the earlier of the maximum of time allowable under applicable law or three (3) business days after Business Associate discovers such HIPAA Breach, unless Business Associate is prevented from doing so by 45 C.F.R. §164.412 concerning law enforcement investigations. For purposes of reporting a HIPAA Breach to Covered Entity, the discovery of a HIPAA Breach shall occur as of the first day on which such HIPAA Breach is known to the Business Associate or, by exercising reasonable diligence, would have been known to the Business Associate. Business Associate will be considered to have had knowledge of a HIPAA Breach if the HIPAA Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the HIPAA Breach) who is an employee, officer or other agent of the Business Associate.

Reporting a Breach. Without unreasonable delay and no later than the earlier of the maximum of time allowable under applicable law or five (5) business days following a HIPAA Breach, Business Associate shall provide Covered Entity with sufficient information to permit Covered Entity to comply with the HIPAA Breach notification requirements set forth at 45 C.F.R. § 164.400 et seq. Specifically, if the following information is known to (or can be reasonably obtained by) the Business Associate, Business Associate will provide Covered Entity with:

a.) contact information for individuals who were or who may have been impacted by the HIPAA Breach (e.g., first and last name, mailing address, street address, phone number, email address);

b.) a brief description of the circumstances of the HIPAA Breach, including the date of the HIPAA Breach and date of discovery;

c.) a description of the types of unsecured PHI involved in the HIPAA Breach (e.g., names, social security number, date of birth, addressees, account numbers of any type, disability codes, diagnostic and/or billing codes and similar information);

d.) a brief description of what the Business Associate has done or is doing to investigate the HIPAA Breach, mitigate harm to the individual impacted by the HIPAA Breach, and protect against future HIPAA Breaches; and,

e.) appoint a liaison and provide contact information for same so that Covered Entity may ask questions or learn additional information concerning the HIPAA Breach.

Following a HIPAA Breach, Business Associate will have a continuing duty to inform Covered Entity of new information learned by Business Associate regarding the HIPAA Breach, including but not limited to the information described above.

X. Termination

This Agreement shall commence on the Effective Date.

Upon the termination of the applicable Business Arrangement, either Party may terminate this Agreement by providing written notice to the other Party.

Upon termination of this Agreement for any reason, Business Associate agrees:

a.) to return to Covered Entity or to destroy all PHI received from Covered Entity or otherwise through the performance of services for Covered Entity, that is in the possession or control of Business Associate or its agents. Business Associate agrees that all paper, film, or other hard copy media shall be shredded or destroyed such that it may not be reconstructed, and EPHI shall be purged or destroyed concurrent with NIST Guidelines for media sanitization at http://www.csrc.nist.gov/; or,

b.) in the case of PHI which is not feasible to “return or destroy,” to extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Business Associate further agrees to comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment of such PHI.

XI. Miscellaneous

Notice. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (i) personal delivery; (ii) certified or registered United States mail, return receipt requested; (iii) overnight delivery service with proof of delivery; or (iv) facsimile with return facsimile acknowledging receipt. Notices shall be sent to the addresses below. Neither party shall refuse delivery of any notice hereunder.

Covered Entity:	Business Associate:
Ms. Ellen Gerescher	Name
Employee Benefits Manager	Title
Moore/Connally Building	Address Line 1
301 Tarrow, 5th Floor	Address Line 2
College Station, TX 77840	Address Line 3

Waiver. No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

Assignment. Neither Party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.

Severability. Any provision of this Agreement that is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangements or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangements are more strict with respect to PHI and comply with the Confidentiality Requirements, or the parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Party; provided, however, that upon the enactment of any law, regulation, court decision or relevant government publication and/or interpretive guidance or policy that the Covered Entity believes in good faith will adversely impact the use or disclosure of PHI under this Agreement, Covered Entity may amend the Agreement to comply with such law, regulation, court decision or government publication, guidance or policy by delivering a written amendment to Business Associate which shall be effective

thirty (30) days after receipt. No obligation on either Party to enter into any transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Texas. Venue for any dispute relating to this Agreement shall be in Brazos County, Texas.

Nature of Agreement; Independent Contractor. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, or (ii) a relationship of employer and employee between the parties. Business Associate is an independent contractor, and not an agent of Covered Entity. This Agreement does not express or imply any commitment to purchase or sell goods or services.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought. Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same force and effect as physical execution and delivery of the paper document bearing the original signature.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COVERED ENTITY:

BUSINESS ASSOCIATE: