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June 20, 2022

TO: Qualified Vendors

RE: Request for Proposals to Provide Third-Party Administration of the Self-Funded State of Texas VisionSM Plan under the Texas Employees Group Benefits Program

To Whom It May Concern:

The Employees Retirement System of Texas is issuing this Request for Proposals seeking a qualified entity to provide third-party administration of the self-funded State of Texas VisionSM Plan, a group vision plan available under the Texas Employees Group Benefits Program.

The Services requested and described in this RFP will be provided throughout the Contract Term. The term of the contract is for six (6) years, which will begin upon execution of the Contract by ERS and, after the Implementation Period, extend through August 31, 2029, subject to the Contract terms.

Interested Respondents must first submit the Minimum Requirements Questionnaire (**Appendix H**) by the deadline specified in RFP Section I.B.1. Failure to timely submit the Minimum Requirements Questionnaire will disqualify a Respondent from consideration. For additional information regarding the evaluation process, Respondents should refer to Article II of the RFP, Proposal Evaluation.

NOTE: The Confidentiality and Nondisclosure Agreement (**Appendix F**) must be properly executed and uploaded to erstexas.bonfirehub.com in order to receive the Experience Data Files (**Appendix S-2**) and File Layouts (**Appendices T, U-1, U-2, U-3 and U-4**). See RFP Sections I.E.7. – I.E.7.a. for additional information regarding the submission of the Confidentiality and Nondisclosure Agreement.

Any questions regarding the RFP should be submitted to ERS' e-procurement portal at erstexas.bonfirehub.com or ERS' procurement mailbox at: ivendorquestions@ers.texas.gov with "**Vision RFP Questions**" in the subject line.

Thank you for your interest in doing business with ERS.

Employees Retirement System of Texas

RFP No. 20-10845-001

**Request for Proposals
To Provide
Third-Party Administration of the
Self-Funded State of Texas VisionSM Plan
under the Texas Employees Group Benefits
Program**



**FIRST AMENDED
July 20, 2022**

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Article I. General Instructions

A. ERS Background

- A.1. ERS is a trust fund established by the Texas Constitution and is described in Article XVI, Section 67, Texas Constitution. ERS is also organized pursuant to Subtitle B, Title 8, Tex. Gov't Code, as well as Title 34 of the Tex. Admin. Code, Sections 61.1, *et seq.* ERS administers defined benefit pension plans for State employees, law enforcement and custodial officers, elected State officials and judges. ERS invests State and member contributions in the retirement trust funds and administers the trust funds with a fiduciary obligation to the members and retirees of ERS who are its beneficiaries. ERS also administers the Texas Employees Group Benefits Program, which consists of health benefits, life insurance and other optional benefits for participating individuals eligible to receive those benefits under applicable law.

B. Schedule of RFP Process

- B.1. The RFP process will be conducted in accordance with the following schedule. ERS reserves the right to change all deadlines below at any time

RFP Milestone	Date(s)
RFP Publication	June 20, 2022
Deadline to request Confidentiality and Nondisclosure Agreement (Appendix F)	July 7, 2022 at 4:00 p.m. CT
Deadline to submit questions regarding the RFP (See RFP Sections I.E.6. – I.E.6.a.)	July 12, 2022 at 4:00 p.m. CT (However, ERS will respond to questions regarding the Minimum Requirements Questionnaire as promptly as possible.)
Deadline to submit the Minimum Requirements Questionnaire in Bonfire	July 14, 2022 at 4:00 p.m. CT
Answers to questions regarding the RFP posted to Bonfire and ESBD	July 26, 2022
Deadline to submit Proposal in Bonfire	August 9, 2022 at 10:00 a.m. CT
Deadline to provide Proposal via hardcopy by mail or hand-delivery (See RFP Section XIII.A.)	August 17, 2022
Site visits, if applicable <ul style="list-style-type: none"> Operational and Call Center Data Center and Security Operations Center (See RFP Sections II.E.2. – II.E.2.d.)	Anticipated for October 2022 – November 2022
Interviews, if applicable (in-person or video conference) (See RFP Sections II.E.3. – II.E.3.a.)	Anticipated for December 2022
Contract award	Anticipated for March 2023
Begin implementation of administrative Services	Upon Contract Execution
Begin Group Vision Care Services	September 1, 2023

C. Request for Proposals Summary

- C.1. **The RFP.** ERS is issuing this RFP seeking a qualified entity to provide third-party administration of the self-funded State of Texas VisionSM Plan, a group vision plan available under the Texas Employees Group Benefits Program.

- C.2. **Contract Term.** The Services requested and described in this RFP will be provided throughout the Contract Term. The Contract Term is for six (6) years, which will begin upon execution of the Contract by ERS and, after the Implementation Period, extend through August 31, 2029, subject to the terms of the Contract.
- C.3. **Definitions.** Respondents shall refer to Article XII, Glossary of Terms, for definitions applicable to certain terms used in the RFP. Respondents shall use the Glossary of Terms as a reference because the terms will not be defined within the text of the RFP. When used herein, the word “including” means “including, but not limited to” regardless of whether such additional word or words of similar meaning are used.
- C.3.a. In the event of a discrepancy between the definitions of the RFP and MBPD, the MBPD will prevail.

D. Submission of Minimum Requirements and Proposals

- D.1. **Submission of Minimum Requirements Questionnaire.** The deadline for submission of the Minimum Requirements Questionnaire (**Appendix H**) is specified in RFP Section I.B.1. ERS strongly recommends that Respondents take sufficient time and at least one (1) day prior to the Minimum Requirements Questionnaire deadline to begin the uploading process and to finalize submission of the Minimum Requirements Questionnaire. Failure to timely submit the Minimum Requirements Questionnaire will disqualify a Respondent from consideration. Deviations are not permitted to the Minimum Requirements.
- D.1.a. The Minimum Requirements Questionnaire (**Appendix H**) shall be submitted online by uploading it to Bonfire. If Respondent has not already created a profile in Bonfire to download the RFP, request the Confidentiality and Nondisclosure Agreement (NDA), and/or submit questions, Respondent must create a profile in Bonfire at the following link: erstexas.bonfirehub.com in order to submit **Appendix H**. Bonfire operates best on the latest versions of Microsoft Edge, Google Chrome, and Mozilla Firefox. Browser cookies must be enabled when accessing Bonfire. If Respondent has already created a Bonfire profile, Respondent shall use its existing profile to submit **Appendix H**.
- D.1.b. *Vendor Contact Information.* Prior to submitting **Appendix H** in Bonfire, Respondent shall edit the vendor contact information (if applicable) so that it reflects the same email address for the primary contact that will be provided in **Appendix I**, Section A.2. To edit the contact information in Bonfire, Respondent shall perform the following steps:
- Login to Bonfire and navigate to the “Submissions” section, click on the “Work-in-Progress” button.
 - Click on “Actions” for the correct Project name and chose “View” from dropdown menu.
 - On the “Complete Your Submission” page, click on “Edit Contact Info” button. Edit the solicitation contact information. Click “Save”.
 - Upload documents for submission.
- D.1.c. **ERS will only accept and consider Proposals submitted by Respondents that submitted the Minimum Requirements Questionnaire.** Bonfire will only allow Respondents that submitted **Appendix H** to submit a Proposal.
- D.2. **Submission of Proposals.** Respondent is encouraged to submit a comprehensive Proposal, including all requested response materials, outlining its capabilities to perform the Services as specified within the RFP and in accordance with the Contractual Agreement attached hereto as **Appendix B** and any attached exhibits.
- D.2.a. Proposals shall be submitted online by uploading them to Bonfire. Respondent shall use its existing profile to submit a Proposal.
- D.2.b. The maximum upload file size is 1,000 MB. **Documents should not be embedded within uploaded files, as the embedded files will not be accessible or evaluated.**
- D.2.c. Proposals shall be submitted in the file formats listed in the Proposal Deliverables Checklist in RFP Section XIII.B.1. **Proposal documents should not be encrypted or password protected, as encrypted or password protected files will not be evaluated.**

- D.2.d. **Submission Deadline.** Proposals must be uploaded, submitted, and finalized in Bonfire by the deadline specified in RFP Section I.B.1. ERS strongly recommends that Respondents take sufficient time and at least one (1) day prior to the Proposal submission deadline to begin the uploading process and to finalize submission of the Proposal. Bonfire will not accept Proposals after the deadline specified in RFP Section I.B.1.
- D.2.e. **Confidential and/or Proprietary Information Submission.** If Respondent considers any of the information requested in the RFP to be confidential and/or proprietary, Respondent must list this information on a separate document as required by RFP Section I.F.2. However, Respondent must provide all requested information and/or documents with its Proposal to allow ERS to perform a complete and comprehensive evaluation of Respondent and its Proposal. RFP Section I.F.2. and Appendix I, Sections A.7 – A.7.d. contain additional instructions regarding labeling and submitting confidential and/or proprietary information.
- D.2.f. Respondents should contact ERS at ivendorquestions@ers.texas.gov or Bonfire at Support@GoBonfire.com for technical questions related to submissions. Respondents may also visit Bonfire's help forum at <https://bonfirehub.zendesk.com/hc>.
- D.3. **Deviations to RFP Requirements.** ERS prefers that Respondent not deviate from the RFP requirements. If a Respondent deviates from the RFP requirements, such Deviations must be clearly stated. Deviations are permitted to the RFP requirements sections only and must be proposed by Respondent in the corresponding Deviations sections within the appropriate appendix. For further clarity, some articles contain background sections. Deviations to background sections are not permissible and will not be considered by ERS.
- D.3.a. ERS is not obligated to accept Respondent's proposed Deviations and ERS may require that Respondent withdraw such Deviations. Vague suggestions about provisions requiring discussion will not be deemed Deviations by ERS, and those provisions will be deemed to have been accepted in their original forms by Respondent. Deviations not withdrawn by Respondent at ERS' request may result in Respondent being deemed nonresponsive and thus disqualified from further consideration by ERS for Contract award. If ERS chooses to accept any proposed Deviation(s) to the RFP requirements, ERS will convey that acceptance in writing to Respondent and the approved Deviation(s) will become part of the final Contract. Respondent assumes the responsibility of identifying all Deviations in the appropriate Deviation sections and, if not accepted by ERS, all requirements of the RFP stipulated must be fulfilled at no additional expense to ERS. **ERS will not consider any Deviations not submitted with Respondent's original Proposal.**
- D.3.b. **Deviations to the Contractual Agreement and Contract Exhibits.** Instructions for proposing Deviations to the Contractual Agreement (**Appendix B**), DSBNA (**Appendix C**), BAA (**Appendix D**) and the PGs (**Appendix E**), are located in RFP Sections V.A.3.a. – V.A.3.a.i. and V.A.7.a.
- D.4. **Interrogatory Instructions.** Respondent shall provide true and accurate answers to all of the interrogatories. All interrogatories shall be answered in detail and responses shall sufficiently describe Respondent's position on each interrogatory. Respondent is responsible for responding to the interrogatories in a manner that allows ERS to have a complete understanding of its intent. **Responses that are incomplete or vague may negatively impact Respondent's score. Respondent shall carefully define any key words or phrases included in its responses that are not otherwise defined in the Contract or RFP. If Respondent believes that Respondent has adequately answered a question in a previous response, Respondent may reference the section and question number (for example, "See response provided under ____".)** Respondent's Proposal shall use the terms defined in the Contract and RFP only as they are defined.
- D.5. **Content.** The Proposal must sufficiently address all of the requirements of the RFP and must contain all supporting materials and documentation requested in the RFP. **Failure to comply with any Proposal content requirements may result in the Proposal being deemed noncompliant.** Respondent is responsible for identifying and ensuring that all RFP requested materials and documentation are included at time of Proposal submission; Respondent shall use the Proposal Deliverables Checklist (RFP Section XIII.B.1.) only as a guide and not as a comprehensive list of the materials and documentation requested herein.

- D.6. **Signature Requirements.** At least one Authorized Representative as noted on Respondent's Incumbency Certificate (**Appendix G**), shall execute the Signature Page (**Appendix A**). The signature(s) of Respondent's Authorized Representative(s) on the Signature Page and all other related documents submitted by Respondent reflects Respondent's agreement with the truth and accuracy of all statements, warranties and representations contained in the Proposal and all other documents submitted by Respondent. The signatures further reflect Respondent's authorization for ERS to rely on same for all purposes in connection with the RFP process. Respondent's executed Signature Page shall be submitted with its Proposal. ERS will not accept Deviations to the Signature Page. **FIRST AMENDED July 21, 2022**
- D.6.a. If Respondent is relying on a parent or sponsoring corporation for purposes of the RFP or Contract, then each parent or sponsoring corporation must also sign a separate Signature Page and submit them with Respondent's Proposal.
- D.6.b. *Electronic Signatures.* Any electronic signature submitted for purposes of this RFP, including any appendix thereto, shall constitute an "electronic signature" as such term is defined in Chapter 322 of the Texas Business and Commerce Code.

E. General Information and Provisions

- E.1. **Doing Business with ERS.** General information regarding doing business with ERS may be found on ERS' website at: <http://www.ers.texas.gov/vendors>.
- E.2. **Agent of Record.** ERS shall not designate an agent of record or any other such company employee or commissioned representative to act on behalf of either ERS or Respondent. Any requests for ERS to provide such designation shall be rejected.
- E.3. **Vendor Performance Tracking System.** In accordance with Section 2155.089(c)(2), Tex. Gov't Code, ERS may use the CPA's Vendor Performance Tracking System to report vendor performance after the Contract is completed or otherwise terminated.
- E.4. **Prohibited Communications.** Other than as allowed for in the RFP, all Respondents (including prospective Respondents) and their representatives shall not contact ERS employees or officials regarding any aspect of the RFP, including by telephone, email or in person, throughout the RFP process, from the RFP publication date until the Contract award date. All communications must be performed in Bonfire or directed to ivendorquestions@ers.texas.gov. Failure of a Respondent or its representatives to follow this process may be grounds for disqualification.
- E.5. **RFP Addenda.** In the event it becomes necessary, at ERS' discretion, to revise the RFP, or if ERS determines that any additional information is needed to clarify the provisions of the RFP, this information will be posted to Bonfire in the form of an Addendum and provide the requisite notice. Respondent shall acknowledge each Addendum on the Acknowledgement of Receipt of Addenda section of the Signature Page (**Appendix A**).
- E.6. **Question and Answer Period.** To submit questions, prospective Respondents must first create a profile in Bonfire at the following link: erstexas.bonfirehub.com. Questions will be accepted via Bonfire until the deadline specified in RFP Section I.B.1. Answers to questions asked via Bonfire will be posted to Bonfire and ESD on the date specified in RFP Section I.B.1.
- E.6.a. To submit questions via Bonfire, Respondent shall perform the following steps:
- After logging in, click on the "View Opportunity" button next to the RFP name.
 - In the "Messages" section, under "Opportunity I.B.1.", click "Start a new Opportunity Q&A".
 - Input either "Question" or "Questions" in the "Subject" textbox.
 - Input Respondent's question(s) in the "Message" textbox and click "Send".
 - Contact ERS at ivendorquestions@ers.texas.gov for technical questions related to submitting questions.
- E.6.b. This question and answer process is not designed to facilitate Contract negotiations. If ERS receives questions related to the Contractual Agreement, DSBNA, BAA, and/or the PGs (attached as **Appendices B, C, D, and E** respectively), ERS will reply that Contract questions

are addressed during contractual negotiations and not during the question and answer process. See RFP Sections V.A.3.a. – V.A.3.a.i. and V.A.7.a. for additional information regarding Deviations to the Contractual Agreement, DSBNA, BAA, and the PGs.

- E.7. **Confidential Appendices.** The Experience Data Files and File Layouts contained in **Appendices S-2, T, U-1, U-2, U-3 and U-4** are confidential; therefore to obtain **Appendices S-2, T, U-1, U-2, U-3 and U-4**, Respondents must properly execute the NDA (**Appendix F**) and submit through DocuSign before receiving **Appendices S-2, T, U-1, U-2, U-3 and U-4**. The deadline to request the NDA (**Appendix F**) is specified in RFP Section I.B.1. Any entity executing an NDA must confirm its intention to submit a Proposal. Confidential appendices will only be provided to entities who intend to submit a Proposal.
- E.7.a. To request the NDA in DocuSign, prospective Respondents shall follow the steps below:
- Create a profile (or access an existing profile) in Bonfire at the following link: erstexas.bonfirehub.com.
 - Click on the “View Opportunity” button next to the RFP name.
 - In the “Messages” section, under “Opportunity Q&A”, click “Start a new Opportunity Q&A”.
 - Input “NDA” in the “Subject” textbox and submit Respondent’s request to sign an NDA along with the full name and email address of the person who will be signing in the “Message” textbox and click “Send”.
 - Upon this notification, ERS will submit the NDA to Respondent via DocuSign.
 - When ERS receives Respondent’s properly executed NDA, ERS will send Respondent the Experience Data Files and File Layouts contained in **Appendices S-2, T, U-1, U-2, U-3 and U-4**.
 - Contact ERS via Bonfire or at ivendorquestions@ers.texas.gov for technical questions related to submitting NDAs.
- E.8. **Retention of Proposals.** All Proposals submitted to ERS become the sole property of ERS and will be retained in accordance with ERS’ records retention requirements.
- E.9. **Withdrawal of Proposal.** A Proposal may be withdrawn via Bonfire *prior to* the deadline specified for Proposal submission in RFP Section I.B.1. To withdraw a Proposal in Bonfire, Respondent shall perform the following steps:
- Log into Bonfire and click on the “View Opportunity” button next to the RFP name.
 - In the “Submission” section, click on the “View Receipt” button.
 - In the “Need to Revise Your Submission?” section, click on the link titled “Click here to un-submit your submission”.
 - After clicking the link, no further action is required.
- E.9.a. A Proposal may be withdrawn *after* the deadline specified for Proposal submission in RFP Section I.B.1. through formal written notice, signed by Respondent’s Authorized Representative, and accepted by ERS.
- E.10. **Amendment of Proposal.** A Proposal may be amended via Bonfire *prior to* the deadline specified for Proposal submission in RFP Section I.B.1. To amend a Proposal in Bonfire, Respondent shall perform the following steps:
- Log into Bonfire and click on the “View Opportunity” button next to the RFP name.
 - In the “Submission” section, click on the “View Receipt” button.
 - In the “Need to Revise Your Submission?” section, click on the link titled “Click here to un-submit your submission”.
 - In the “Step 1: Provide Submission Information” section, update the submitted information and documents as needed.
 - In the “Step 2: Submit & Finalize” section, check the box and click the “Submit & Finalize My Submission” button.
- E.10.a. A Proposal may not be amended *after* the deadline specified for Proposal submission in RFP Section I.B.1.
- E.11. **Costs Incurred for Participation in RFP Process.** ERS will not pay any costs incurred by Respondent for preparation of its Proposal or for participating in the RFP process outlined herein.

- E.12. **Disclosure of Interested Parties.** The Contract is subject to Section 2252.908 of the Tex. Gov't Code. As such, Respondents that are selected as Finalists will be required to complete Form 1295 on the Texas Ethics Commission's electronic system located at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.
- E.13. **GBP Formation and Board Rules.** Chapter 1551 of the Tex. Ins. Code establishes the GBP and provides that the Board is the trustee and the plan administrator for the GBP.
- E.13.a. The Board Rules, including any amendments, are a part of any Contract executed in accordance with the RFP for all purposes as if they were contained verbatim therein. Administrator shall comply with the Board Rules and all applicable laws and regulations, both state and federal.
- E.14. **The Employee Retirement Income Security Act of 1974, or ERISA.** As a nonfederal governmental plan, the Plan is not subject to ERISA; however, Administrator is a fiduciary for all claims processing and payments, adjudications and appeals.
- E.15. **Changes Required by Statute, Regulation, Court Orders, or Plan Funding.** ERS acknowledges that certain factors may change conditions with regard to Administrator's Services under the Contract. Some factors that may affect Administrator include, but are not limited to:
- Changes in federal and state statutes, regulations, and new court decisions and administrative rulings;
 - Changes in anticipated funding by the Texas Legislature; and
 - Changes in the Plan design.
- E.15.a. ERS reserves the right to modify the Plan requirements or design during the RFP process and throughout the Contract Term.
- E.15.b. Administrator shall not revise the Services for the Contract Term, unless required by applicable state or federal law or regulations applicable to the GBP, as defined herein, or as determined by ERS, or in accordance with a written agreement between the authorized representatives of Administrator, as defined in Section 36.1, and ERS. Administrator understands and acknowledges that ERS may revise the Services at any time and agrees to cooperate with ERS and to negotiate in utmost good faith as to any adjustment of the Fee Schedule reasonably related to such Services.
- E.16. **Posting of Contract.** If the Contract is subject to Section 2261.253 of the Tex. Gov't Code, ERS will post on its external website the executed Contract, including applicable non-confidential exhibits. If applicable, the executed Contract will remain posted on ERS' external website until the Contract expires or is completed.
- E.17. **Maintenance and Destruction of Records.** The Contractual Agreement contains obligations regarding maintenance and destruction of records. Unless otherwise specified therein:
- E.17.a. Plan records shall be accessible and available to ERS for inspection and audit. This includes the right to examine any pertinent books, documents, papers, and records of Administrator involving transactions related to the Contract. This information accessibility must give ERS the ability to view, download, and print the information from a remote, electronic location. Thus, any information regarding the Services, coverages, benefits, supplies, or products that Administrator is required to perform, deliver, or provide shall be fully accessible and available to ERS via online access.
- E.17.b. To the extent that Plan records are to be maintained upon a computer system or any other data retention system that is not owned by Administrator, Administrator shall provide ERS with assurances from the owner of such computer facilities, satisfactory to ERS, of continued availability and security of such records.
- E.17.c. In the event Administrator is scheduled to destroy Plan records, Administrator shall contact ERS for approval prior to the destruction of the records. If ERS approves destruction, verification of the destroyed records shall be required at ERS' direction. Upon ERS' request, an archival copy of records must be delivered to ERS before destruction by Administrator.

F. Public Information Act

- F.1. ERS is required to provide access to certain records in accordance with the provisions of the PIA. Respondent is required to make any information pursuant to the RFP and Contract, and not otherwise excepted from disclosure under the PIA, available in a format that is accessible by the public at no additional charge to ERS.
- F.1.a. During the evaluation process, ERS shall make reasonable efforts as allowed by law to maintain Proposals in confidence and shall release Proposals only to personnel involved with the evaluation of the Proposals and implementation of the Contract unless otherwise required by law. However, ERS cannot prevent the disclosure of public documents and may be required by law to release documents that Respondent considers confidential and/or proprietary.
- F.1.b. *Texas Statute/Determination of Public Information.* In accordance with Section 552.0222(b)(3) of the Tex. Gov't Code, the types of information listed below that are contained in Administrator's Proposal or Contract shall be considered public information. ERS **WILL RELEASE** the information listed below even if Administrator marks the information as confidential and/or proprietary. **ERS will not withhold the information or request an opinion from the Texas Attorney General's Office before releasing the information to a requestor, posting the information to ERS' website, and/or to LBB's contract database.** Information that is considered public and will be released includes: the overall or total price; overall or total value of the Contract; maximum liability; final price; the fee schedule; delivery and service deadlines; the identity of all subcontractors; and the Contract Term. Certain information related to Administrator's performance throughout the Contract is also considered public information and will be released upon request. This includes information related to Administrator's breach of Contract, if any, variances or exceptions to the Contract, documented remedial actions, amendments to the Contract, assessment of liquidated damages, if any, key measures reports, progress reports, and a final payment checklist.
- F.2. **Labeling of Confidential and/or Proprietary Information.** In order to protect and prevent inadvertent disclosure of confidential information submitted in support of its Proposal in accordance with the PIA, Respondent shall supply, in good faith and with legally sufficient justification, **a separate document listing all pages considered by Respondent to contain any confidential and/or proprietary information** as instructed in Appendix I, Section A.7.c.

Respondent shall designate its confidential and/or proprietary information each time it submits information to ERS, whether in its original Proposal and/or in any supplemental information submitted to ERS. Upon conclusion of the evaluation process, ERS may ask Respondents to provide the following via Bonfire:

- One (1) zipped folder that contains all information submitted by Respondent after submission of its Proposal that Respondent considers public;
- One (1) zipped folder that contains all information submitted by Respondent after submission of its Proposal that Respondent considers confidential and/or proprietary (if applicable); and
- One (1) final document listing everything submitted by Respondent after submission of its Proposal that Respondent considers to be confidential and/or proprietary. If Respondent considers all information to be public, this document shall include a statement confirming that everything submitted by Respondent after submission of its Proposal is considered public.

By execution of the Signature Page (**Appendix A**), Respondent warrants and represents that all information that it, in good faith and with legally sufficient justification, considers to be properly excepted from disclosure under the PIA will be clearly labeled as "**Confidential and/or Proprietary**" upon submission to ERS. Respondent's signature further reflects that all documents submitted and not marked "**Confidential and/or Proprietary**" shall be considered to be public information. By submitting a Proposal, Respondent acknowledges and agrees that all public information submitted by Respondent in response to the RFP may be fully disclosed by ERS without liability and without prior notice to or consent of Respondent or any of its subcontractors or agents.

- F.2.a. Respondent further understands and agrees that, upon ERS' receipt of a PIA request for Respondent's information, ERS will provide the requestor the information provided in Respondent's "Public Information" zipped folder. If Respondent fails to submit its confidential and/or proprietary information as described herein, ERS shall consider all of the information to be public, and it will be released without notification to Respondent upon receipt of a PIA request. In addition, Respondent shall note that ERS is subject to Section 7.12(d), Article IX, Chapter 905 (S.B.1), Acts of the 85th Legislature, Regular Session, 2017 (the General Appropriations Act), which requires the State Agency to submit a copy of the Contract documents, including all appendices and attachments, to LBB's contract database as specified. This means the "public information" portions of Administrator's Contract will be publicly available on the LBB website. ERS will exclude any information Respondent has marked as confidential and/or proprietary as outlined in RFP Section I.F.2. unless such documentation is defined by Section 552.0222(b)(3) of the Tex. Gov't Code to be public information. (See RFP Section I.F.1.b.)
- F.2.b. To the extent the public version of Respondent's Proposal contains Protected Materials, Respondent acknowledges that such Protected Materials may be disclosed, publically displayed, published, reproduced and/or distributed by ERS pursuant to the PIA, or as otherwise required by law. Respondent warrants and represents that it owns, or has obtained all necessary permissions with respect to the use of the Protected Materials and hereby grants ERS an irrevocable, perpetual, nonexclusive, royalty-free license to display, publish, reproduce, distribute or otherwise use the Protected Materials solely for the purpose of compliance with applicable laws. **Respondent shall indemnify and hold harmless ERS, its trustees, officers, directors, employees, and contractors, as well as any trust managed by ERS, from and against any claim of infringement of the Protected Materials resulting from ERS' use of the Protected Materials as set forth herein.**
- F.2.c. Upon receipt of a PIA request, ERS will submit the information contained in Respondent's "Confidential and Proprietary" zipped folder to the Texas Attorney General to issue a ruling on whether the information is excepted from public disclosure.
- F.2.d. It is Respondent's sole obligation to advocate in good faith and with legally sufficient justification the confidential and/or proprietary nature of any information it provides to ERS. Respondent acknowledges and agrees that ERS shall have no obligation or duty to advocate the confidentiality of Respondent's material to the Texas Attorney General, to a court, or to any other person or entity. Respondent acknowledges and understands that the Texas Attorney General may nonetheless determine that all or part of the claimed confidential and/or proprietary information shall be publicly disclosed.
- F.2.e. In addition, Respondent specifically agrees that ERS may release Respondent's information, including alleged confidential and/or proprietary information, upon request from the Texas Legislature when requested for legislative purposes, as provided for in the PIA, or to any other person or entity as otherwise required by law.

G. Historically Underutilized Businesses

- G.1. **Historically Underutilized Businesses.** In accordance with Tex. Gov't Code, Chapter 2161, and Tex. Admin. Code, Title 34 Part 1, Chapter 20, Subchapter D, Division 1, ERS makes a good faith effort to assist HUBs in receiving ERS' contract awards and expects Administrator to make a good faith effort to use HUBs as subcontractors when subcontractors are used by Administrator. ERS relies on the Statewide Annual HUB Utilization Goals found at Title 34 of the Tex. Admin. Code Section 20.284(b).
- G.1.a. ERS has identified potential subcontracting opportunities for this Contract. Thus, Contractor should follow Title 34 of the Tex. Admin. Code Section, 20.285.
- G.1.a.i. *HSP Prime Contractor Progress Assessment Report.* When applicable, all HUB and non-HUB subcontractor information shall be reported to ERS using the HSP Prime Contractor Progress Assessment Report form. The report shall be submitted monthly to ERS' Purchasing Section at hub@ers.texas.gov even during months when no invoice is submitted to ERS. All payments made to subcontractors shall be reported. ERS may verify the amounts being reported as paid by requesting copies of cancelled checks paid to subcontractors.

Article II. Proposal Evaluation

A. General Evaluation Information

- A.1. Proposals will be evaluated and selected based on the evaluation criteria and selection process outlined in this article.

B. Minimum Requirements Review Phase

- B.1. Respondent must submit the Minimum Requirements Questionnaire (**Appendix H**) via Bonfire by the deadline specified in RFP Section I.B.1. **Failure to submit the Minimum Requirements Questionnaire by this deadline will disqualify Respondent from consideration for subsequent phased scoring.** The Minimum Requirements Questionnaire shall be submitted to ERS through Bonfire. See RFP Sections I.D.1. – I.D.1.a. for additional information regarding the submission of the Minimum Requirements Questionnaire (**Appendix H**).
- B.2. Bonfire will provide ERS with a report noting the date and time of Respondent's submission of the Minimum Requirements Questionnaire, which ERS will use to acknowledge timely receipt. ERS will not conduct a public reading of Respondent names after acceptance of the Minimum Requirements Questionnaires.
- B.3. In the Minimum Requirements Review Phase, ERS will evaluate each Respondent's Minimum Requirements Questionnaire (**Appendix H**) on a pass/fail basis. If any of the criteria listed in the Minimum Requirements Questionnaire are considered a fail, the Respondent will be ineligible for subsequent phased scoring. ERS is not obligated to notify Respondents that have not qualified for the Preliminary Review Phase.
- B.4. ERS will only accept Proposals from Respondents that submitted a Minimum Requirements Questionnaire.

C. Preliminary Review Phase

- C.1. Bonfire will provide ERS with a report noting the date and time of Respondent's submission, which ERS will use to acknowledge timely receipt. Bonfire will not accept Proposals after the deadline specified in RFP Section I.B.1. ERS will not conduct a public reading of Respondent names after acceptance of Proposals.
- C.2. In the Preliminary Review Phase, ERS will evaluate Proposals based on the following evaluation criteria on a pass/fail basis:
- Responsiveness;
 - Compliance with the RFP; and
 - Certain vendor performance checks required by the CPA, including but not limited to, vendor past performance as reported in CPA's Vendor Performance Tracking System in accordance with Section 2262.055 of the Tex. Gov't Code.
- C.3. If a Proposal fails any of the above criteria, it will be ineligible for subsequent phased scoring. ERS is not obligated to notify Respondents that have not qualified for the Proposal Review Phase. Based on a more in-depth review, ERS reserves the right to determine a Proposal is noncompliant with the RFP after the Preliminary Review Phase. A Proposal may also be disqualified at any time it becomes apparent to ERS that such Proposal is nonresponsive. Additionally, ERS will perform the vendor performance checks required by the CPA again during the Finalists Review Phase, and may fail a Finalist at that time based on the current information available.

D. Proposal Review Phase

- D.1. **Proposal Weights.** In addition to the pass/fail items described in RFP Section II.F.1.a., Proposals that pass the Preliminary Review Phase will be evaluated as follows:

Evaluation Criteria	Points
Price Proposal (score determined by Respondent's response to Appendix R)	35 points
Operational Capabilities and Services (score determined by Respondent's responses to Appendices J, K, M, N, and P)	65 points

D.2. **Determination of Finalists.** Based on the criteria in RFP Section II.D.1. and pass/fail criteria in RFP Section II.F.1.a., as applicable, the top-ranked Respondents will move forward to the Finalists Review Phase. ERS is not obligated to notify Respondents that have not qualified for the Finalists Review Phase.

E. Finalists Review Phase

- E.1. Scores received in the Proposal Review Phase are carried forward and used as the basis for the Finalists Review Phase scores. A Finalist's scores may then be revised up or down by the relevant ERS evaluator(s) based on new or clarified information obtained in the Finalists Review Phase. Thus, additional information obtained in the Finalists Review Phase may affect a Finalist's scores. For each Finalist, ERS may perform the following further due diligence:
- E.2. **Site Visits.** ERS' designated staff may perform site visits (on-site or via video conference) at ERS' expense to each Finalist's operational center, Call Center, data center, and security operations center facilities. If applicable, each Finalist will be notified of the site visit date(s) and will be provided with an agenda for the site visit.
- E.2.a. *Operational and Call Center Site Visits.* If determined necessary by ERS, ERS will require access to actual work site location(s) to observe and assess operational capabilities. Areas of interest may include, but would not be limited to, network development and support, operational and/or administrative services, operational system demonstrations, claims processing demonstrations, and customer call shadowing/observations.
- E.2.b. *Data Center and Security Operations Center Site Visits.* If determined necessary by ERS, ERS will require access to actual data and security operations center(s) to observe and assess a Finalist's data and security operations. Areas of interest include, but would not be limited to, physical access security, operations, and environment control/mechanisms, process and procedures/artifacts, monitoring of firewall (e.g., project management, business requirements, overall SDLC overview, threat intelligence, IPS, DLP, AV, and NOC monitors, as well as any war room facilities), SOC-2 report or equivalent report, business continuity plan, disaster recovery plan, and latest disaster recovery test results.
- E.2.c. **Finalist Standard Information Gathering Questionnaire.** ERS will provide each Finalist a Standard Information Gathering (SIG) questionnaire for completion. Finalists shall provide all of the information requested in the Finalist SIG questionnaire, including any requested materials, in accordance with the deadline specified by ERS.
- E.2.d. Site visits and the SIG questionnaire will be scored on a pass/fail basis. Additionally, new or clarified information obtained during the site visits or in the SIG questionnaire may affect a Finalist's Operational Capabilities and Services scores as stated in RFP Section II.E.1. ERS sample SIG questions can be found in **Appendix AA**.
- E.3. **Interviews.** Each Finalist may be required to attend an in-person or video conference interview at an ERS-designated time and location. Each interview may include an oral presentation by Finalist and a question and answer session in which Finalist will answer questions regarding its Proposal. Each Finalist will receive additional instructions outlining ERS' expectations for the interview.
- E.3.a. If it is determined that video conferences are necessary, Finalists will be required to work with ERS to set up video conferences via WebEx. ERS will host the video conference via WebEx.
- E.4. **BAFO.** Each Finalist may be required to provide a BAFO for their Price Proposal during the Finalists Review Phase. The BAFO process may include negotiations and is not necessarily one final submission, until ERS accepts a Finalist's Price Proposal as final. ERS reserves the right to negotiate prior to or based on this formal offer.

- E.4.a. During the Finalists Review Phase, ERS may hold separate in-person or video conference meetings with each Finalist regarding its Price Proposal, legal/contractual matters, and/or information technology matters.
- E.4.b. New or clarified information obtained from the interviews and BAFOs may affect Finalists' scores as stated in RFP Section II.E.1.
- E.5. **Reference Checks.** ERS reserves the right to contact any of the entities provided in Finalist's Proposal when evaluating a Finalist's past performance. ERS is not limited to contacting references provided by a Finalist, but may also contact other persons or entities in connection with ERS' due diligence process. If a Finalist has performed services for ERS in the past ten (10) years, ERS may also rely on its own experience with the Finalist as part of this check.
- E.5.a. Submitting a Proposal in response to the RFP authorizes ERS to contact all persons or entities provided by Finalist as client references to discuss the services and other considerations that Finalist has provided for such persons or entities; authorizes the entities to provide such information to ERS; and acknowledges that Finalist agrees that neither ERS, nor any entity contacted by ERS, shall be liable to Finalist in any respect in connection with such contact. **Therefore, in consideration of ERS' review of Proposals, Finalist shall hold harmless, defend, indemnify, and release ERS, its officers, agents, employees, actuaries, the State, and any person or entity contacted by ERS from any and all claims, damages, liability, and causes of action in connection with any communication, written or verbal, related to Finalist.**
- E.5.b. References are evaluated on a pass/fail basis.
- E.6. **Texas Respondents.** To the extent applicable and consistent with ERS' fiduciary duty, ERS may rely on Section 2155.444, Tex. Gov't Code, in the event of a tie in scoring.

F. Certain Pass/Fail Items

- F.1. The pass/fail criteria referenced in this section may be evaluated during the Proposal Review Phase, but depending on relevant information submitted in the Proposal and the status of any Clarifications and/or Contract negotiations, as applicable, these sections may not be finally evaluated until the Finalists Review Phase. Regardless, ERS reserves the right to begin evaluating or finalize evaluation of these sections (including asking Clarification questions, discussed in RFP Section II.G.1.) prior to the Finalists Review Phase.
- F.1.a. These pass/fail criteria for the Proposals are as follows:
- Contractibility (Refer to RFP Section V.A.1.);
 - Legal Requirements and Regulatory Compliance (Refer to RFP Article V and **Appendix L**);
 - Full, un-redacted SOC-2 Report(s) or equivalent reports (Note: SOC-1 reports are not equivalent reports). Refer to RFP Section VII.E., and **Appendix N**, Section F;
 - Full, un-redacted SOC-1 Report(s) or equivalent reports (Note: SOC-2 reports are not equivalent reports). Refer to RFP Section IX.F. and **Appendix P**, Section H; and
 - Financial Stability (Refer to RFP Section X.D. and **Appendix Q**, Section D.)

G. Clarification Process

- G.1. At any point in the evaluation process, ERS may ask follow-up or Clarification questions. Clarification questions do not include the opportunity to cure substantive defects in Proposals. ERS may schedule a conference call or an in-person meeting with Respondent to ensure Respondent understands the Clarification questions either before or after requesting a written answer in response. The responses will be incorporated into the review process as Clarifications and may affect the relevant scores and/or be incorporated into the Contract, as applicable. Mutually agreed Clarifications of the RFP terms and conditions shall be attached to the executed Contract. Respondents are encouraged to submit complete responses, including any documents requested with their Minimum Requirements Questionnaire and Proposal so that minimal Clarifications are necessary. While ERS reserves the right to ask Clarification questions during any evaluation phase, Respondents who fail to provide complete information

within their Minimum Requirements Questionnaire and Proposal risk being disqualified or scoring too low to be considered a Finalist or being awarded a Contract.

- G.2. When responding to ERS' Clarification requests, if applicable, Respondent shall indicate which of its Clarifications responses are deemed confidential and/or proprietary information by placing "Confidential and/or Proprietary" in red text directly before the response.

H. Selection of Administrator

- H.1. **Recommendation and Award.** After the Finalists Review Phase is completed, ERS staff will meet with ERS' Executive Office to discuss the results of the RFP process and their recommendation for Contract award. Then, ERS staff will present information to the Board for decision. The Board will announce its award of the Contract to the selected Finalist during a public meeting, which is anticipated to take place at the March 2023 Board meeting. Information regarding Board meetings, including how the public can access Board presentations, may be found on ERS' website. Respondents will not be provided with an opportunity to make a presentation to the Board but may attend the Board meeting if they wish. Board meetings may also be viewed remotely through live stream.
- H.2. **Reserved Rights.** ERS retains the right to enter into negotiations with any Respondent on any portion of its Proposal. ERS also retains the right to select the Proposal of the Respondent that provides the best value to ERS, the GBP, its Members, and the State. In its selection, ERS shall take into consideration the criteria specifically described in RFP Article II – Proposal Evaluation.
- H.3. **Rebids.** ERS reserves the right to rebid the RFP if ERS deems a rebid to be in the best interests of ERS, the GBP, its Members, and the State. ERS is under no legal requirement to execute a Contract on the basis of the RFP and makes no guarantee that any award will be made as a result of the RFP.
- H.4. **Waivers.** ERS reserves the right to waive any immaterial Deviation or defect in a Proposal. ERS' waiver of a defect shall in no way modify the RFP or excuse Respondent from full compliance with the RFP requirements.

Article III. Scope of Work – Plan Design, Benefits, and Eligibility Requirements

This Article describes the plan design, eligibility and general program requirements for the State of Texas VisionSM Plan, a self-funded plan. Detailed information regarding coverage amounts and provisions of coverage is located in the Master Benefit Plan Document (**Appendix V**). The cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal (**Appendix R**).

The interrogatories pertaining to this article can be found in **Appendix J**. Respondent shall complete and submit **Appendix J** as part of its Proposal.

Respondent shall comply and agree with the requirements stated herein. Deviations to this Article are not permissible and will not be accepted by ERS.

A. Plan Overview

- A.1. The State provides comprehensive group vision care benefits to Members through the Plan. The Plan has been available under the Texas Employees Group Benefits Program beginning September 1, 2016. The Plan is an optional benefit and is available under a self-funded arrangement.
- A.2. **Plan Benefits.** Administrator shall administer the vision care benefits as presented in the MBPD, **Appendix V**. RFP Section III. A.2.a. provides a summary of the Plan benefits. Administrator shall refer to the MBPD for details of the Plan benefits. If there is a discrepancy between the summary of the Plan benefits in the RFP and the MBPD, the MBPD shall prevail.
- A.2.a. Benefits are available for the Plan Year, unless otherwise indicated by ERS. The frequency of vision care benefits is once every Plan Year, per person. In-network (Network) services are covered in full after the copay is met. All allowances are at retail value. A Participant is responsible for any amount over the allowance, minus available discounts. All final determinations of benefits, administrative duties, and definitions are governed by the MBPD.

An outline of the Plan benefits is below.

Benefit	Network	Non-Network
Exam	\$15 copay ¹	Up to \$40 after \$15 copay
Contact lens fitting (standard ²)	\$25 copay ¹	Up to \$100 retail
Contact lens fitting (specialty ²)	\$35 copay ¹	Up to \$100 retail
Lenses (standard) per pair:		
• Single vision	\$10 copay ¹	Up to \$30 retail
• Bifocal	\$15 copay ¹	Up to \$45 retail
• Trifocal	\$20 copay ¹	Up to \$60 retail
Lens Options (standard):		
• Progressive	\$70 copay ¹	Not covered

• Polycarbonate	Up to \$50 copay ¹	Not covered
• Scratch coat	Up to \$10 copay ¹	Not covered
• Ultraviolet coat	Up to \$10 copay ¹	Not covered
• Tints, solid or gradient	Up to \$10 copay ¹	Not covered
• Anti-reflective coat	Up to \$40 copay ¹	Not covered
Frames or Contact Lenses ³	\$200 retail allowance ⁴	Up to \$75 or up to \$150 retail ⁵

¹ Covered in full after copay is met.

² A contact lens fitting exam has its own copay and is separate from the eye exam copay. Standard contact lens fitting applies to a current contact lens user who wears disposable, daily wear, or extended wear lenses only. Specialty contact lens fitting applies to new contact wearers and/or a Participant who wears toric, gas permeable, or multi-focal lenses.

³ Contact lenses are in lieu of the eyeglass lenses and frame benefit. This allowance can be used once every Plan Year. This allowance can be applied to eyeglass frames OR contact lenses, and not both.

⁴ All costs and allowances are retail; Participants are responsible for any charges in excess of the retail allowances.

⁵ Up to \$75 retail reimbursed for non-network frames or up to \$150 retail reimbursed for non-network contact lenses.

B. Enrollment and Eligibility for Coverage Requirements

B.1. **Eligibility.** For purposes of this Contract, a Member who meets the eligibility requirements defined in Chapter 1551 of the Tex. Ins. Code and Title 34 of the Texas Administrative Code, including any amendments thereto, is eligible for the Plan.

B.1.a. A newly hired Active Employee can enroll in the Plan during their first 31 days of employment. Otherwise, eligible Members can enroll during their benefits enrollment period, or within 31 days of a Qualifying Life Event.

B.1.b. ERS shall begin withholding Premiums on the first day of the calendar month after which a Participant enrolls in the Plan.

B.2. **Enrollment.** All enrollment, billing, collection and other administrative matters shall be handled directly by ERS. Chapter 1551 of the Tex. Ins. Code provides that ERS' Executive Director has exclusive authority to decide all questions relating to enrollment in or payment of claims arising from programs or coverage provided under the Act.

B.2.a. Administrator shall support a process whereby Administrator shall electronically access ERS' SFTP site and/or interface with ERS' enrollment system for any applicable employees responsible for verifying Plan coverage and enrollment. Requirements specific to electronic access and file interfaces are fully described in RFP Article IX, Operational Specifications and Requirements.

B.3. **Evidence of Insurability.** No evidence of insurability shall be required for Members to enroll in the Plan.

B.4. **Pre-existing Conditions.** The Plan does not include a pre-existing condition provision.

B.5. **COBRA.** Administrator shall also provide the services described herein for COBRA Participants. All enrollments, billing, collection, and other administrative matters related to COBRA shall be handled directly by ERS.

C. Claims Appeals Requirements

- C.1. The process for grievances and appeals is set forth in the MBPD (**Appendix V**).
- C.2. The Plan will follow ERS' appeals process. If the Participant is not satisfied with Administrator's resolution, the Participant may go through the appeals process found in the Board Rules.
- C.2.a. The Board Rules and MBPD define the appeals administration process, as well as the mandated timeliness that a Participant must comply with when filing an appeal connected to a claims denial. In the event of a conflict between the MBPD and the Board Rules, the Board Rules shall control.
- C.3. **Claims Appeal.** If a claim for benefits is denied or reduced, Administrator shall provide the appealing Participant with a written explanation, including the specific reasons for the denial or reduction. Within 90 days of the written explanation of the denial or reduction, the Plan appellant must appeal the denial to Administrator, in a first level appeal. Additional information may be submitted with the first level appeal.
- C.3.a. If the denial is upheld on first level appeal, Administrator shall furnish instructions to the Plan appellant on how to file a second level appeal with ERS. If the Plan appellant decides to file a second level appeal with ERS, the second level appeals process must be conducted in accordance with Title 34, Part 4, Section 81.9 of the Tex. Admin. Code.
- C.3.b. The second level appeal must be in writing, signed and postmarked or received by ERS within ninety (90) days of the date of Administrator's notice to the Plan appellant. ERS notifies the Plan appellant of the second level appeal decision in writing.
- C.4. Administrator shall provide support for the appeals process, including but not limited to the following: Administrator's maintenance of adequate staff to produce appeal and reconsideration of claim rights letters to Participants who request ERS' review of a claim determination; providing applicable medical and claim and/or application related opinions, records and expertise to ERS; and conducting professional staff reviews of claim determinations.

D. Coordination with Other ERS Contracted Vendors Requirements

- D.1. Administrator may be required to enter into nondisclosure agreements with other ERS Contracted Vendors during the Contract Term, as applicable, in order to properly provide the Services. This may include, but not be limited to, a nondisclosure agreement with:
 - D.1.a. **Flexible Spending.** TexFlex is an Internal Revenue Code Section 125 cafeteria plan that allows Subscribers to establish health care reimbursement accounts and to pay certain unreimbursed charges with pre-tax funds. ERS currently uses PayFlex Systems USA, Inc. as the administrator for TexFlex.
 - D.1.b. **ERS Consulting Actuary.** In addition to the ERS staff actuary, ERS retains a consulting actuary to advise the Board, ERS' staff and management on insurance and other financial matters related to the GBP. The consulting actuary also assists and advises the Board on benefit plan designs, proposal reviews, and rating analysis, as well as certain audit-related activities. Administrator shall work and cooperate with the ERS staff actuary and the ERS consulting actuary as necessary to perform the requirements of the RFP and Contract. ERS currently uses Rudd and Wisdom, Inc. as its consulting actuary.
 - D.1.c. **GBP Auditors.** ERS may engage an independent auditor to determine the adequacy, timeliness, and accuracy of Administrator's performance and administration of the Services, which is described in RFP Sections IX.B.5. – IX.B.5.b.iii. Administrator shall fully support the activities of and cooperate in good faith with the auditor. ERS currently uses MCM CPAs & Advisors LLP as the GBP auditor.

E. Enrollment and Claims Data

- E.1. Respondents shall refer to the Experience Data Files (**Appendix S-2**) which presents the following types of information: historical enrollment, financial, utilization, cost data, and monthly claims from the Plan. The Confidentiality and Nondisclosure Agreement (**Appendix F**) must be properly executed and submitted to ERS via DocuSign in order to receive the Experience Data Files (**Appendix S-2**) and Claims File Layout (**Appendix T**). See RFP Sections I.E.7. – I.E.7.a. for additional information regarding the submission of the Confidentiality and Nondisclosure Agreement. **FIRST AMENDED July 21, 2022**
- E.2. To assist Respondent in the analysis of this information, descriptions are included in **Appendix S-1**, which contains all of the data exhibits.

Article IV. Scope of Work – Provider Network Requirements

This article describes the provider network requirements including provider accessibility and availability, provider network contracts and network management as mandated by ERS. Any start-up costs and the cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal in **Appendix R**.

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix K**. Respondent shall complete and submit **Appendix K** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. – I.D.3.a.

A. Provider Network Requirements

- A.1. ERS desires the broadest possible vision network provider service area with adequate numbers of providers across the State. Administrator shall offer flexibility in a Participant's selection of a provider within the selected network. ERS requires that Administrator's network be subject to stringent requirements of provider accessibility, credentialing, contracting and quality assurance.
- A.2. An evaluation shall be made of Administrator's ability to organize and operate a high quality, cost-effective provider network in accordance with the requirements in this article. In evaluating Administrator's operational network capabilities, the following shall be considered:
- Provider credentialing;
 - Provider contracting; and
 - Quality review.
- A.3. **Provider Credentialing/Recredentialing.** Administrator's provider network shall be comprised of providers who have been subjected to a rigorous credentialing process conducted by Administrator. Administrator is required to describe and discuss its credentialing and recredentialing process in **Appendix K**, Provider Network Requirements Deviations and Interrogatories. Administrator shall have sole responsibility for credentialing, recredentialing and contracting with all providers. Administrator warrants it has acted and shall continue to act in good faith and shall use its best efforts to diligently screen and investigate the credentials of all providers prior to allowing them to participate in Administrator's provider network. This requirement applies to all providers who are currently participating in the network as well as providers who participate in the network during the Contract Term. Administrator shall only contract with licensed providers in good standing in their profession and with the appropriate state and/or federal licensing and regulatory agencies.
- A.4. **State of Texas VisionSM Plan Provider Contracts (all the provisions survive the termination of the Contract).**
- A.4.a. Administrator shall maintain adequate protections, whether through guarantees, subordinated debt, required surplus contributions by stockholders, or provider(s) contracts containing indemnification and hold harmless provisions, or by any other means or combination thereof, whereby provider(s) may not seek from ERS, the GBP, the Members, or the State payment of debts that are the responsibility of Administrator and whereby ERS, the GBP, the Members and the State are protected from any obligation for payments which are the responsibility of Administrator.
- A.4.b. For payment of services under the Plan, if any provider(s) requests that a Participant waive his rights to not be liable for payments owed by Administrator, requests that the Participant agree to pay for services that are Administrator's responsibility, or initiates any actions whatsoever, including correspondence, telephone calls or personal visits, to collect payments from ERS, the GBP, the Participants, or the State for payment of services rendered over and above allowable copayments, excluding services not covered under the Plan, Administrator or its

successor shall initiate and maintain such action necessary to stop the provider(s) or its employee, agent, trustee, or successor in interest from maintaining any action against ERS, the GBP, the Participants, or the State to collect or otherwise take any responsibility for any amounts owed to provider(s) by Administrator.

- A.4.c. In the event Administrator terminates its contract with any participating provider, Administrator shall make reasonable efforts, as agreeable to ERS, to notify affected Participants.
- A.4.d. Administrator shall ensure that its provider(s) do not directly market to Members.
- A.4.e. ERS shall have the right to review all arrangements or agreements between Administrator and a participating provider. A selected Administrator shall provide ERS with a sample provider contract upon request.
- A.4.f. Administrator must require all providers to carry sufficient professional and general liability insurance coverage.

B. Provider Accessibility and Availability Requirements and Required Format

- B.1. Respondent shall provide one Provider Network Excel file which contains a listing of all providers in their network as of July 1, 2022.
 - B.1.a. Failure to properly identify the data may result in an inability to review Respondent’s Proposal. NOTE: The documentation required is more than what is primarily listed in Respondent’s provider directory.
- B.2. **Formatting Requirements.** Data shall be in an Excel format and in an unaltered form. **No other format will be accepted.**
 - B.2.a. All required data fields shall be completed. If not, the Proposal will **not** be considered complete. **Blank records, abbreviated names or extra fields are not acceptable.**
 - B.2.b. Only specialty codes provided by ERS are valid. See the list of specialty codes included in RFP Section IV.B.3.
 - B.2.c. Format Examples – (fixed length Excel spreadsheet)

Below is the listing of the data required for each provider type to assist Respondent in creating the files.

- B.3. **Reporting of Plan Provider Network.** The following is the format that **shall** be used to create the provider network Excel worksheets. The Provider Network must be submitted in a separate Excel file.

Table 1 – Plan Provider Network – (13 Fields - Fixed Length)

Field Names	Description	Size	Type	Bytes
**	Filler Text	2	Text	1-2
LIC#	Provider’s License number assigned by the Texas Optometry Board or Texas Medical Board	5	Text (alpha-numeric)	3-7
LAST NAME	Provider’s Last Name	30	Text	8-37
FIRST NAME	Provider’s First Name	25	Text	38-62
MIDDLE INITIAL	Provider’s Middle Initial	2	Text	63-64
ADDRESS 1	Street Address of Provider’s office (NO P.O. Boxes), Bldg. Name, Suite No., or Floor	30	Text	65-94
ADDRESS 2	Complete second location address, including city and ZIP code	30	Text	95-124
CITY	City of Provider’s office (Address 1)	25	Text	125-149
ZIP Code	Street address ZIP code of Provider’s office (Address 1)	5	Number	150-154

SPEC	GO = General Optometry C = Contact Lenses/Cornea DO = Dispensing Opticians G = Geriatric LV = Low-Vision/Partial Sight OD = Ocular Disease O = Ophthalmology P = Pediatric S = Sports VT = Vision Therapy OTH = All other specialties	4	TEXT	155-158
STATUS	O = Open Practice C = Closed Practice	3	Text	159-161
AFFILIATED w/a Group Practice	Y = Yes N = No	3	Text	162-164
GROUP NAME	Name of the group practice	30	Text	165-194

Filler	Lic. #	Last Name	First Name	M I	Address 1	Address 2	City	Zip	Spec	O / C	A ff	Group Name
**		Jones	John	F	10 Main St 2 nd Floor	151 South Taylor, TX 78757	Austin	78701	GO	O	Y	Vision Group

C. Network and Provider Management Requirements

- C.1. **Network.** Administrator’s proposed service area must include the entire State.
- C.1.a. ERS prefers an Administrator who also operates provider networks in other areas of the U.S. for Members working, living (retired) or visiting out of the State. ERS’ evaluation of Administrator’s network will consider availability of providers out of State.
- C.1.b. Administrator is responsible for having a network available that can provide access to all Services under the Contract.
- C.2. **Provider Network Management Requirements.** Administrator shall provide all services specified herein, including, but not limited to, the following:
 - C.2.a. Administrator shall provide initial and ongoing recruitment, credentialing and contracting with a sufficient number of qualified and duly licensed providers, as defined herein, in good standing with the State, to provide the full range of covered benefits and services in the network service areas. Administrator shall provide ongoing management of providers in accordance with applicable laws, regulations, credentialing criteria, and provider contracting provisions.
 - C.2.b. Administrator shall provide initial and ongoing provider education to ensure that providers are familiar with and knowledgeable of the benefits (including any benefit design changes) and other Plan provisions.
 - C.2.c. Administrator shall provide ongoing review of the fees paid to providers and recommend adjustments as appropriate, subject to consultation with and approval by ERS.
 - C.2.d. Administrator shall conduct an ongoing vision care quality assurance review to be monitored via periodic Participant surveys and other reporting mechanisms.
 - C.2.e. As it relates to the management of the Plan network, Administrator shall provide ongoing utilization management, including monitoring and enforcement of compliance with Plan protocol.
 - C.2.f. As it relates to the management of the Plan network, Administrator shall provide ongoing review of complaints received from Participants and providers and respond as necessary and appropriate; monitor the denials of benefits made under the utilization management program

- to maintain the appropriateness of the Plan protocol; and provide information to ERS about the utilization management program, appeals, and complaints as requested.
- C.2.g. When requested by ERS, Administrator shall recruit additional providers for the network on a general, regional or specific basis.
 - C.2.h. As it relates to the management of the Plan network, Administrator must include in its provider contracts a provision stating that providers may not condition treatment of Participants on any requirement that Participant agrees not to discuss provider's services in any forum.
 - C.3. **Provider Turnover.** Administrator shall ensure provider turnover rate for each year is in compliance with the PGs (**Appendix E**).

Article V. Legal Requirements and Regulatory Compliance

This article provides the RFP's legal requirements and regulatory compliance provisions. The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix L**. Respondent shall complete and submit **Appendix L** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections V.A.3.a. - V.A.3.a.i., and V.A.7.a.

A. Contractual Matters

- A.1. **Contractibility.** ERS will evaluate Contractibility based upon Respondent signing a Contract, DSBNA, BAA, and PGs acceptable to ERS. Contractibility will be evaluated on a pass/fail basis.
- A.2. **Incumbency Certificate.** Each of Respondent's Authorized Representatives shall execute the Incumbency Certificate attached as **Appendix G** to the RFP. By executing the Incumbency Certificate, each signatory represents and warrants that he or she is authorized to execute agreements and other documents on behalf of Respondent.
- A.3. **Contractual Agreement, DSBNA, and BAA.** Respondent must either properly execute and return the Contractual Agreement, DSBNA, and BAA or provide Deviations to them in accordance with RFP Sections V.A.3.a. – V.A.3.a.i. If returned executed, they must be signed by Respondent's Authorized Representative as specified in RFP Section I.D.6.
 - A.3.a. *Deviations to the Contractual Agreement, DSBNA, and BAA.* ERS prefers that the Contractual Agreement, DSBNA and BAA be properly signed and returned without Deviations with Proposal submission. However, if Respondent in good faith determines that it does not agree with the provisions of the Contractual Agreement, DSBNA, or BAA in the forms attached as **Appendices B, C, and D**. Respondent may submit Deviations to the Contractual Agreement, DSBNA, and BAA.
 - A.3.a.i. If Deviations are submitted, they must include specific language rather than vague suggestions that certain provisions require discussion. Such specific language must be shown as redlined changes within the forms provided. Any such Deviations will be considered by ERS; however, ERS is not obligated to accept Respondent's proposed Deviations and ERS may require that Respondent withdraw such Deviations. Vague suggestions about provisions requiring discussion and the like will not be deemed Deviations by ERS, and those provisions will be deemed to have been accepted in their original forms by Respondent. ERS will not fail a Respondent based solely on the fact that Respondent provided Deviations in its initial Proposal to the Contractual Agreement, DSBNA, and/or BAA. Deviations to the Contractual Agreement, DSBNA, and/or BAA that are not withdrawn by Respondent at ERS' request may result in Respondent receiving a "fail" for Contractibility. If ERS chooses to accept any proposed Deviations to any of the above listed documents, ERS will convey that acceptance in writing to Respondent and the approved Deviations will become part of the final Contract. Respondent assumes the responsibility of identifying all Deviations and, if not accepted by ERS, all requirements of the RFP stipulated must be fulfilled at no additional expense to ERS. **ERS will not consider any Deviations not submitted with Respondent's original Proposal.**
 - A.3.a.ii. Respondent shall act in good faith to cooperate with ERS in the execution of the Contract. ERS specifically reserves the right to revise any or all RFP or Contract provisions set forth at any time prior to ERS' execution of a Contract where ERS deems it to be in the best interests of ERS, the GBP, its Members and the State, subject to good faith negotiations of the parties concerning terms, fees, and services required. On or before the recommendation and approval by the Board, Respondent shall execute a Contract provided by and satisfactory to ERS.
- A.4. **Contract Term and Chronology of Responsibility.** The Contract Term is for (6) years, which will begin upon execution of the Contract by ERS and, after the Implementation Period, extend through August 31, 2029, subject to the terms of the Contract.
 - A.4.a. Respondent agrees and acknowledges that there are duties and obligations specified by the Contract to be performed prior to execution of the Contract and following the Contract Term,

and shall perform all such duties and obligations, and all damage provisions included herein and in the Contract shall thereby be in effect.

- A.5. **Information Security.** Respondent shall comply with the Gramm-Leach-Bliley Act, also known as the Financial Services Modernization Act of 1999 [Pub. L. No. 106-102, 113 Stat. 1338]; the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. No. 104-191], amended by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and the implementing regulations issued and amended by the U.S. Department of Health and Human Services Secretary (45 C.F.R. parts 160 and 164), as amended; the Privacy Act of 1974 as amended by the Computer Matching and Privacy Protection Act of 1988; the Identity Theft Enforcement and Protection Act, Chapter 521, Tex. Bus. & Com. Code; and information security standards as outlined in Tex. Admin. Code, Title 1, Part 10, Chapter 202. Execution of the DSBNA by Respondent will be required prior to final execution of the Contract by ERS.
- A.6. **Data Sharing.** ERS' data shall be excluded from any type of data sharing arrangement.
- A.7. **Performance Guarantees.** The Contract will include PGs (**Appendix E**) and other legal remedies. Respondent shall refer to **Appendix E** for a comprehensive listing of the PGs for the Plan.
- A.7.a. *Deviations to Performance Guarantees.* ERS prefers the PGs are accepted without modification by Respondent. However, if Respondent in good faith determines that it does not agree with provisions of the PGs, Respondent may submit Deviations to the PGs. If Deviations are submitted, they must include specific language rather than vague suggestions that certain provisions require discussion. Such specific language should be shown as redlined changes within the form provided. Any such Deviations will be considered by ERS; however, ERS will not be obligated to accept or agree to any such Deviations. **ERS will not consider any Deviations not submitted with Respondent's original Proposal.**
- A.7.b. ERS reserves the right to add or modify the PGs as a result of identifying or developing key processes during the RFP process and Contract Term.
- A.7.c. The PG assessment amount calculation includes severity levels. The corresponding severity calculation for each PG is described further in **Appendix E**, along with a full description of all PG assessment calculations.

Prohibited Interest

- A.8. **Conflicts.** Except as a Member in the GBP, no Board member or employee of ERS may have a direct or indirect interest in the gains or profits of any Contract executed by ERS pursuant to the RFP, and may not receive any payment or emolument for any service performed by a Contractor.
- A.8.a. In the event that a Member, Board member or employee of ERS receives any payment from a Contractor for any services performed for the Contractor, for being awarded the Contract, for any gains or profits from the Contract, ERS may terminate the Contract with the Contractor immediately, and ERS reserves the right to seek any legal, equitable or contractual relief to which it may be entitled. Under such circumstances, the Contractor shall complete any outstanding transactions with ERS as soon as possible. In its discretion, ERS may choose not to consider any further proposals from the Contractor.
- A.8.b. By submitting its Proposal, Respondent represents and warrants that it does not have, nor shall it permit, any conflicts of interest that would impair its ability to perform the Services required by the Contract in the best interests of ERS, its Members and the State.
- A.9. **No Lobbying Activity.** A Respondent or Respondent's company that lobbies governmental agencies and is a registered lobbying firm or is required to register as a lobbyist in the State under Chapter 305 of the Tex. Gov't Code shall not be considered for selection as an Administrator in connection with the RFP. This would not apply to a firm with a documented separation of Administrator and lobbying operations.

B. Terms of Use Requirements

- B.1. Any Terms of Use for Administrator's website, mobile application or other technology solution, including those that require acceptance, shall be null and void and shall have no force or effect as if Administrator's Terms of Use did not exist as to any and all ERS staff and Members for Services offered through Administrator.
- B.2. Administrator shall incorporate this disclaimer on Administrator's website and any other website or mobile application for use by any person eligible for Services offered through Administrator, including Members and all persons eligible for the Plan:
- “Any Terms of Use displayed on this website or mobile application, including those that require acceptance, do not apply to any person eligible for any services offered through the Texas Employees Group Benefits Program (GBP), including members and all persons eligible under the GBP for the State of Texas VisionSM Plan administered by [Administrator].”
- B.3. Any disclaimer or terms of use language within Respondent's Proposal, including any documentation provided by Respondent, shall be null and void and have no force or effect on ERS and ERS' personnel as if such language did not exist. This includes, but is not limited to, notice of copyrights.

C. Notice of Future Litigation or Bankruptcy Requirement

- C.1. Respondent shall promptly notify ERS if Respondent is involved in litigation or notified of a bankruptcy filing (i) that directly involves the Plan, (ii) that involves the Services associated with the Plan, Participants; or (iii) the outcome of which may have a material effect on the Plan, Participants, and/or the Services.

D. Legal and Technical Assistance

- D.1. Respondent shall provide legal services and litigation support relating to the Plan, including but not limited to providing legal analysis in connection with Plan administration; assisting and supporting ERS in administrative hearings and court proceedings; and advising ERS with respect to applicable legal actions including providing records, affidavits and testimony as needed. Respondent may be required to provide its own legal representation in administrative hearings, legal proceedings, and lawsuits when appropriate. Respondent shall coordinate its legal services and legal support related to the Plan with ERS' Office of the General Counsel.

Article VI. Scope of Work – Communication Requirements

This article describes Administrator's requirements in communicating with Members, Employers, ERS staff, and other constituents. Any start-up costs and the cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal (**Appendix R**).

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix M**. Respondent shall complete and submit **Appendix M** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. - I.D.3.a.

A. Plan Specific Overview Requirements

- A.1. Administrator's communication materials designed for Members cannot, and Administrator represents and warrants that it shall not, advertise or promote coverage, services, products or materials, other than those relating to Administrator's participation in the Plan. Prior approval of all communication materials' design and content shall follow a formal review process at ERS as described in RFP Sections VI.A.6. – VI.A.7.b., which requires ERS' documented authorization. In all cases, Administrator is not allowed to disseminate materials or information relating to the Plan without prior written ERS approval. The final materials used by Administrator shall not differ in form or utility from those approved by ERS.
- A.1.a. In all cases, Administrator's communication materials, whether disseminated via the internet, written, or in person, shall be in ERS' required format and delivered according to deadlines set and approved by ERS prior to dissemination. Administrator shall submit to ERS, for prior approval, drafts of all proposed communications to include, but not be limited to:
- Any and all print and/or electronic presentations;
 - PowerPoint presentations, including speaker notes, if applicable;
 - Presentations;
 - Newspaper/press releases; and
 - Any other material for Plan-specific purposes (as required in the latest ERS Brand Guidelines (**Appendix W**) and/or ERS Editorial Style Guide & Usage Manual (**Appendix X**), as applicable).
- A.1.b. Administrator shall provide all finalized communication materials as directed by the BCOM divisional designee(s) and the AD or designee.
- A.2. **Customized Plan-Specific Materials.** Administrator shall have the ability to develop and customize communication materials designed for Members and Participants.
- A.2.a. Administrator shall provide this material electronically to ERS in a format that allows for electronic viewing and editing.
- A.2.b. Administrator shall also have the capability to make certain communication materials available in printed copies on an as-needed basis throughout the Contract Term, as specified in RFP Sections VI.A.8. – VI.A.9. below.
- A.2.c. Plan-specific materials shall be designed to ERS' specifications, which may include electronic, printed, and mailed newsletters, handouts, brochures, booklets, tutorials, video presentations, required letters, enrollment materials, and forms. Administrator shall not distribute these communications until they have gone through a formal review process at ERS as discussed in RFP Sections VI.A.6. – VI.A.7.b. below. Following this approval, Administrator may not alter the materials in any way.
- A.2.d. In addition to Plan-specific materials, ERS may suggest refinements to other materials and will work with Administrator to modify materials as needed. These include operating documents such as system generated Participant letters, MBPD, claim approval and denial letters, other claims processing documents, promotional items and all other communications.

- A.2.e. As it relates to the management of the Plan network, Administrator shall provide to an authorized representative of ERS, a template, form, letter or other means of standardized communication prior to sending, disseminating or otherwise providing such written or oral communications to any person or entity reasonably connected to or involved in the Plan. Administrator shall regularly review, revise and update where necessary, all information contained on its website that relates to or may be used by the Plan and any of its Participants.
- A.2.f. Administrator shall customize communications as deemed necessary by the BCOM divisional designee(s) and the AD or designee.
- A.3. **Plain Language Requirement.** Administrator is responsible for a wide variety of communication materials explaining the Plan to Members. ERS requires Administrator to comply with the TDI's plain language requirements as outlined in Tex. Admin. Code, Title 28, Part 1, Chapter 3, Subchapter G § 3.602, and as amended in the future, for all communication materials related to the Plan. Materials submitted to ERS for approval should be at the eighth (8th) grade reading level with limited use of jargon. The material shall conform to ERS' branding and communication guidelines. In addition, the material shall be subject to editing and customization, including legal disclaimers and other standard language.
- A.4. **Training Requirement.** Administrator's Account Management Team shall have designated Plan-knowledgeable staff and resources available to provide training as needed to ERS staff, Members and Participants. Training may be conducted in person, in individual or group settings, or via webcast or conference call. Training related to Administrator's internal operations shall be provided to ERS' Customer Benefits, Group Benefits, and BCOM staff upon ERS' request. Staff training shall occur on an as-needed basis as specified by ERS throughout the Contract Term based on changes to operations or Plan design. Administrator should have sufficient resources to accommodate SE and FE fairs and ERS-hosted fairs each year of the Contract Term. ERS must approve training agendas and materials for external training. Training will be designed to meet specific learning goals.
- A.5. **Communication Materials.** BCOM will have an assigned communications account manager to manage communication material for review and approval. Administrator shall assign a designated communications representative outside of the designated Account Manager, starting during the Implementation Period, to work with the BCOM divisional designee(s), and this representative must be familiar with the Plan. Administrator's designated communications representative shall draft a communication strategy, maintain a log of communication activities, attend meetings as needed with ERS to discuss communications and regularly produce, review, revise, track and update, where necessary, all information contained in its communications and on its website that relate to or may be used by any Member, when applicable.
- A.5.a. All communication materials must be approved by the BCOM divisional designee at least fifteen (15) business days prior to Administrator sending, disseminating or otherwise providing such written or oral communications to any person or entity. On occasion, Administrator may obtain approval from the BCOM divisional designee(s) for a faster turnaround time, but this will be solely at the BCOM divisional designee's and the AD or designee's discretion.
- A.6. **Communication and/or Marketing Material Review and ERS Approval Process.** Prior approval of all communication materials' design and content shall follow a formal process that requires ERS' documented authorization. In all cases, Administrator is not permitted to disseminate materials or information relating to the Plan without prior written ERS approval.
- A.6.a. Administrator must send a final, watermarked printer's proof or test email to BCOM's divisional designee(s). Once the BCOM divisional designee(s) approves the watermarked final version in writing, communication materials are considered approved. Administrator may not alter a final watermarked version in any way without ERS' permission. The final materials used by Administrator shall not differ in form or utility from those approved by ERS.
- A.6.b. *Summer and Fall Enrollment Materials.* Administrator shall provide all finalized communication materials no later than sixty (60) calendar days prior to the start of SE and FE unless otherwise directed by the BCOM divisional designee(s) in writing.
- A.6.c. Administrator shall provide copies of all final and approved materials in electronic format to the AD or designee.

- A.7. **Quality Control.** Administrator shall ensure that all communication materials submitted to ERS will reflect quality production, accuracy, timeliness, and will be thoroughly reviewed. All Plan-approved benefit and legal documents, website content, Plan-specific media responses, required reports (to include *ad hoc* reports), and dated materials shall reflect the following criteria:
- Appropriate Fiscal Year and/or Calendar Year;
 - Accurate data related exclusively to the Plan, unless otherwise specified by ERS;
 - Appropriate language and standards as outlined in ERS Brand Guidelines (**Appendix W**) and ERS Editorial Style Guide & Usage Manual (**Appendix X**);
 - Contain Plan-specific language; and
 - Other information as requested by ERS.
- A.7.a. All such materials shall be provided within the required timelines as directed by ERS staff and may not be released to outside sources without prior ERS consent.
- A.7.b. Following ERS' review and once edited materials have been provided to Administrator, Administrator shall conform all documents by ERS' designated deliverable dates.
- A.8. **Requests for Communication Materials.** Administrator shall, at its expense, respond to all Members' and Participants' requests for mailed materials. See PGs (**Appendix E**). Communication materials include, but are not limited to:
- Fliers;
 - Brochures;
 - MBPD;
 - Explanation of Benefits statements (EOBs);
 - Participant Letters;
 - Forms;
 - Fact Sheets; and
 - FAQs.
- A.9. **Materials on Demand.** Administrator may be asked to provide materials to Employee and Retiree associations, such as the Retired State Employees Association, Executive Women in Texas Government, the Texas Association of State Human Resource Managers, the Texas Public Employees Association, and the Texas State Employees Union, at Administrator's expense.
- A.10. **Enrollment Period.** ERS conducts two (2) enrollment periods on an annual basis, a Summer Enrollment and a Fall Enrollment.
- A.10.a. **Summer Enrollment.** During SE, Active Employees are able to make changes to their GBP benefits elections. SE will typically be held during late June through July. The effective date for these election changes is September 1. Administrator shall have its enrollment materials and any other necessary documentation prepared for SE no later than April of each year of the Contract Term unless otherwise specified by the AD or designee in writing.
- A.10.b. **Fall Enrollment.** During FE, Medicare-eligible Retirees are able to make changes to their GBP benefits elections. FE will typically be held during late October through November. The effective date for these election changes is January 1. Administrator shall have its enrollment materials and any other necessary documentation prepared for FE no later than October of each year of the Contract Term unless otherwise specified by the AD or designee in writing.
- A.10.c. As specified in RFP Section III.B. and more thoroughly defined in the MBPD (**Appendix V**), the Plan is available to Members and Dependents. Members can enroll in the Plan during their first 31 days of employment, during their benefits enrollment period, or within 31 days of a Qualifying Life Event.
- A.11. **Summer and Fall Enrollment Communications.** ERS currently conducts the following comprehensive communications tactics for each enrollment period discussed in RFP Sections VI.A.10. – VI.A.10.b.:

- Multiple statewide enrollment fairs (in-person and/or virtual) that include participation by vendors of specific GBP Plans;
 - Enrollment presentations to be delivered at enrollment fairs and recorded and posted on ERS' website;
 - Targeted enrollment communication booklets;
 - Personalized enrollment statements with information on each Participant's current enrollments and programs they're eligible to participate in;
 - Brochures/handouts explaining Plan changes and updates;
 - Mail-in enrollment forms;
 - Information on how to make enrollment changes/elections online, with the help of their BC, via phone or by mail; and
 - General Plan information.
- A.12. **Fairs and Events Schedule.** Administrator shall have a Plan-knowledgeable representative available to attend numerous ERS-sponsored events throughout the year to include, but not be limited to:
- SE and FE fairs;
 - Benefits seminars hosted by ERS throughout the State;
 - Various association events and conferences;
 - Education and enrollment seminars; and
 - Benefits webinars.
- A.12.a. ERS has a varied number of fairs each year. The schedule for FY23 has not yet been developed. The BCOM divisional designee(s) will provide the dates and times of the SE and FE fairs when they become available.
- A.12.b. ERS may ask Administrator to work directly with Employers, ERS, and other ERS Contracted Vendors to coordinate SE and FE fairs and other fairs/informational meetings.
- A.13. **Fairs and Events – Attendance and Participation.** Administrator is expected to attend and provide written materials in support of the fairs and events discussed herein. Administrator shall work with ERS to coordinate attendance and resources for SE/FE, other fairs, and non-ERS-sponsored events to communicate, educate, and promote the Plan.
- A.13.a. The AD or designee and the BCOM divisional designee(s) will designate the events that require Administrator's attendance. Administrator acknowledges and accepts that additional obligations and enhancements to these requirements may become necessary should Plan changes or other circumstances warrant.
- A.13.b. Administrator shall provide knowledgeable representatives at SE and FE fairs as specified in the PGs (**Appendix E**).
- A.13.c. The designated resource(s) must be experienced presenters that are able to communicate effectively to large groups. Many events will require the representative(s) to set up and staff an information table offering ERS-approved communication materials and individualized customer service.
- A.14. **Enrollment Campaign.** Administrator shall create custom communication materials for each enrollment campaign. These materials include, but are not limited to:
- An enrollment presentation to be written, recorded, and posted on the ERS website and/or the Plan website and delivered upon request at enrollment events;
 - Letters to Participants, when applicable;
 - Brochures explaining Plan changes and updates;
 - General Plan information, including a Fact Sheet; and
 - Enrollment information on Administrator's website.
- A.15. **Prohibition.** Administrator shall not discuss, advertise, distribute, or in any manner refer to coverage, products, or materials other than those approved by ERS. This prohibition also applies to the GBP-specific website to be used by Members.

- A.16. **Member Communications.** Communication to Members shall be clear and understandable, using terminology familiar to Members, customized, as required by ERS, to conform with the Plan design and must be approved by ERS prior to dissemination.
- A.16.a. Communication materials shall be available in both print and electronic forms. Certain communication materials may initially be made available electronically, only as long as printed materials can be provided upon request to Members and Participants, when applicable.
- A.16.b. Accommodations shall be made for individuals with visual and/or hearing impairments in the development, production, and deployment of all communication materials, including information disseminated via the internet.
- A.17. **Advertising and Other Communications.** Administrator shall obtain ERS' approval for all proposed newspaper, web, social media, billboard, television, and radio advertisements used to promote the Plan.
- A.18. **Media Releases.** Unless required by law, Administrator is not authorized to make or participate in any media releases pertaining to this RFP, the Proposal, the Contract, or Administrator's role related thereto without the prior written approval of ERS, and then only in accordance with explicit written instructions from ERS. If required by law, Administrator shall first give written notice to ERS of such requirement. If contacted by the media, Administrator shall notify the AD or designee, in lieu of responding immediately to such media inquiries.
- A.19. **Media Inquiries.** Administrator shall provide ERS with its process and protocols for responding to general media inquiries. Administrator shall notify ERS when it anticipates media coverage that could raise questions among Participants and other constituencies **before** the coverage is expected to occur. When appropriate, Administrator will work with ERS to develop answers to potential questions from Participants and other constituents before media coverage occurs.
- A.19.a. Information about Participants is considered confidential under State law. For media inquiries specifically related to Participants, Administrator shall follow the process outlined below:
- Respond to the media representative in a timely way, but only acknowledge receipt of the inquiry and provide an expected timeframe to respond more fully.
 - Immediately provide a high-priority written notification to the AD or designee outlining all details related to the media's inquiry and all known facts of the related circumstances.
 - Wait for instructions or, as needed, work with ERS to determine how to respond.
 - Respond to the media as determined by ERS. (In many cases, ERS may respond to the media directly and request that Administrator not respond at all.)
- A.20. **Name Change.** If a name change occurs for Administrator and results in a cost to ERS in publication, Administrator shall reimburse ERS for the amount of the expense.

B. Ongoing Communications Requirements

- B.1. **Communication Specialist.** Administrator shall provide at least one (1) designated communication specialist(s) to meet and work with ERS staff to produce Plan-specific communication materials during the Implementation Period and throughout the Contract Term.
- B.2. **Communication Materials.** Administrator shall have the ability to provide customizable communication materials listed below, as well as make certain communication materials available in printed copies during the Implementation Period and on an as-needed basis throughout the Contract Term, which must allow ERS to customize formatting, language, and content. Throughout this section, ERS provides a representative, but not exhaustive, list of communication materials. Certain communication materials must be available via hard copy. ERS' current ongoing communication materials include, but are not limited to:
- MBPD;
 - Brochures and newsletters;
 - GBP-specific website;
 - Presentations;
 - Member communication and general information pieces;
 - SE and FE communications;
 - Fact Sheet;

- All advertising materials in association with the Plan;
 - Welcome packets, including Welcome Letter;
 - Articles for ERS newsletters;
 - Facebook posts for ERS' Facebook page;
 - News updates for ERS website;
 - *Ad hoc* publications;
 - Publications listing with audience and publish target dates;
 - Token giveaways for enrollment fairs and events; and
 - Other related materials.
- B.3. **Confidential Information.** Materials that contain protected health information (as defined by HIPAA), nonpublic personal information or other confidential information such as the Employee ID Number, including, but not limited to, ID cards, must be mailed in an envelope or other mailing service device designed to secure the confidential information from unintended viewers.
- B.4. **Fact Sheet.** The Fact Sheet shall consist of no more than two (2) front and back 8.5 x 11 inch pages. Once the Fact Sheet contents are approved by the BCOM divisional designee, Administrator shall make the Fact Sheet available to Member within five (5) business days.
- B.4.a. Administrator shall reflect all Fact Sheet information on the GBP-specific website as further outlined herein. The Fact Sheet shall include, but not be limited to, the following information:
- Administrator's Customer Service Team's contact information, including telephone numbers, email and physical addresses, and hours of operation;
 - A replication of the coverage amounts and provisions of coverage contained within the MBPD (**Appendix V**); and
 - Reference to Administrator's Plan-specific website and ERS' website.

C. Website Content Requirements

- C.1. **GBP Configurable Website.** Administrator shall publish and maintain a Plan-specific configurable website for Members and Participants in a format acceptable to ERS. Throughout this section, ERS provides a representative, but not exhaustive, list of items to be included within the website content.
- C.1.a. Neither Administrator nor its subcontractors can advertise or link to products or services without the express prior written permission of the BCOM divisional designee.
- C.1.b. The configurable website must be directly linked to the ERS home page. The configurable website shall be in final form and linked as required by ERS on an annual basis no later than the first week in May of each year of the Contract Term unless otherwise specified by the AD or designee in writing. Administrator's failure to provide the Plan-specific website as outlined below may result in a monetary assessment, and/or other legal remedies available to ERS in the Contract. See PGs (**Appendix E**).
- C.1.c. Administrator shall ensure that its Plan-specific website will be functioning by the date specified by ERS.
- C.2. **Authenticated Website/Portal for Participants.** Administrator shall publish and maintain a secure authenticated website/portal for Participants to access claims information, EOBs, account information, secure document submission, etc. This website/portal shall be linked from Administrator's Plan-specific website and should contain applicable Participant account information. Neither Administrator nor its subcontractors can advertise or link to products or services without the express prior written permission of the BCOM divisional designee.
- C.3. **Customizable Plan Website.** All content for the GBP customizable website for the Plan shall be approved by ERS prior to publication. The website must be functioning prior to SE and FE and no later than May for SE, and November for FE, or as otherwise directed by ERS. The final materials used by Administrator shall not differ in form or utility from those approved by ERS. Administrator's customizable website shall include the following:
- C.3.a. **Customizable Plan Website Home Page.** Administrator's customizable website shall include the following:

- Approved branding;
- Information that welcomes new Participants; introduces the Participants to Administrator; summarizes the features and benefits of the Plan;
- Updates, notices and events section;
- Locate a provider;
- Link to log in to the authenticated website/portal;
- Direct link to ERS' website;
- Educational resources (e.g., webinars, PDFs, podcasts);
- Current dates and other information for SE and FE (with removal of this information from the site as directed by ERS);
- Helpful telephone numbers and websites;
- Search capability; and
- A mobile responsive content design.

C.4. **Link to Administrator's Notice(s) of Privacy Practices.**

C.5. **Link to Customer Service Page** to include the following information:

- Telephone numbers and hours of operation;
- Physical address of Administrator;
- An email address or a link to a mailbox for Participants to send complaints and questions directly to Administrator. Administrator should respond to email complaints/inquiries by the end of the next business day. A tracking system for email complaints shall be in place that is similar to the tracking of telephone complaints that provide complaint responses to ERS; and
- Any applicable interactive/fillable forms (i.e., claims forms).

C.6. **Link to Benefits** to include the following information:

- SE/FE or Welcome Letter stating changes (if applicable) from the previous year;
- Plan User Guide; and
- MBPD.

The current MBPD shall be available on the website throughout the applicable Fiscal Year.

C.7. **Link to resources** such as:

- Educational materials (e.g., videos, tutorials, etc.);
- Plan User Guide;
- FAQs;
- Fact Sheets; and
- News and updates, as applicable.

C.8. **The ability for Participants to:**

- Log in to the authenticated website/portal with Administrator;
- Review Frequently Asked Questions and Answers;
- View the Plan and/or ERS logo;
- View an alert message if needed and as directed by ERS;
- Find the Plan-specific customer service telephone number; and
- Provide a link that returns the viewer to the ERS home page.

C.9. **Authenticated Website/Portal Content.** Administrator's authenticated website/portal shall allow Participants to conduct the following self-service functions:

- Easily access Participant account information;
- View and print EOBs and claims information;
- Lodge a service complaint, escalate unresolved complaints, and request a telephone call back within one (1) business day;
- Print enrollment and claim forms;
- Submit Plan claims;
- Search using a key word and/or phrase;
- Review Frequently Asked Questions and Answers;

- View the Plan and/or ERS logo; and
 - Provide a link to the ERS homepage. This should be prominently displayed on the customizable website's homepage and can be accomplished by Administrator in various ways with approval from ERS, such as the ERS logo that is hyperlinked to the ERS website.
- C.10. Administrator shall not reference any web address other than the ERS-specific website unless approved by ERS.
- C.10.a. Administrator shall provide a Plan-dedicated toll-free customer service telephone number, which is to be approved by ERS.

D. Website Specifications Requirements

- D.1. **Website Objective.** ERS' primary focus in its web page design is to provide information about the Plan. Administrator shall adhere to all website access, format, content, and technical requirements outlined in WCAG 2.0, the ADA and Section 508. See Website Accessibility Requirements, RFP Sections VI.D.4. – VI.D.5.
- D.2. **Customizable Website Development.** Administrator shall provide ERS with a website development and "go-live" timeline, requirements document, website frames, website manuscript, and screenshots detailing all of the content to be used throughout the website review. Administrator shall work with ERS to finalize the web frames and content by the agreed-upon due dates.
- D.3. **Customizable Test Website and Proposed Content.** Once the agreed-upon content for the customizable website is placed in Administrator's test or development site, Administrator shall provide ERS with a link, URL, username and password, screenshots and instructions to access and review the test website that allows ERS to perform a due diligence review of Administrator's website prior to the Implementation Period. Administrator's test website shall transition from a test phase to fully operational as agreed-upon between ERS and Administrator.
- D.3.a. Administrator's Plan-specific home page of the **test** website shall include the following links, when applicable:
- Information that welcomes new Participants; introduces the Participant to Administrator; summarizes the features and benefits of the Plan;
 - Updates, notices and events section;
 - Customer Service Team contact information;
 - Links to information about the Plan, including vision care information, locating a provider, and the complaint and appeals process;
 - Plan User Guide;
 - FAQs;
 - Privacy Policy;
 - Login to account-specific information;
 - Links to the ERS website; and
 - Search function.
- D.3.b. Administrator's GBP-specific home page shall include both Administrator's logo and the ERS logo. See ERS Brand Guidelines (**Appendix W**) and ERS Editorial Style Guide & Usage Manual (**Appendix X**).
- D.3.c. Administrator shall provide a live demonstration of the site's functionality to ERS staff prior to the go-live date as set forth by ERS. Administrator shall also provide a link with a dummy username and password to the configurable test website for ERS' independent review. Administrator shall provide documentation of a test Plan, test scripts (i.e., to ensure all links are working), completion of testing, and final sign off.
- D.4. **WCAG 2.0, Section 508 Compliance and Accessibility.** Administrator shall comply with WCAG 2.0, ADA, and Section 508 requirements. Members with disabilities must have access to and use of information and data that is comparable to the access to and use of information and data by persons who do not have disabilities. Everyone shall have a full and complete ability to interact with the site.

D.5. **Website Accessibility Specifications.** In addition to WCAG 2.0, ADA, and Section 508 requirements, Administrator shall adhere to the following website guidelines:

- Administrator's GBP-specific website should be supported on HTML5 compliant browsers and compatible with a wide spectrum of web browsers, including the latest versions of:
 - Internet Explorer;
 - Microsoft Edge;
 - Google Chrome;
 - Mozilla Firefox; and
 - Apple Safari.
- Documents should be organized so they are readable by a screen reader.
- Testing should be done for broken links. All links should have descriptive text to convey where the link will go. Do not use "click here".
- The website shall have a mobile responsive design.

D.6. **Administrator's GBP-Specific Website Availability.** Administrator guarantees that its website will be continuously available. See PGs (**Appendix E**).

Article VII. Scope of Work – Information Systems Requirements

This article describes the information systems requirements including operations, data interfaces, security practices, business resumption and data center facilities, and SOC-2 report requirements. Any start-up costs and the cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal (**Appendix R**).

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix N**. Respondent shall complete and submit **Appendix N** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. – I.D.3.a.

A. Operations Requirements

- A.1. Administrator shall have a designated technical team responsible for file transfer, batch scheduling, software development and security incidents.
- A.2. **Technical Consultant.** Administrator shall designate a Technical Consultant to lead the management and resolution of all technical issues, including, but not limited to, system service requests within agreed upon service delivery standards.
 - A.2.a. If an ERS request cannot be implemented by Administrator within the agreed upon service delivery standards from the date of ERS' request, then Administrator shall provide ERS with a written explanation as to why the issues cannot be resolved within this timeframe and provide ERS with a written plan for implementation, to include a timeline for resolution, within five (5) business days from receipt of Administrator's written notification as noted above. These requirements do not apply to disaster recovery or eligibility file loading matters.
- A.3. Administrator shall adhere to accepted industry standard software development life cycle methods and practices.
- A.4. **System and Software Updates.** Administrator shall provide quarterly updates on planned changes for standard updates to hardware and software components, and specify in detail how any such planned changes or updates will affect the ERS end users. These notifications shall be sent to ERS on a scheduled day each quarter. Administrator is required to notify ERS of all such changes at least fourteen (14) days in advance of making such changes. All significant software upgrades (that is, major software releases; e.g., 3.X to 4.X) or hardware upgrades require sixty (60) calendar days prior notification to ERS. See PGs (**Appendix E**).
 - A.4.a. Administrator shall perform quarterly retention audits to ensure all supporting documentation has been retained. The data retained should also be tested for completeness after all system upgrades.
- A.5. Administrator shall adhere to accepted industry standard information technology service management frameworks.
- A.6. **ERS' Data, Metadata, and Reporting.** Administrator shall maintain a complete and accurate reporting system, and provide for the retention, maintenance, and storage of ERS data for appropriate reporting to ERS. Administrator shall securely maintain all such data in accordance with the Contract, and shall make such data accessible and available to ERS for inspection and audit upon ERS' request.
 - A.6.a. ERS' data and metadata, as created, maintained and supported by Administrator shall at all times remain the property of ERS notwithstanding the fact that such records may be stored upon or within one (1) or more computer or data retention systems owned, operated, or leased by Administrator. ERS is entitled to a full data model for such data.
- A.7. Administrator shall provide testing environments for all circumstances used prior to rolling out program changes that run the logic to achieve predicted outcomes of programming prior to pushing-out a new process or enhancement/modification of an existing program.

- A.8. ERS or its representatives shall have full access to all ERS data on Administrator's systems. To the extent that any such data is to be maintained upon a computer system or any other data retention system, which is not owned by Administrator, Administrator shall provide ERS with assurances from the owner of such computer facilities, satisfactory to ERS, of continued availability and security of such records at all times. ERS must be permitted to personally inspect such facilities and systems.
- A.9. Administrator shall perform (to ERS' satisfaction) sufficient background and/or reference checks on all staff having access to confidential data, personally-identifiable information, and nonpublic personal information.

B. Data Interfaces Requirements

- B.1. Administrator shall have the ability to encrypt or decrypt files containing any sensitive information using 2048 bit asymmetric keys and using encrypted transmission protocols such as site to site VPN, SFTP and TLS or other industry accepted encryption methodology.
- B.2. Administrator shall only transmit and receive confidential and sensitive information via encrypted transmission protocols including site-to-site VPN, SFTP, TLS, or other industry accepted encryption methodology as mutually agreed to in advance.
- B.3. Administrator shall ensure that all files including, but not limited to, those with sensitive information reside in file transfer areas that remain encrypted while at rest using 2048 bit asymmetric keys.
- B.4. Administrator shall take measures to ensure the security of interfaces, which would include, but not be limited to, data files, emails, print screens and email attachments that Administrator is sending/receiving to/from external sources (whether ERS or a third party).
- B.5. Administrator shall adhere to ERS' file naming conventions and file formats. Administrator may offer standard file layouts for ERS to review for consideration. Replacement files should include any data ERS requires.
- B.6. Administrator shall be fully capable of accepting and processing all ERS file interfaces, specified in the File Layouts (**Appendices T, U-1, U-2, U-3 and U-4**) within an agreed upon time frame (no later than forty-five (45) days) prior to the go-live date as set forth by ERS.
- B.7. Administrator guarantees that any electronic file transfer or eligibility transaction failure(s) will be resolved as soon as possible, but no later than the requirements stated in the PGs. See PGs (**Appendix E**).
- B.8. Administrator's standard data files should include specifications that are required when ERS transfers data and information.
- B.9. Administrator shall provide a copy of its business policies and procedures related to the file interface business process upon request by ERS.
- B.10. ERS provides eligibility files to Administrator. Upon receipt of a claim, Administrator shall confirm Participant's active coverage in the Plan based upon the most recent ERS eligibility file data sent to Administrator from ERS. In the event of questions or dispute as to whether active coverage exists, Administrator shall be provided access to the ERS Online system to verify coverage, or may contact ERS.
- B.11. Administrator will receive weekly and monthly enrollment files posted via ERS' SFTP sites and shall update its records accordingly. Currently, ERS' existing process is to send full eligibility files to Administrator every Saturday and the first of every month (unless otherwise specified by ERS). All ERS' enrollment files are full files with 100% of the Participants. Coverage termination dates are not currently included on ERS' eligibility files to Administrator. Terminations are determined by omission of a Participant from any file (term by omission). Administrator guarantees that it shall process all processable eligibility transactions received from ERS. See PGs (**Appendix E**).

- B.11.a. ERS currently reports future effective dates on eligibility files. Files may reflect future effective dates thirty (30) to ninety (90) days in advance of the effective dates of coverage, as applicable.

C. Security Practices Requirements

- C.1. Administrator shall ensure that ERS data stored at Administrator's site(s) is encrypted at rest.
- C.2. Administrator shall ensure the security, confidentiality, integrity, and availability of Participants' and ERS' information in accordance with all applicable laws and regulations, both State and federal, including the Board Rules.
- C.3. TLS version 1.2 or better protocols shall be used for the exchange of personal identifying information over HTTPs. Administrator shall support SFTP protocol with SSH to encrypt the data exchanged in transit.
- C.3.a. Requirements include, but are not limited to, the use of SFTP and PGP encryption protocols. Administrator shall be prepared to accept eligibility data and reporting via SFTP forty-five (45) days prior to go-live.
- C.4. Electronic communications including, but not limited to, email and file transfers between Administrator and ERS shall be encrypted to protect Participants' confidential information. Administrator shall establish forced TLS protocols with ERS for email communications.
- C.5. To protect the confidentiality of Participants' information, Administrator shall provide access to any information reasonably related to ERS, the Plan, the GBP, the Participants, and the services, coverage, benefits, supplies and products specified hereunder using TLS version 1.2 or higher encryption protocols. This access, at a minimum, shall also give ERS the ability to view, download and print such Participants' information.
- C.6. ERS does not allow VPN split tunneling for client VPNs. Administrator shall ensure that it will not allow VPN split tunneling on client VPNs, including those possibly used for technical support.
- C.7. All computing devices (i.e., laptops, desktops, and servers) and storage devices that contain, process, or interact with ERS data shall be encrypted at rest. If ERS data is to be transmitted, the transmission shall be encrypted as well. Administrator must be capable of remotely deleting all ERS data, if needed.
- C.8. Administrator shall provide non-repudiation services up to and including second factor authentication for Administrator's employees, contractors, and service providers capable of accessing ERS data outside Administrator's physical facilities using a VPN or other remote access methods.
- C.9. The information entrusted to ERS is a valuable asset belonging to the Participants. The confidentiality of such information must be protected from unauthorized or accidental disclosure, modification, use, or destruction. Prudent steps must be taken to ensure its confidentiality, integrity, and availability are never compromised, including by any subcontractor upon whom Administrator relies in performing or providing services or products to or on behalf of ERS. Administrator shall maintain an Information Security Policy acceptable to ERS that outlines its management's direction and support for its information security program. This policy shall provide a uniform set of information security policies and procedures for protecting ERS' and Participants' data. Administrator's Information Security Policy documentation and independent audits of Administrator's adherence shall be available to ERS upon ERS' request.
- C.10. Administrator's system shall be capable of supporting an alphanumeric user identification number other than social security number.
- C.11. All products and related services, including, but not limited to, access to and retention of ERS and Participant-related data, shall be done and performed solely within the U.S.
- C.12. Administrator shall adhere to the following: (1) data relevant to the administration of this Plan will not be transmitted outside of the U.S., (2) no one outside the U.S. will have access to ERS' or Participants' confidential information, and (3) ERS' and Participants' information is not viewable outside of the U.S.

- C.12.a. All development activities (including production, quality control and testing) are performed solely within the U.S. and exclusively in Administrator's facilities meeting the requirements of the RFP.
- C.12.b. Administrator's subcontractors or independent contractors will prevent any person or entity located outside the U.S. from having access to all ERS, GBP, and Plan information, including, but not limited to, confidential or Participant-related information and data.
- C.13. Administrator, as applicable, shall have site-to-site secure VPN tunnel capability using Internet Protocol Security between Administrator's data center(s) and ERS, or other ERS Contracted Vendors, for selected data.
- C.14. Administrator shall have a method to recover data that is not part of active online backup or online replicated media, especially authenticated through Administrator's Active Directory.
- C.15. Administrator shall provide all legally required security measures, and exercise reasonable care and prudence to provide any other appropriate security measures for the purpose of preventing the transmission of viruses, worms, spyware, and/or Trojan horses, and for protecting ERS' information, confidential or otherwise, and for protecting ERS from losses caused by the alteration, damage or erasure of electronic data related to the Contract.

D. Business Resumption and Data Center Facilities Requirements

- D.1. Administrator must have a written disaster recovery plan that provides for the recovery of Administrator's electronic data and data processing equipment. The business related functions that Administrator uses to provide Services to ERS during the performance of the Contract shall be addressed by the written disaster recovery plan. Administrator's disaster recovery plan shall be tested annually.
- D.2. **Recovery Time Objective.** All Services provided to ERS under the Contract will be fully operational within seventy-two (72) hours after any business interruption.
- D.3. Administrator's primary and alternate data center sites shall both be located in the U.S.
- D.4. Administrator shall monitor access to its systems on both a physical and system basis.
- D.5. Administrator shall ensure all systems associated with ERS' application delivery and data storage are physically secured in an access-restricted environment.
- D.6. ERS must be permitted to personally inspect Administrator's data center facilities and systems on an annual basis or when ERS deems it necessary.
- D.7. Administrator shall maintain immutable, encrypted data backups in a secure, hardened facility that provides environmental and access controls. Administrator shall use at least 256-Bit symmetric key AES encryption standards for backup media.
- D.8. **Uptime Standards.** Administrator's data center shall maintain operational sustainability standards. ERS is seeking to have these standards conform to the Uptime Tier III or Tier IV standards. If Administrator does not have formal Uptime certification, Administrator's critical data center systems associated with providing power and cooling to information technology equipment shall maintain uptime of at least 99.982% during any twelve (12) month period.
- D.8.a. Administrator shall track the annual uptime of the systems and applications that provide service to ERS.
- D.9. Administrator must maintain contingency plans and procedures which provide business continuity due to any event that might interrupt, delay or shut down service that is related to Administrator's services or products, including that of any subcontractor upon whom Administrator relies in performing or providing services or products to or on behalf of ERS.
- D.10. Administrator shall deliver to ERS' plan manager one (1) of the following on an annual basis:

- D.10.a. A copy of the disaster recovery plan and the disaster recovery test results. These shall include, but not be limited to: (a) the disaster recovery plans plus a description of the changes from the previous year's plans, if any; and (b) the exercise test results conducted within the last twelve (12) months of the disaster recovery and business continuity tests referencing the adequacy of these plans. The test results must include the RTO and RPO of the systems and applications, which provide service to ERS. If these are part of a SOC-2 Type II report, Administrator shall provide the portions of the report that refer to the normal, annual disaster recovery and business and continuity tests, plus copies of the service auditor's report. Administrator shall be available for reasonable inquiry by ERS of the disaster recovery plan and tests.
- D.10.b. Alternatively, if Administrator does not provide the information in RFP Section VII.D.10.a. above, Administrator must deliver to ERS a summary of its latest disaster recovery tests results and a summary of its disaster recovery programs. The test results should include the RTO and RPO of the systems and applications that provide service to ERS. Administrator must attest annually, by signature, that the disaster recovery tests will ensure that systems which Administrator uses to provide Services to ERS will be available within X hours of outage and will experience Y hours of data loss (where X is the RTO and Y is the RPO). Administrator shall be available for reasonable inquiry by ERS of the disaster recovery plan and tests.

E. SOC-2 Report Requirements

For purposes of the requirements below, if Administrator is not able to provide a SOC-2 Type II report, the report(s) shall meet the following criteria to be equivalent to a SOC-2 Type II report:

- Provide a description of controls provided by management of Administrator's organization, which shall include the following: security, availability, processing integrity, and confidentiality and/or privacy;
- Be created by an independent third-party auditor;
- Attest that the controls are suitably designed and implemented; and
- Attest to the operating effectiveness of the controls over a minimum 6-month period.

HITECH, FedRAMP, or ISO 27001 certification as well as third-party audits of security controls for the Services provided are acceptable. SOC-1 reports are not equivalent reports.

- E.1. Administrator shall provide a full, un-redacted copy of the most recent SOC-2 Type II report performed under SSAE18 (or equivalent report) that describes the tests performed and provides the results of those tests or any other independent external audit on the effectiveness of internal controls over operations, security, and compliance of Services to be provided throughout the Contract Term, including disaster recovery planning and testing, and data center facilities. This should include results of an independent, certified external security audit. This report must also be submitted by Respondent at time of Proposal submission.
- E.1.a. Administrator shall make its audit results available to ERS for review on an annual basis.
- E.2. If applicable, Administrator shall make its sponsoring or parent company's most recent SOC-2 Type II report under SSAE18 or any other equivalent report on the effectiveness of internal controls over operations, security, and compliance of service results available to ERS for review on an annual basis. This report must also be submitted by Respondent at time of Proposal submission.
- E.3. If applicable, Administrator shall make its outsourcers' or subcontractors' SOC-2 Type II report under SSAE18 or any other equivalent report on the effectiveness of internal controls over operations, security, and compliance of service results available to ERS for review on an annual basis. This report must also be submitted by Respondent at time of Proposal submission.
- E.4. Administrator shall confirm its compliance with security oversight policies and procedures upon request, including SOC-2 Type II report(s) under SSAE18 or any other equivalent reports, if applicable.

Article VIII. Scope of Work – Implementation and Project Management Requirements

This article describes Administrator’s implementation and project management requirements. The cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent’s Price Proposal (**Appendix R**).

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix O**. Respondent shall complete and submit **Appendix O** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. – I.D.3.a.

A. Implementation Requirements

- A.1. **Implementation Kickoff Meeting.** Administrator should be prepared to attend an Implementation Period kickoff meeting as soon as possible following Contract award. Discussions will include, but not be limited to, discussion of Administrator’s customer service, plan management and operations, finance, account management, technology, communication, and SE/FE fairs and events.
- A.2. **Implementation Contact List.** Within three (3) business days following Contract award, Administrator shall provide a contact list of key personnel that represents Administrator’s Implementation Team to the AD or designee.
- A.2.a. The list shall identify an account key point of contact responsible for the Implementation Period, coordination, and maintenance of the business relationship and continuity pertaining to all business matters in support of the Contract during the Implementation Period. The Implementation Teams’ contact list shall provide key contact information including office and mobile telephone numbers as well as email and physical addresses.
- A.3. **Implementation Period.** The period of time beginning with the selection of Administrator by the Board and ERS’ execution of the Contract, to the point at which Administrator assumes full responsibility for the duties specified hereunder, shall be known as the Implementation Period. Administrator and the ERS project manager shall work together to prepare a mutually agreed-upon schedule for completion. Any schedule agreed upon must provide that any requirements necessary for Administrator to perform all obligations required under the Contract must be fully tested, implemented and ready for service to ERS, the Plan and the Members no later than August 1, 2023.
- A.3.a. During the Implementation Period, Administrator will:
- Maintain an appropriate, sufficient and qualified Implementation Team. ERS reserves the right to require Administrator to add additional staff or to remove staff from the Implementation Team.
 - Not permit any current or prospective business, projects or other matters to interfere in any manner with the smooth and timely implementation of the Plan.
 - Understand and agree that time is of the essence in the performance of the Contract and in the implementation of the Plan.
 - Acknowledge and agree that ERS, the Plan, the GBP, its Members and the State shall suffer irreparable harm if the Plan is not fully and completely implemented on or before August 1, 2023 unless otherwise specified by ERS in writing. To the extent the liquidated damages and/or other provisions of the Contract require prior notice, Administrator hereby waives such prior notice during the Implementation Period.
 - ERS may immediately assess against Administrator the agreed-upon liquidated damages and/or implementation of other legal remedies available to ERS in the Contract, without prior notice, in the event Administrator fails, refuses or if it reasonably appears that Administrator will fail or refuse to complete or perform or will not be capable of completing or performing any aspect of the Contract in connection with the timely and smooth implementation of the Plan.

- A.3.a.i. All communication materials dealing with the Implementation Period, including Member communication materials, Call Center staff training materials, IVR, and website design are subject to ERS' formal review process as described in RFP Sections VI.A.6. – VI.A.7.b.
- A.4. **Implementation Team.** The required representatives for the Implementation Team are listed in RFP Sections VIII.A.5. – VIII.A.6. below. Administrator shall ensure a smooth transition, without exception, of all ERS communication processes and requirements as follows:
- Administrator shall inform, via email notification, the AD or designee, in advance of any planned periods of unavailability by the Implementation Team's key point of contact.
 - In any instance where an Implementation Team key point of contact is not available to ERS, Administrator shall immediately secure and provide details of alternate coverage sufficient to meet ERS' expectations.
 - Should staffing adjustments or additional team members become necessary to support the account functions, Administrator shall provide such appropriate staff as required by and acceptable to ERS.
- A.4.a. Administrator shall notify the AD or designee of any anticipated changes to the Implementation Team structure.
- A.5. **Implementation Team Leadership.** The Implementation Team shall be led by an Implementation Project Manager to coordinate and expedite all Contract requirements as outlined and prioritized by ERS, to ensure complete continuity, without exception, of all interactive functions, deliverables, and objectives for the Plan prior to and during the Contract Term.
- A.5.a. The Implementation Team must include subject matter experts in each area relevant to the Implementation Period, including technical developers and other subject matter experts.
- A.5.b. Administrator must assign a communications lead on staff who is designated to the Plan. Communication requirements are fully described in RFP Article VI.
- A.6. **Implementation Project Manager.** At a minimum, the Implementation Team shall have both a designated Implementation Project Manager and a designated Backup Implementation Project Manager with availability to ERS staff throughout the Implementation Period and who is accessible to ERS during regular business hours (7:00 a.m. – 5:00 p.m. CT), or as otherwise deemed necessary by ERS, during the Implementation Period. The Implementation Project Manager shall serve as ERS' primary contact throughout the Implementation Period and will have immediate access to those able to make binding decisions for Administrator.

B. Project Management Requirements

- B.1. ERS' Enterprise Planning Office is responsible for project management services that will ensure the proper planning, procedures and protocols are in place to implement the Plan prior to the September 1, 2023 go-live date.
- B.1.a. ERS will engage an ERS project manager to manage the Implementation Period activities from ERS' perspective. It is ERS' expectation that the ERS project manager will work with Administrator's Implementation Project Manager as the primary point of contact regarding all Implementation Period activities and endeavors; all information will be disseminated through these individuals. Typically, the ERS project manager and Administrator's Implementation Project Manager communicate daily, or at an appropriate frequency as determined by ERS, to identify any changes, impacts, risks, and updates to the project status, schedule, and risk and issues log. These are then communicated to the team members as needed.
- B.1.b. ERS requires the following from Administrator and its project management services:
- Administrator will have an Implementation Project Manager who will be responsible for the oversight and management of the Implementation Period activities from Administrator's perspective.
 - Administrator's Implementation Project Manager will be ERS' primary point of contact during the Implementation Period.

- There will be one master project schedule from which both Administrator and ERS will work; the schedule must be in a format accessible by ERS, which is currently Microsoft Project or Excel.
- Administrator will be responsible for the management, retention, and transference of all Implementation Period documentation. This includes, but is not necessarily limited to, the project schedule, meeting minutes, and risk and issues log.
- ERS stores all project documentation within SharePoint, which is not accessible by Administrator. However, Administrator is expected to provide all project documentation to the ERS project manager within a timeframe to be determined mutually between Administrator and ERS for uploading into the SharePoint environment.
- Administrator will ensure all items that are to be operationalized after project go-live have been transferred to the appropriate party with the level of information necessary to ensure full understanding. Items to be transferred to operations will also be thoroughly captured in project documentation.

B.2. If Respondent is selected as a Finalist, Respondent shall provide a comprehensive description of Respondent's project management services including the following elements:

- **Project Approach/Methodology.** Include a complete description of Respondent's proposed approach and methodology for the project. Respondent's response to these requirements should convey Respondent's understanding of the proposed project.
- **Project Team Structure/Internal Controls.** Provide a description as to how ERS' project manager will work with Respondent's Implementation Project Manager.
- **Proposed Implementation Schedule.** Include an overview of project requirements and proposed milestones, high-level tasks, services, and activities necessary to accomplish the scope of the project defined in the RFP. Indicate the high-level tasks and activities that will be completed by Respondent and/or ERS staff. This schedule must contain sufficient detail to convey Respondent's knowledge of the subject and skills necessary to successfully complete the project. Include any proposed involvement by ERS staff. Respondent may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- **Outcomes and Performance Measurement.** Describe the impacts/outcomes Respondent proposes to achieve including how these outcomes would be monitored, measured and reported to the ERS project manager.
- **Risks and Mitigation.** Respondent must identify potential risks and mitigation that are considered significant to the success of the Implementation Period. Include a description of how Respondent's Implementation Project Manager will effectively communicate these risks to the ERS project manager.
- **Deliverables.** Fully describe the deliverables to be submitted under the proposed Contract.

Article IX. Scope of Work – Operational Specifications and Requirements

This article describes the general operational specifications including account management, administrative requirements and functions, customer service, state and federal financial reporting, and statistical reporting requirements. The cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal (**Appendix R**).

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix P**. Respondent shall complete and submit **Appendix P** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. – I.D.3.a.

A. Account Management Requirements

- A.1. **Key Personnel Contact List.** In addition to the implementation contact list specified in RFP Section VIII.A.2., Administrator shall provide to the AD or designee within three (3) business days following Contract award a complete Key Personnel Contact List – Account Management and Account Executive for the representatives described in RFP Sections IX.A.3. and IX.A.5. This list shall include the office and mobile telephone numbers as well as email and physical addresses for these persons. The list shall be consistent with the organizational charts required by **Appendix I**, Section A.4.
- A.1.a. Administrator shall ensure a smooth transition, without exception, of all ERS communication processes and requirements as follows:
- Administrator shall inform, via email notification, the AD or designee, in advance of any planned periods of unavailability by the Account Management Team's key point of contact.
 - In any instance where an Account Management Team key point of contact is not available to ERS, Administrator shall immediately secure and provide details of alternate coverage sufficient to meet ERS' expectations.
 - Should staffing adjustments or additional team members become necessary to support the account functions, Administrator shall provide such appropriate staff as required by and acceptable to ERS.
- A.2. ERS strongly believes that the account service relationship is the critical link in developing and maintaining a strong working relationship dedicated toward the achievement of the Plan objectives. As such, Administrator shall be committed to providing ERS with a service attention that is at the highest levels in the industry and fully consistent with ERS' expectations. ERS shall define the criteria for measurement and evaluation of service performance.
- A.2.a. Administrator shall notify the AD or designee, in writing, no less than sixty (60) calendar days prior to anticipated major changes in Account Management team that may impact the Plan. Administrator shall receive prior written approval from ERS' authorized representative prior to making any changes. See PGs (**Appendix E**).
- A.3. **Account Management Team.** Administrator shall establish and maintain throughout the Contract Term an Account Management Team that will work directly with ERS staff and others as designated by ERS staff. This Account Management Team shall include a designated Account Executive, designated Account Manager, customer service manager, practicing attorney, benefits/operational manager, person responsible for preparing reports, information systems manager, financial manager, and designated communications manager. One person can serve as both Account Executive and Account Manager. Approval of the Account Management Team rests with ERS.
- A.3.a. Administrator shall ensure its staff and any contractors and subcontractors hold all required business and professional licenses, registrations, permits and/or certifications that Administrator and/or its staff, contractors and subcontractors are required to hold during the Contract Term.

- A.3.b. The Account Management Team shall be thoroughly familiar with all of Administrator's functions that relate directly or indirectly to the ERS account and Plan.
- A.3.c. The Account Management Team shall be available at a minimum Monday through Friday from 8:00 a.m. to 5:00 p.m. CT, excluding federal holidays.
- A.3.d. Administrator's Account Management Team is expected to assist with coordination and scheduling of regular operational meetings, drafting agendas, and taking meeting minutes for operational meetings.
- A.4. **Administrator Personnel Changes.** The experience and professional qualifications of Administrator's Account Management Team are critical elements in awarding the Contract; therefore, substitutions of, or other changes in assigned personnel, shall require the prior approval of the AD or designee. See PGs (**Appendix E**). In any event, ERS may, at any time, request the removal or reassignment of Administrator's staff, or the staff of any subcontractor, in connection with Administrator's performance under the Contract.
- A.5. **Account Executive Team.** Administrator shall also designate an Account Executive Team composed of Administrator's executive management personnel assigned to the Plan. The Account Executive Team will be familiar with the totality of Administrator's products and services and how to leverage them to best meet ERS' business goals and objectives.
- A.5.a. In addition to regular operational reporting, Administrator shall provide a minimum of one face-to-face Account Executive review with ERS per Plan Year on the utilization and performance of the Plan. The review shall include, but not be limited to, a presentation of the following information:
- Industry trends and best practices;
 - Plan enhancement recommendations;
 - ERS-specific data regarding Plan participation, utilization, trends, demographic information, customer service, accomplishments, etc.;
 - Any relevant updates on upcoming federal and state regulatory changes; and
 - Other cost saving recommendations.
- A.6. **Subcontractor Requirements.** Any planned or proposed use of subcontractors by Administrator for the administration of the Plan shall be clearly disclosed and documented in Respondent's Proposal. Administrator shall provide complete information, prior to and, if requested by ERS, after execution of the Contract, regarding each subcontractor used by Administrator to meet the requirements of the Contract. See **Appendix P**, Section C.6.a. to provide requested information.
- A.6.a. Administrator shall accept the following subcontracting requirements:
- Administrator shall be solely responsible for all Services performed and for fulfillment of its obligations under the Contract and all amendments thereto, even if such Services are delegated to a subcontractor. No subcontract shall relieve Administrator of responsibility for the Services.
 - Administrator shall be the primary contact for ERS and subcontractors.
 - Administrator shall manage all quality and performance, project management and schedules for subcontractors. Administrator shall be held solely responsible and accountable for the timely completion of all work for which Administrator has subcontracted.
 - Administrator is solely responsible for the acts and omissions of its subcontractors and for assuring that subcontractors meet all of the requirements of the Contract and all amendments thereto.
 - Administrator shall be responsible for ensuring that its subcontractors are licensed, if applicable, and that they will comply with all applicable laws and regulations, both state and federal, and requirements of any organization or entity with any oversight authority over the subcontractors.
 - ERS retains the right to check subcontractor's background or otherwise gather information regarding subcontractors to make a determination to approve or reject the use of a submitted subcontractor. Any negative information received may result in ERS' disqualification of the subcontractor.

- Subcontractors must reside in the U.S. All work performed by subcontractors must be performed in the U.S.
- Subcontractor(s) are subject to reviews and acceptance by ERS throughout the Contract Term. ERS reserves the right to request the removal of Respondent's subcontractor staff deemed unsatisfactory to ERS.
- Subcontracting shall be at Administrator's expense.

B. Administrative Requirements

- B.1. Administrator shall provide general administrative, legal, reporting, technical, statistical support and other services as determined by ERS to assist ERS in the operation and monitoring of the Plan.
- B.1.a. Administrator shall provide the Plan with priority placement in all aspects of Contract performance provided by Administrator.
- B.1.b. ERS requires Administrator to meet with ERS staff and/or the Board as requested to discuss the status of the Plan in terms of utilization patterns and costs, as well as to propose new ideas that may benefit the Plan and its Participants.
- B.2. **Administrative, Operations, Methodology, and Service Delivery Changes.** Administrator shall provide to AD or designee a minimum of sixty (60) calendar days written notice prior to changes in Plan administration, operations, website delivery, methodology and delivery of Services that may affect ERS, the Plan and/or Participants. Administrator shall receive prior written approval from ERS' authorized representative prior to making any change(s) to its operations, administration, methodology, and/or service delivery including website modifications that may impact the administration, delivery, promotion or operations of the Plan. See PGs (**Appendix E**).
- B.3. **Reporting and Data Analytics.** Plan reporting shall be Plan-specific unless otherwise indicated by ERS.
- B.3.a. Furthermore, Administrator shall provide ERS access to a designated reporting and analytical team to advise and support ERS to include, but not be limited to:
- Provide claims-specific information and files;
 - Create statistical reports;
 - Develop templates for ERS data reporting;
 - Provide benchmarking analysis;
 - Provide trend analysis; and
 - Provide *ad hoc* reporting requests.
- B.4. **Meetings.** Administrator shall develop meeting agendas, coordinate meetings, and provide documentation of actions in the form of meeting minutes for designated meetings with ERS at a scheduled time agreed upon by ERS and Administrator to include, but not be limited to, operational items and communications.
- B.4.a. Administrator shall use ERS' meeting agenda template and provide meeting agendas one (1) day prior to the scheduled meetings.
- B.4.b. Administrator shall provide the meeting minutes within one (1) business day from the day of the scheduled meeting for ERS' initial review and approval.
- B.5. **Periodic Audits.** ERS will contract with an auditing firm to conduct periodic audits of Administrator. Administrator shall cooperate with and support the efforts of the auditors. Neither ERS nor the auditors will be required to indemnify Administrator for any costs incurred in connection with these audits.
- B.5.a. *Administrative Audit.* As plan administrator for the GBP, ERS may access, request, and audit documents related to the Plan and Participants' records as required for purposes of administering the Plan.

- B.5.a.i. As a result of the findings from ERS' administrative audit, ERS may initiate a compliance audit as described in RFP Section IX.B.5.b. below.
- B.5.b. **Compliance Audit of Administrator.** ERS may commission an audit of Administrator's claims administration of the Plan by an independent auditor (auditor) to determine the adequacy, timeliness, and accuracy of Administrator's procedures and performance for a prior Fiscal Year and/or post Contract Implementation. Auditor will develop the testing procedures and subject areas for each compliance audit scope. Administrator shall be prepared to fully support the activities of and in good faith cooperate with the auditor. Administrator shall not designate any "black out" periods of time when an audit may be conducted on behalf of ERS. In addition, if ERS or any of its duly authorized representatives or designees request records, data, information, report analysis rebuttals, and/or other information of Administrator, timely release of all information requested shall be required of Administrator.
- B.5.b.i. Administrator's support shall include maintaining readily available data that is accessible electronically as well as through hard copy. Neither ERS nor the auditor shall reimburse or indemnify Administrator for any cost incurred or any claim that may arise in connection with or relating to these audits.
- B.5.b.ii. In the event of a disagreement between Administrator and auditor regarding whether an audit finding will be considered an error for purposes of calculating audit results, ERS retains the exclusive right to make the final determination. Administrator shall adhere to these determinations pursuant to ERS' directions, which may include reprocessing of claims.
- B.5.b.iii. Based on the final compliance audit report, in the event that the auditor finds errors in excess of the amount designated in the Contract, Administrator must reimburse ERS for the errors and cover the cost of the auditor.
- B.6. **Fraud and Abuse.** Administrator shall use automated systems to detect fraud and misuse of the Plan, including, but not limited to, overpayments, wrongful or incorrect payments, falsification of eligibility, unusual or extraordinary charges, verification of enrollment and unnecessary treatment. Administrator shall also conduct thorough, diligent, and timely investigations with regard to fraudulent and suspicious claims and, immediately upon discovery, notify the AD or designee of any fraudulent or suspicious activity. Administrator understands that ERS may develop further policies in connection with the detection and prevention of fraud or abuse of the Plan. Administrator shall comply with all applicable laws, regulations, and ERS policies and is encouraged to develop additional safeguards as allowed by law. At a minimum, Administrator shall perform the following:
- Investigate unusual or suspicious claim submissions and materials to determine all relevant circumstances and report to ERS its findings;
 - Provide a toll-free number and an internet link for Participants to report fraud and abuse; and
 - Report the total number of dollars recovered through fraud-related investigation activities on a monthly basis.
- B.7. **Employee Identification Number.** Current enrollment reporting is based on each Participant's ID Number.
- B.7.a. Administrator's system shall have the capability to manage an eleven (11) digit ID number in its reporting system. Administrator shall be capable of identifying Participants based on the enrollment information submitted by ERS.
- B.7.b. The eleven (11) digit Employee Identification Number is assigned by ERS, and is numeric only. There may be multiple leading or trailing zeros in the number, so the full eleven (11) digit number must be able to be loaded by Administrator. Administrator may generate its own unique number, but this will need to tie to the Employee Identification Number reported on the eligibility file. ERS prefers that Participants be able to use the Employee Identification Number to authenticate and access services by telephone, internet and other interaction methods when contacting Administrator directly.
- B.7.c. ERS may, at some point in the future, decide to use an Employee Identification Number that is different in format from the 11-digit number currently in use. Administrator will be expected to accommodate this change, and cross walk to ensure existing records are linked.

- B.8. **ID Cards.** Administrator has the responsibility for providing ID cards by mail and/or electronically to Participants as specified in the PGs (**Appendix E**). Administrator is responsible for the production and any mailing costs associated with the delivery of ID cards to Participants. ID cards shall include the following information:
- Group number;
 - Participant ID number; and
 - Dedicated toll-free customer service telephone number for Administrator.
- B.9. **Master Benefit Plan Document and Plan User Guide.** Administrator understands, agrees and acknowledges that the Contract between ERS and Administrator shall supersede the MBPD in connection with the contractual relationship between ERS and Administrator. The MBPD shall provide a detailed description of a Participant's benefits for the Fiscal Year, explain a Participant's rights, and provide the rules to follow when using the Plan. As such, Administrator shall make the MBPD available to Participants in both electronic and printed formats. Administrator shall produce a printed MBPD each Fiscal Year, as well as publish it on its Plan-specific website.
- B.9.a. Each Fiscal Year, the Plan User Guide shall be reviewed by ERS using the communication review and approval process outlined in RFP Sections VI.A.6. – VI.A.7.b.
- B.9.b. Administrator will work with ERS staff to draft, review, and finalize the ERS-specific MBPD after Contract award. A draft MBPD with redlined changes must be delivered to the ERS Plan Manager by the end of May each year. The MBPD must be approved, final, and posted online to Administrator's Plan-specific website no later than the first date of Summer Enrollment for the first Contract Year, and no later than September 1 of each subsequent Contract Year. The web version shall not differ from the ERS approved version.
- B.9.c. ERS requires that printed copies of the approved MBPD and/or Plan User Guide be available to requesting Participants within three (3) business days upon Participant's request. The final published MBPD posted on Administrator's Plan-specific website shall not differ from the version that was approved by ERS and provided to Participants in printed form.
- B.9.d. Each Fiscal Year throughout the Contract Term, Administrator shall ensure that the MBPD and Plan User Guide are delivered to ERS' Group Benefits Division designee, published timely, and that the information contained is accurate or Administrator risks a monetary assessment and/or other legal remedies available to ERS in the Contract. See PGs (**Appendix E**).
- B.9.e. The MBPD and Plan User Guide shall include information regarding coverage amounts and provisions of coverage, as described in RFP Article III, as well as a complete list of limitations and exclusions, including all Plan provisions, and the Participant complaint and appeal process. Administrator is also required to include the GBP-specific eligibility rules as found in the Board Rules, Title 34, Part 4, Chapter 81 of the Tex. Admin. Code.
- B.10. **Legal and Technical Assistance.** Administrator shall provide legal and technical assistance as it relates to the operation and administration of the Plan.

C. Customer Service Requirements

- C.1. **Customer Service Center.** Administrator's Customer Service Center shall be located within the U.S. and preferably within the State. Administrator shall establish and provide staffing of the Customer Service Center designated to the Plan and it shall be adequately staffed to manage Plan-related questions and provide resolution of complaints, clarifications, and escalated issues.
- C.1.a. Administrator shall have the ability to track and report performance of Call Center metrics.
- C.1.b. The Customer Service Unit must be fully trained and functioning no later than the first day of SE, as directed by ERS.
- C.1.c. The required hours of operation for the Customer Service Center shall be, at a minimum, Monday through Friday from 7:00 a.m. to 7:00 p.m. CT, excluding national holidays.

- C.2. **Customer Service Representatives.** Administrator shall provide as many designated Customer Service Representatives as necessary whose sole responsibility shall be to respond to and resolve, within a reasonable timeframe as determined by ERS, Plan-related customer service needs. ERS and Administrator shall jointly monitor and adjust staffing levels as work and service requirements demand. Administrator shall provide thorough training of the Customer Service Unit. Any training deficiencies noted by ERS shall be immediately rectified by Administrator to ERS' sole satisfaction.
- C.2.a. Administrator shall submit all scripts to be used by CSRs to ERS for prior review and approval.
- C.3. **Backup Staffing.** Administrator shall designate additional staff, as needed, to update and maintain Plan-related records and accounts. This staff will also provide additional support for Administrator's Customer Service Unit.
- C.4. **Call Center Management Criteria.** Administrator shall establish toll free lines (telephone and facsimile). Administrator shall also employ appropriate and adequate customer service staff to maintain service levels, Abandonment Rate and blockage rate as referenced in Call Center Metrics Reporting (**Appendix Y**). For the purposes of calculating the Abandonment Rate, ERS will not penalize Administrator for any Member or Participant who disconnects within ten seconds of initiating a call. These quick disconnects will be classified as a short call and are not subject to the PGs (**Appendix E**).
- C.4.a. Administrator shall have the ability to send recorded telephone call records to ERS upon request.
- C.5. **Access for Hearing Impaired.** Administrator's Call Center shall be equipped with Telephone Device for the Deaf or teletype in order to serve the hearing-impaired population.
- C.6. **Language Accessibility.** Administrator's Call Center(s) shall have staff available to provide language translation services to meet the service level objectives defined in Call Center Metrics Reporting (**Appendix Y**) and the PGs (**Appendix E**). This may be provided by using a language translation service.
- C.7. **Benefits Coordinator Access.** Administrator shall provide the necessary resources and technology to adequately assist Benefits Coordinators with questions and concerns.
- C.8. **Verification of Participant's Coverage.** Administrator shall verify all Plan coverages. To assist Administrator in verifying coverage, ERS provides online access to its PeopleSoft enrollment system via ERS OnLine.
- C.8.a. Administrator shall accept oral or written verification of a Participant's coverage by an authorized representative of ERS or verify the Participant's coverage using ERS OnLine. Administrator shall fully support the verification process to ensure Participant's Plan coverages are verified timely and accurately.
- C.9. **IVR System.** Administrator shall provide to AD or designee a minimum of sixty (60) calendar days written notice prior to changes in its IVR System that include system changes, updates and reconfigurations that directly affect ERS. Administrator shall receive prior written approval from ERS' authorized representative prior to making any change(s) to its IVR system that may impact the administration, service delivery, or operations of the Plan. See PGs (**Appendix E**).
- C.10. Administrator shall have the ability to provide customizable customer service materials including knowledge management tools and IVR scripting that may be used by Customer Service Representatives. These materials shall be available in printed copies during the Implementation Period and on an as-needed basis throughout the Contract Term for ERS' review and approval.

D. Claims Processing Requirements

- D.1. **Claims Administration.** Administrator shall review and process all claims functions required for the Plan throughout the Contract Term. Administrator shall have no responsibility under this Contract for the administration of claims incurred prior to September 1, 2023. General requirements for claims processing include the following:

- Review claims for eligibility under the Plan.
 - Process the Participants' network and non-network claims in accordance with Plan benefits described in the MBPD.
 - Provide an Explanation of Benefits to the Participants both available through the authenticated portal/website and mail.
 - File paper claims by Participants as specified in the PGs (**Appendix E**).
 - File electronic claims as specified in the PGs (**Appendix E**).
 - Ensure that claims are processed in compliance with all applicable laws and regulations, both state and federal.
- D.1.a. The ongoing support and technical assistance for administering and processing claims will include, but not necessarily be limited to:
- Receiving, processing and paying all documented eligible claims.
 - Developing and maintaining individual account files, records and balances with real time updates.
 - Providing a toll free number or online services for Participant's use in faxing or uploading any paper claims to Administrator for processing of an eligible claim.
 - Administrator shall use commercially reasonable efforts to contact and notify a Participant when such Participant's claim(s) require further documentation.
- D.2. In the event Administrator issues excess payments or payments for ineligible claims or Participants, it will:
- Take all steps necessary to recover the overpayment, including recoupment (offset) from Participants, providers, or subsequent claim payments. Note that ERS does not allow for cross-plan offsets.
 - Assume 100% liability for overpayments that result from policy, the Plan administrator or system errors attributable to the Plan administrator in whole or in part.
 - Within ninety (90) calendar days following identification of Administrator's error, in whole or in part, Administrator shall return to ERS all overpayments regardless of recovery status.
 - Refrain from initiating litigation to recover such overpayment unless authorized by ERS.
- D.3. **Claim Payments.** Administrator shall pay all claims in an accurate and timely manner based on the data provided by ERS. See PGs (**Appendix E**).
- D.4. Administrator shall process all claims in a manner consistent with all applicable state and federal laws and regulations, as well as the Board Rules, the MBPD, Chapter 1551 of the Tex. Ins. Code, and at the direction of the ERS Board, its Executive Director, and ERS staff. If Administrator has questions with regard to this process, Administrator shall contact ERS staff for resolution. See PGs (**Appendix E**).
- D.5. General requirements for claims processing include, but are not limited to, the following:
- The adjudication of claims, including disbursement of claim checks or drafts.
 - Administrator must process claims using its own financial resources and will be reimbursed by ERS on a weekly basis. See RFP Article X of this RFP for information about funding and reimbursement methodology.
 - Administrator must provide general, legal, underwriting (including, but not limited to, reviewing and making determinations specific to coverage applications), actuarial and other technical services and assistance as ERS may reasonably request in relation to insurance coverage and administration, adjudication of claims, appeals and litigation. Administrator shall provide such reviews, analysis, or reports to ERS. Administrator's administrative fee must be inclusive of these services. See Price Proposal (**Appendix R**).

E. Plan Reporting Requirements

- E.1. Administrator shall notify AD or designee of all identified issues in connection with reports and/or audit findings and provide supporting documentation for all such reports.
- E.2. **Management Reporting Requirements.** A list of Respondent's current client reports shall be included in Respondent's Proposal.

E.2.a. Following Contract award, ERS will determine the required administrative reports and specify reporting frequency. Administrator's required reporting shall include, but not necessarily be limited to, the following:

- Performance Guarantees;
- Call Center Metrics as referenced in **Appendix Y**; and
- Complaints.

Reports shall vary in frequency and scope based on ERS' determination after Contract award. However, all reports provided by Administrator shall reflect quality production with attention to detail, accurate data, and meet additional requirements as specified by ERS and as stated within the PGs (**Appendix E**).

E.3. **Monthly Reporting Requirements.** ERS requires Administrator to provide monthly administrative performance reports. The data shall include the entire previous month, and shall be received in the ERS-prescribed format via email by the 20th of the following month. Failure to provide the required data may result in a monetary assessment (See PGs in **Appendix E**) or implementation of other legal remedies available to ERS in the Contract. The required data and format are subject to change as required by ERS.

The current requirements are:

E.3.a. *Monthly Administrative Performance Report.* This document reflects the specific Contract performance areas upon which Administrator shall report each month. The subsequent tab of each MAPR workbook reflects the calculation and methodology used to identify the reported performance measure. On an annual basis, Administrator will be responsible for providing ERS and/or GBP auditor with the source documentation for a review of the source information used in the self-reported data.

E.3.a.i. ERS will use information reported by Administrator to proactively monitor trends and to identify and/or address variances on targeted Administrator performance requirements. ERS shall specify the reporting timelines and formats.

E.3.a.ii. To ensure accuracy of the self-reported information and reliability of Administrator's internal operational controls, Administrator shall provide documentation verifying the reported metrics (PG source documentation). The document type and due date shall be specified by ERS. PG source documentation shall be retained by Administrator in accordance with the records retention requirements specified in the Contract.

E.3.b. *Monthly Claims Lag Report:* Administrator shall provide a claims lag report to both ERS and ERS' consulting actuaries each month, which distributes the claims paid amounts on the basis of month incurred and month paid. ERS shall specify report format and due date.

E.3.c. *Monthly Detailed Claims History:* Administrator shall submit detailed claims history files to both ERS and ERS' consulting actuaries via SFTP on a monthly basis. ERS shall provide the file feed layouts and timing requirements for these files. A sample layout is provided in **Appendix T**. ERS will work with Administrator during implementation to finalize each file layout, which will include, but not be limited to, the fields provided in the sample layout.

E.3.c.i. The Administrator shall submit to ERS and ERS' consulting actuaries, on a monthly basis, via SFTP within a site-to-site VPN tunnel using file encryption with ERS' public key (PGP), all claims processed during the previous calendar month. This data shall be used by ERS' Actuarial and Reporting Services team and ERS' consulting actuaries to analyze claims experience and reconcile the weekly invoices. The detailed claims file shall include, but not be limited to, the items described below for each claim record. Please note that ERS will work with the selected Administrator regarding the content, coding and format of the detailed claims file.

- Participant Identification Number
- Patient Identification Number
- Patient Date of Birth
- Patient Gender
- Patient Relationship Code (Member, spouse, child)
- Patient ZIP Code

- Provider Number
- Provider Tax ID Number
- Provider Specialty Code (OD, MD, other)
- Provider ZIP Code
- Claim Number
- Date of Service
- Date Claim Received
- Date Provider Paid
- Record Status Code (paid, adjusted, etc.)
- Procedure Code
- Unit Count
- Provider Billed Amount
- Eligible Charges
- Patient Copayment Amount
- Plan Payment Amount

E.3.d. **Other Monthly Reporting Requirements.** Other monthly reporting may be required of Administrator on an ad-hoc basis.

E.4. **Quarterly Reporting Requirements.** The Administrator shall provide a Plan Network Additions and Terminations Detail Report. The information from this quarterly report is used by ERS to proactively monitor and respond to changes in the Plan network. The following data elements are required in the ERS-prescribed format: Provider Name, Full Provider Address, Date Provider Added To or Terminated from the Network.

E.5. **Annual Reporting Requirements.** Administrator shall deliver to ERS the following on an annual basis:

E.5.a. *Annual Plan Review Reports.* By January 15th following the end of each Plan Year, Administrator shall provide ERS with a draft annual Plan review report. The detailed annual report shall provide a summary of the activities, data, utilization, and other pertinent information occurring within the prior Plan Year. The annual review report should include, but not be limited to, the following:

- Plan enrollment and demographic information;
- Cost and utilization data compared against a relevant industry standard;
- Customer service and claims processing trends;
- Information on Plan Year accomplishments and upcoming initiatives;
- Vision industry trends; and
- Overall Plan performance, and any recommendations for Plan enhancements.

ERS retains full authority to review and approve the annual Plan reports before finalization. Administrator shall be expected to present the information within the annual review report to ERS stakeholders onsite annually. ERS may choose to have annual Plan reviews with Administrator virtually in lieu of the onsite meeting.

E.6. **Ad Hoc Reports.** From time to time ERS may, on an *ad hoc* basis, request that Administrator prepare customized reports on a timely basis at no additional cost to the Plan.

E.7. **Actuarial Reporting.** ERS retains a consulting actuary on insurance matters. The consulting actuary assists and advises ERS staff on Plan design, Proposal review, and Respondent's Price Proposal analysis. The ERS staff actuary or the consulting actuary may, from time to time, request that Administrator provide additional information specific to the Plan. Administrator shall cooperate with and act in good faith in working with ERS and/or the consulting actuary and shall respond to these requests promptly at no additional cost to ERS.

E.7.a. Data reporting with regard to the file layouts, data fields, and additional file expectations for the Plan are provided in **Appendices S-1, S-2, T, U-1, U-2, U-3 and U-4**. Respondent must meet all file requirements stated in this RFP or provide Respondent's recommended file layout, including data field descriptions, with Respondent's Proposal for ERS' review and consideration.

F. SOC-1 Report

- F.1. Respondent shall provide to ERS' plan manager, with its Proposal and on an annual basis, a copy of the most recent SOC-1 report that was conducted in accordance with standards established by the American Institute of Certified Public Accountants on the effectiveness of internal controls related to operations and related general computer controls that are relevant to user entities' internal control over the Services to be provided for purposes of this RFP. If there is not a SOC-1 engagement performed, then any other report performed by an external entity assessing how the operational control activities meet the Services to be performed under the RFP will be accepted. ERS reserves the right to request this information from Respondent's parent/sponsoring organization or outsourcers/subcontractors, if applicable. ERS also reserves the right to perform an on-site inspection.

Article X. Scope of Work – Funding, Payment and Accounting Methodology Requirements

This article describes the funding, payment and accounting methodology requirements for Administrator to administer the Plan, as defined in the Scope of Work (RFP Articles III – X). Any start-up costs and the cost of the requirements described herein shall be recovered only by making provisions for such expenses in Respondent's Price Proposal (**Appendix R**).

The section allowing for Deviations and the interrogatories pertaining to this article can be found in **Appendix Q**. Respondent shall complete and submit **Appendix Q** as part of its Proposal. Respondent shall ensure that proposed Deviations adhere to the Deviations instructions provided in RFP Sections I.D.3. - I.D.3.a.

A. Funding Methodology Requirements (Informational Only)

Deviations to this subsection are not permissible and will not be accepted by ERS.

- A.1. **Payment of Administrative Fee Methodology.** Each month the total administrative fee will be determined by multiplying the number of Participants enrolled by the administrative fee. ERS will collect the contributions made by the Participants and remit the administrative fee to Administrator within fifteen (15) days of the end of the month for which it is applicable. ERS will pay based on internal enrollment systems.
- A.1.a. Administrator will be responsible for timely reconciliation of any administrative fee billing, including discrepancies.

B. Funding and Claims Reimbursement Methodology Requirements (Informational Only)

Deviations to this subsection are not permissible and will not be accepted by ERS.

- B.1. **State Contribution.** The state makes no contribution toward the cost of vision coverage.
- B.2. **Employee Contribution.** Subscribers shall pay the entire contribution for vision care coverage. This cost may be paid through payroll deduction.
- B.3. **Funding Methodology.** Each month, ERS will collect Subscribers' contributions and hold such contributions in a fund that is designed solely for the payment of expenses incurred under the GBP. Remittance of funds to Administrator will be made in accordance with the following method.
- B.3.a. **Reimbursement of Claims.** Under a self-funded arrangement, Administrator will process and pay all claims submitted under the Plan as described herein. The claims will be paid by Administrator through the issuance of drafts or electronic funds transfer from Administrator's account prior to reimbursement from ERS. On the first business day of each week, Administrator shall present an invoice to ERS for all claim payments actually made and paid during the previous week. ERS will use reasonable efforts to process and submit the payment by wire transfer from ERS' custodian bank within five (5) business days following receipt of the invoice to Administrator's account at its designated financial institution. Although Administrator shall be responsible for maintaining sufficient funds to provide for the costs incurred, Administrator shall take on no risk for the sufficiency or collection of Plan contributions on self-funded coverages. Due to the timing of the claims reimbursements, Administrator may be required to advance up to two (2) weeks of its own resources for claims payments. Two (2) weeks of claims payments are projected to average around \$1 million before being reimbursed by ERS.

In the event the invoice is not presented to ERS as specified herein, ERS' Finance division will make reasonable efforts to contact Administrator by telephone and email to obtain the voucher.

- B.4. **Administrative Fee.** In responding to this RFP, Respondent shall propose a single per Subscriber per month administrative fee which will be guaranteed for the Contract Term.
- B.4.a. The administrative fee proposed by Respondent should be adequate to cover all administrative expenses incurred during the Contract Term and during any runoff period following termination of the Contract.
- B.4.b. Chapter 1551, Tex. Ins. Code, exempts the GBP from taxes on premiums/contributions. The administrative fee should not include any provisions for contribution/premium and maintenance taxes.
- B.4.c. No sales fees or commissions may be incorporated into any rating methodology used in response to this RFP.
- B.4.d. The Plan Contract is to be executed in accordance with this provision and shall involve no insurance or reinsurance. The Plan Contract will be for administrative Services only.
- B.5. **Payment of Claims is the responsibility of Administrator.** Administrator will be liable for adjudicating 100% of the eligible claims incurred during the Contract Term.
- B.6. **Runoff Period.** Following expiration or termination of the Contract for any reason, Administrator shall continue to be responsible for processing and paying claims incurred during the Contract Term.

C. Federal Employer Identification Number Submission Requirements (Informational Only)

Administrator shall comply and agree with the requirements stated herein. **Deviations to this subsection are not permissible and will not be accepted by ERS.**

- C.1. Federal Employer Identification Number Requirements. Respondent shall provide ERS with an executed IRS TIN Validation Letter Form 147C, Request for Taxpayer Identification Number and Certification form, if selected as a Finalist. Respondent's legal name used on the Request for Taxpayer Identification Number and Certification form must match the legal name used for the Contract.

D. Financial Stability Requirements

- D.1. At time of Proposal submission and throughout the Contract Term, Administrator must be in good financial standing, not in any form of bankruptcy or the zone of insolvency, and current in the payment of all taxes and fees, including, but not limited to, State franchise taxes. ERS will request Administrator to confirm its Financial Stability by providing information showing its capability to cover Contract risk. In this regard, Respondent shall provide the following:
 - D.1.a. *Attestation Regarding RFP, Proposal and Financial Stability.* Respondent shall attest to its financial standing by executing the Signature Page (**Appendix A**), which contains a section titled "Attestation Regarding RFP, Proposal and Financial Stability". If Respondent is relying on a parent or sponsoring corporation for purposes of the RFP or Contract, then each parent or sponsoring corporation must also sign a separate Signature Page and provide it with the Proposal.
 - D.1.b. *Financial Statements.* Respondent shall deliver, with its Proposal and on an annual basis, if selected as Administrator, financial statements prepared in accordance with generally accepted accounting principles in the U.S., including financial statements from any sponsoring or parent corporation, if applicable. Financial statements shall be prepared on an accrual basis and must be compiled in accordance with generally accepted accounting principles in the U.S. The financial statements should include, but not be limited to, balance sheet, income statement, statement of retained earnings or statement of stockholders' equity, statement of cash flows, and notes to the financial statements. Respondent shall be available for reasonable inquiry by

ERS of these financial statements, and shall provide ERS with further documentation upon ERS' request.

- D.1.c. *Insurance Coverage.* Administrator shall maintain, during the Contract Term and any amendment, renewal or extension thereof, fidelity and liability insurance coverage with limits of not less than One Million (\$1,000,000) Dollars per occurrence and One Million (\$1,000,000) Dollars in the aggregate per policy year, with excess or umbrella liability coverage in an amount not less than Five Million (\$5,000,000) Dollars per policy year that shall apply to Respondent's obligations under the Contract. The insurance coverage required under the Contract shall be obtained from insurance companies that are licensed with at least an "A-" rating from A.M. Best Company. Administrator shall be financially responsible for all deductibles or self-insured retentions.
- D.1.c.i. Administrator shall provide updated insurance certificates to ERS within ten (10) days of policy renewal during the Contract Term.
- D.1.c.ii. If any insurance coverage required as part of the Contract is cancelled during the Contract Term, Administrator shall provide thirty (30) days' notice of cancellation to ERS.

Article XI. Price Proposal

This article describes general information and financial requirements for submitting the Price Proposal. Any start-up costs and the cost of the requirements described in the RFP and Contract shall only be recovered by making provisions for such expenses in the Price Proposal (**Appendix R**). Respondent shall include provisions for **ALL** Services and/or programs referenced in the RFP.

The interrogatories pertaining to this article can be found in **Appendix R**. Respondent shall complete and submit **Appendix R** as part of its Proposal.

Respondent shall comply and agree with the requirements stated herein. Deviations to this Article are not permissible and will not be accepted by ERS.

A. General Requirements (Informational Only)

- A.1. **State Taxes and Fees.** Section 1551.012 of the Tex. Ins. Code exempts the GBP from any State tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. Respondent's proposed fees shall not include any provision for such taxes or fees.
- A.2. **Legislative Mandate.** If, subsequent to the submission of a Proposal prepared in response to these specifications, federal or State legislation or regulation is enacted or interpreted in a manner that materially impacts the coverages which are the subject of this RFP, ERS shall enter into good faith negotiations with the Respondent selected to administer the Plan to arrive at mutually agreeable adjustments to the administrative fees submitted in response to these specifications so as to appropriately reflect the anticipated impact of such legislation.
- A.3. The pricing proposal should be adequate to cover all expenses to be incurred by Administrator for implementation of the Contract and for the performance of all Services and other matters described herein and in the Contract prior to and during the initial term of the Contract, and during any runoff period following termination of the Contract.
- A.3.a. The cost of any runoff administration shall be reflected in the Price Proposal, **Appendix R**. Administrative fees will not be paid by ERS for any services provided beyond the Contract Term.

B. Contract Requirements

- B.1. **Administrative Fee Guarantees and Adjustments.** Respondent shall guarantee all administrative fees for the initial Contract Term from September 1, 2023 through August 31, 2029.

Article XII. Glossary of Terms

The following provides definitions of acronyms, abbreviated phrases, and other terms used in the RFP. These defined terms are capitalized when used in the RFP. Respondent shall use this section as a reference because the terms will not be defined within the text of the RFP. In the event of a discrepancy between the definitions in the RFP and MBPD, the MBPD will prevail.

Abandonment Rate: The percentage of calls routed to Respondent that disconnect prior to Respondent answering the telephone.

Account Executive and/or Account Manager: A senior person of Respondent's staff who has responsibility for managing the ERS relationship and ensuring the relationship is managed with high standards.

Account Executive Team: Respondent's executive staff responsible for managing the ERS relationship and ensuring the relationship is managed with high standards.

Account Management Team: Respondent's staff assigned to work directly with ERS during the Contract Term.

Act: The Texas Employees Group Benefits Act located in Chapter 1551 of the Texas Insurance Code, as amended.

Active Directory: Active Directory is an identity management tool used in information technology services.

Active Employee(s): Employees and Members not enrolled in Medicare.

AD: Assistant Director of the ERS Group Benefits Division.

ADA: Americans with Disabilities Act of 1990, as amended.

Addendum: A modification or addition to the original published RFP.

Administrator: The Respondent selected, if any, by ERS as a result of the RFP process to provide the Services as described in the RFP. For purposes of the Contract including the RFP, Administrator necessarily includes Administrator, its officers, directors, employees, representatives, agents, and any subcontractors and independent contractors.

AES or Advanced Encryption Standard: A symmetric-key block cipher algorithm and U.S. government standard for secure and classified data encryption and decryption.

Authorized Representative: The Chief Executive Officer or other authorized officer who is at a vice president or higher level of Respondent's organization who is authorized to bind the organization.

BAA: Business Associate Agreement, **Appendix D** of the RFP.

Backup Implementation Project Manager: The person that will assume the responsibilities of the Implementation Project Manager in the event the Implementation Project Manager terminates employment with Administrator, or if the Implementation Project Manager will be unavailable to ERS.

BAFO: A Finalist's formal offering of a best and final price offer, provided at the request of ERS.

BCOM: ERS' Benefits Communications division, which conducts ongoing communications operations directed to Active Employees, Retirees, Dependents, Employers, and other stakeholders.

Benefits Coordinator or BC: A staff member dedicated to benefits enrollment and education at the Employer level.

Bit: The basic unit of information in computing and digital communications.

Board: The Board of Trustees of the Employees Retirement System of Texas.

Board Rules: Rules of the Board located at Title 34, Part 4, Tex. Admin. Code, including any amendments thereto.

Bonfire: ERS' e-procurement portal located at erstexas.bonfirehub.com.

Calendar Year or CY: A Calendar Year begins annually on January 1 and ends on December 31 of the same year.

Call Center or Customer Service Center: A centralized location where Administrator's staff will manage inbound and outbound telephone calls, emails, and other contacts related to the Plan.

Chief Security Officer or Information Security Officer: Respondent's senior level executive responsible for establishing and maintaining Respondent's information assets and technologies and ensuring the information systems, assets, and technologies are adequately secure.

Clarifications: Clarifications consist of the clarification questions posed by ERS as well as Respondent's responses to those questions.

COBRA: Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-271, and any subsequent amendments.

Confidentiality and Nondisclosure Agreement or NDA: The Confidentiality and Nondisclosure Agreement attached as **Appendix F** to the RFP.

Contract: The entire agreement between ERS and Respondent, which includes, but is not limited to, the Contractual Agreement attached to the RFP as **Appendix B** and all of the exhibits attached thereto.

Contract Service Period: The period January 1, 2024 to December 31, 2029.

Contract Term: The term of the Contract is for (6) years, which will begin upon execution of the Contract by ERS and, after the Implementation Period, extend through December 31, 2029, subject to the terms of the Contract.

Contractibility: The degree to which ERS finds Respondent a viable Respondent, specifically in terms of the Contract. Refer to RFP Section V.A.1. for more information.

Contractual Agreement: The Contractual Agreement, **Appendix B** to the RFP.

CPA: The Texas Comptroller of Public Accounts.

CT: Central Time.

Customer Service Representative or CSR: CSRs interact with Members and Dependents to provide answers to inquiries regarding the Plan.

Customer Service Team or Customer Service Unit: Administrator's staff trained to manage Plan-related questions and resolve complaints, clarifications, and escalated issues and to assist in claim intake and servicing. Administrator's staff will handle various types of contacts, including, but not limited to, calls and emails.

Dependent: An individual eligible to participate in the GBP as the dependent of a Member, as defined in Section 1551.004 of the Tex. Ins. Code and as further defined in Rule 81.1, Section (14), of the Board Rules.

Deviation: A proposed deviation from a requirement contained in the RFP or the Contract. Refer to RFP Sections I.D.3. – I.D.3.b., V.A.3.a. – V.A.3.a.i., and V.A.7.a. for more information.

DSBNA: Data Security and Breach Notification Agreement, **Appendix C** of the RFP.

Employee: An individual eligible to participate in the GBP under Section 1551.101 of the Tex. Ins. Code.

Employer: See definition of State Agency(ies).

ERS: The Employees Retirement System of Texas.

ERS Contracted Vendors: The vendors other than Respondent who provide services to ERS in conjunction with the GBP.

ERS Project Manager: The project manager assigned by ERS to oversee the Implementation Period and other project management duties associated with the RFP and Contract.

ESBD: The CPA's Electronic State Business Daily located at www.txsmartbuy.com/esbd. ESBD is the electronic marketplace where notice of State bid opportunities over \$25,000 are posted.

Fall Enrollment or FE: The enrollment period that takes place for Medicare-eligible Retirees in the fall, typically late October through November, in which Members can enroll and make changes to their GBP benefits elections.

Finalists: The top-ranked Respondents based on the results from the Proposal Review Phase.

Finalists Review Phase: The phase in which top-ranked Respondents from the Proposal Review Phase move forward for further consideration by ERS.

Fiscal Year or FY: The Fiscal Year begins annually on September 1 and ends on August 31 of the following year.

GBP: The Texas Employees Group Benefits Program as established and administered by the Board pursuant to the Act.

HSP: A Historically Underutilized Business Subcontracting Plan, as the term is used in the Tex. Gov't Code, Chapter 2161.

HTML: Hypertext Markup Language. The set of markup symbols or codes inserted in a file intended for display on a web browser. HTML tells the web browser how to display a web page's words and images for the user.

HTTP: Hypertext Transfer Protocol.

HUB: A historically underutilized business, as defined in Tex. Gov't Code, Chapter 2161, Subchapter F.

Hypertext Transport Protocol Secure or HTTPS: The use of Secure Socket Layer or Transport Layer Security as a sublayer under regular HTTP application layering.

Implementation Period: The period of time beginning with ERS' execution of the Contract through the point at which Respondent assumes full responsibility for provision of the Services.

Implementation Project Manager: The person responsible for managing Respondent's Implementation Team and for implementing, coordinating, and maintaining the business relationship and continuity pertaining to all business matters in support of the Contract during the Implementation Period.

Implementation Schedule: The project schedule agreed to by ERS and Respondent indicating when milestones or elements of the work will be completed by Respondent and ERS staff.

Implementation Team: Respondent's staff that is responsible for the implementation of the Plan.

Information Security Policy: Respondent's policies and/or procedures that outline its information security program.

Institution of Higher Education: A public junior college, a senior college or university, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Texas Education Code. It does not include an entity in The University of Texas System, as described in Section 65.02 of the Texas Education Code, or an entity in The Texas A&M University System, as described in Subtitle D, Title 3, Texas Education Code, including the Texas Veterinary Medical Diagnostic Laboratory.

Internet Protocol Security: Is a suite of protocols between two communication points across the Internet Protocol network that provide data authentication, integrity, and confidentiality as well as defines encrypted, decrypted and authenticated packets. Used in virtual private networks.

IVR: Interactive voice response system.

LBB: Texas' Legislative Budget Board.

MAPR: Monthly Administrative Performance Report.

Master Benefit Plan Document or MBPD: The vision care benefit plan document is attached as **Appendix U**.

Member: Employee, Retiree, or other person eligible to participate in the GBP provided under the Act and who is not a Dependent.

Minimum Requirements: ERS' requirements that Respondents must meet as set forth in **Appendix H**. Failure to satisfy the Minimum Requirements shall result in the disqualification of Respondent's Proposal. ERS will not accept Deviations to the Minimum Requirements.

Minimum Requirements Phase: The phase in which ERS evaluates Respondent's responses to the Minimum Requirements Questionnaire on a pass/fail basis.

NDA: Confidentiality and Nondisclosure Agreement, **Appendix F** of the RFP.

OPCO: ERS' Office of Procurement and Contract Oversight.

Participant: Any Subscriber or Dependent who has enrolled in the State of Texas VisionSM Plan.

Performance Guarantees or PGs: The performance standards guaranteed by Respondent attached as **Appendix E** to the RFP.

PIA: Texas Public Information Act, Chapter 552 of the Tex. Gov't Code, as amended.

Plan: State of Texas VisionSM Plan.

Plan Year: The period beginning annually on September 1 and ending on August 31, inclusive.

Preliminary Review Phase: The phase in which ERS evaluates Proposals for responsiveness, and compliance with the RFP as well as all other vendor performance checks required by the CPA on a pass/fail basis.

Premiums: Contributions that are required to be paid to maintain coverage under the Plan.

Pretty Good Privacy or PGP: A data encryption and decryption computer program that provides cryptographic privacy and authentication for data communication.

Proposal: The document prepared and submitted by Respondent that is responsive to the RFP.

Proposal Review Phase: The phase in which ERS evaluates Proposals from all Respondents who pass the Preliminary Review Phase.

Protected Materials: Patents, trademarks, copyrights, and other intellectual property embodied in the public version of Respondent's Proposal.

Qualifying Life Event or QLE: A change in an individual's situation that makes an individual eligible for a special enrollment period outside the permissible open enrollment period(s). These changes may include marriage, job loss or change in jobs and are more fully defined in Section 81.7(d)(1)(B) of the Board Rules.

Respondent: Any Respondent submitting a Proposal in response to the RFP. For purposes of the RFP, Respondent necessarily includes Respondent, its officers, directors, employees, representatives, agents, and any subcontractors and independent contractors.

Retiree: A retired person who is eligible under Chapter 1551 of the Act to participate in the GBP.

RFP: This Request for Proposals to Provide Third-Party Administration of the Self-Funded State of Texas VisionSM Plan under the Texas Employees Group Benefits Program.

RPO: Recovery Point Objective.

RTO: Recovery Time Objective.

RTW: Return to work.

Scope of Work: The scope of work required by the RFP as specified in RFP Articles III – X and the Price Proposal (**Appendix R**).

Section 508: Section 508 of the Rehabilitation Act of 1998 (29 U.S.C. 794d), as amended.

Secure File Transfer Protocol or SFTP: A network protocol that provides file transfer and manipulation functionality over any reliable data stream.

Secure Shell Handling or SSH: A UNIX-based command interface and protocol for securely getting access to a remote computer.

Security Incident Management: The process of identifying, managing, recording and analyzing security threats or incidents in real-time.

Services: The third-party administration of the self-funded State of Texas VisionSM Plan under the Texas Employees Group Benefits Program, as more fully set forth in RFP Articles III – X and the Price Proposal (**Appendix R**).

SIG: ERS' Standard Information Gathering technology questionnaire

Signature Page: The document requiring the signature of Respondent's Authorized Representative, which is attached as **Appendix A** to the RFP.

SOC-1 Report: Service Organization Controls 1 Report. A SOC 1 is an audit related to the effectiveness of internal controls over the Services to be performed. It is performed by an external auditor to evaluate, test, and report on the effectiveness of internal controls over operations at the service organization.

SOC-2 Report: Service Organization Controls 2 Report. A SOC 2 is an audit related to the design and effectiveness relevant to the Trust Services Criteria: security, availability, processing integrity, confidentiality, and privacy of information processed by the service organization to process users' data.

SSAE18: Statement of Standards for Attestation Engagements. A series of accounting standards that measure the effectiveness of internal controls over operations.

SSO: Single Sign-On.

State: State of Texas.

State Agency(ies): A commission, board, department, division, Institution of Higher Education, or other agency of the state of Texas created by the constitution or statutes of this State. The term also includes the Texas Municipal Retirement System, the Texas County and District Retirement System, the Teacher Retirement System of Texas and ERS. State agencies, institutions of higher education and other governmental or quasi-governmental employers within the State whose employees or annuitants are authorized by the Act to participate in the GBP.

Subscriber: Any Member who has enrolled in the State of Texas VisionSM Plan.

Summer Enrollment or SE: The enrollment period that takes place in the summer, typically during late June and July, in which Members not eligible for Medicare can enroll and make changes to their GBP benefits elections.

TDI: Texas Department of Insurance.

Technical Consultant or TC: The person that ensures that all ERS system requests and issues are thoroughly analyzed and given priority positioning to ensure prompt resolution.

Terms of Use: Respondent's rules for using Respondent's website(s), mobile applications or other technology solutions. For purposes of Respondent's Proposal, "Terms of Use" refers to any disclaimer or

terms of use language within Respondent's Proposal including any documentation provided by Respondent.

Tex. Admin. Code: Texas Administrative Code.

Tex. Gov't Code: Texas Government Code.

Tex. Ins. Code: Texas Insurance Code.

Transport Layer Security or TLS: A protocol that ensures privacy between communicating applications and their users on the internet.

Trojans: Programs that create a backdoor on a computer that gives malicious users access to the system, possibly allowing confidential or personal information to be compromised.

United States or U.S.: The fifty (50) states of the United States of America.

Uptime Tier and Uptime Institute: An unbiased advisory organization focused on improving the performance, efficiency, and reliability of business critical infrastructure through innovation, collaboration, and independent certifications that sets the standards known as the Uptime Tier III standards and Uptime Tier IV standards.

Virtual Private Network or VPN: A network that is constructed by using public wires, usually the internet, to connect to a private network, such as a company's internal network.

WCAG: Web Content Accessibility Guidelines.

Website Availability Rate: The percentage of normal business hours that Administrator's GBP-specific website, as linked from ERS' website (www.ers.texas.gov), is operational, excluding scheduled maintenance time.

Article XIII. Proposal Deliverables Checklist

A. Hardcopy Format

A.1. Although Respondent's Minimum Requirements Questionnaire and Proposal must be *uploaded to Bonfire* by the deadline specified in RFP Section I.B.1., Respondent must also provide its original, sealed Proposal in its entirety to ERS via hardcopy by mail or hand-delivery so that it reaches ERS on or before the deadline specified in RFP Section I.B.1. The original Proposal shall be packaged in one (1) sealed container, if possible, and it shall be submitted in separate, loose-leaf three-ring binders, tab-indexed in accordance with the Proposal Deliverables Checklist in RFP Section XIII.B.1., with the name of Respondent's organization, RFP number, and "Vision RFP" on the front and spine of the binder.

A.1.a. If the original Proposal does not fit in one (1) binder, ERS will accept multiple binders, but they must be numbered as Volume I, Volume II, etc. on the front and spine of the binder. The hardcopy of the Proposal may be printed either single-sided or double-sided. Plastic, spine-bound, or wire bound submissions are highly discouraged. Failure to provide the original Proposal and in the format requested may result in Respondent being eliminated from further consideration. All Proposals shall be valid throughout the entire RFP process.

A.1.b. The hardcopy must be submitted to ERS at one of the following addresses by the deadline specified in RFP Section I.B.1.:

Office of Procurement and Contract Oversight
 Employees Retirement System of Texas
Physical Address: 200 E. 18th Street, Austin, Texas 78701
Mailing Address: P.O. Box 13207, Austin, Texas 78711-3207

The mailing label for the Proposal shall be clearly marked as:

**OPCO Proposal Submission
 Vision RFP**

A.1.c. ERS is not responsible for receipt of any Proposal that is not labeled, packaged, or delivered properly. All Proposal materials shall include complete, properly executed, and detailed supporting documentation as required.

B. Proposal Deliverables Checklist

B.1. In addition to providing the hardcopy requested in RFP Section XIII.A. above, Respondent shall submit the following documents online by uploading them to Bonfire in "Requested Information" in the file formats noted below.

Tab # for hardcopy	Proposal Documents (Documents should not be encrypted or password protected.)	RFP/Appendix Reference
1.	Minimum Requirements Questionnaire (Microsoft Word only).	Appendix H
2.	Professional Licenses, if applicable (PDF only).	Appendix H, Section A.1.a.
3.	Respondent's Financial Statements, if applicable (PDF only).	Appendix H, Section D.1.a.
4.	Parent or Sponsor Financial Statements, if applicable (PDF only).	Appendix H, Section D.1.b.

5.	Parent or Sponsor Org Chart, if applicable (Microsoft Word or PDF).	Appendix H , Section D.1.e.
6.	Signature Page Executed (PDF only). Must be executed by an authorized person who signed the Incumbency Certificate.	Appendix A
7.	Contractual Agreement Executed (PDF only). If Respondent has Deviations, it shall provide a redlined version of Appendix B (Microsoft Word only).	Appendix B
8.	DSBNA Executed (PDF only). If Respondent has Deviations, it shall provide a redlined version of Appendix C (Microsoft Word only).	Appendix C
9.	BAA Executed (PDF only). If Respondent has Deviations, it shall provide a redlined version of Appendix D (Microsoft Word only).	Appendix D
10.	Deviations to the PGs Redlined , if applicable (Microsoft Word only).	Appendix E
11.	Incumbency Certificate Executed (PDF only).	Appendix G
12.	Organizational and Reference Information (Microsoft Word only).	Appendix I
13.	Site Visit NDA, if applicable (Microsoft Word only).	Appendix I , Section A.3.a.i.
14.	Parent Org Chart, if applicable (Microsoft Word or PDF).	Appendix I , Section A.4.a.
15.	Company Org Chart (Microsoft Word or PDF).	Appendix I , Section A.4.b.
16.	IT Org Chart (Microsoft Word or PDF).	Appendix I , Section A.4.c.
17.	Org chart staff members and Contractors (Microsoft Word or PDF).	Appendix I , Section A.4.d.
18.	HUB Subcontracting Plan (PDF only).	Appendix I , Section A.5.c.
If Respondent includes both public and confidential and/or proprietary information in its Proposal, Respondent shall upload the following to Bonfire:		
---	One (1) zipped folder labeled “ Vision Proposal – Public Information ” that contains all information Respondent considers public. Respondent shall not place any documents in this folder that are not otherwise uploaded under Requested Information in Bonfire.	Appendix I , Section A.7.a.
---	One (1) zipped folder labeled “ Vision Proposal – Confidential and-or Proprietary Information ” that contains all information Respondent considers confidential and/or proprietary. Respondent shall not place any documents in this folder that are not otherwise uploaded under Requested Information in Bonfire.	Appendix I , Section A.7.b.
---	One (1) document titled “ Confidential and-or Proprietary List ” that lists everything Respondent considers confidential and/or proprietary information.	Appendix I , Section A.7.c.
If Respondent includes only public information in its Proposal, Respondent shall upload the following to Bonfire:		
---	One (1) document titled “ No Confidential and-or Proprietary Information. ” In this document, Respondent shall state that nothing in its Proposal is deemed by it to be confidential and/or proprietary. Respondent shall also state	Appendix I , Section A.7.d.

	that all the documents it has uploaded to Bonfire are considered public information.	
19.	Plan Design, Benefits, and Eligibility Requirements Interrogatories (Microsoft Word Only).	Appendix J
20.	Provider Network Requirements Interrogatories (Microsoft Word Only).	Appendix K
21.	Provider Network that contains a listing of all providers in the network (Microsoft Excel only)	Appendix K, Section B.1.
22.	Legal Requirements and Regulatory Compliance Deviations and Interrogatories (Microsoft Word only).	Appendix L
<u>If Respondent is incorporated in Texas, provide the following:</u>		
23.	Texas Certificate of Formation (PDF only).	Appendix L, Section C.7.a.
24.	Texas SOS Certificate of Status (PDF only).	Appendix L, Section C.7.b.
25.	Texas CPA Certificate of Account Status (PDF only).	Appendix L, Section C.7.c.
26.	Texas Assumed Name Certificate, if applicable (PDF only).	Appendix L, Section C.7.d.
<u>If Respondent is not incorporated in Texas, provide the following:</u>		
27.	Outside Texas Formation Documents (PDF only).	Appendix L, Section C.8.a.
28.	Outside Texas Certificate of Good Standing (PDF only).	Appendix L, Section C.8.b.
29.	Outside Texas For-Profit Corp. Registration (PDF only).	Appendix L, Section C.8.c.
30.	Outside Texas Certificate of Account Status CPA (PDF only).	Appendix L, Section C.8.d.
31.	Communications Requirements Deviations and Interrogatories (Microsoft Word only).	Appendix M
32.	Samples of Enrollment Materials (Microsoft Word or PDF).	Appendix M, Section B.1.
33.	Samples of Communications Materials (Microsoft Word or PDF).	Appendix M, Section C.1.
34.	Test Website (Microsoft Word or PDF).	Appendix M, Section D.3.
35.	Section 508 and WCAG 2.0 Compliance Report (Microsoft Word or PDF)	Appendix M, Section E.2.a.
36.	Information Systems Requirements Deviations and interrogatories (Microsoft Word only).	Appendix N
37.	File Interface Business Process Policy (Microsoft Word or PDF).	Appendix N, Section C.1.
38.	Security Incident Management Policies (Microsoft Word or PDF).	Appendix N, Section D.16.a.
39.	Information Security Policy (Microsoft Word or PDF).	Appendix N, Section D.25.a.
40.	Uptime Institute Certification, if applicable (PDF only).	Appendix N, Section E.11.a.

41.	Disaster Recovery Plan and Test Results, if applicable (Microsoft Word or PDF).	Appendix N , Section E.14.a.
42.	Disaster Recovery Test Results Summary, if applicable (Microsoft Word or PDF).	Appendix N , Section E.14.b.
43.	Respondent's SOC-2 Type II Report (Microsoft Word or PDF).	Appendix N , Section F.1.
44.	Parent or Sponsor SOC-2 Type II Report, if applicable (Microsoft Word or PDF).	Appendix N , Section F.2.
45.	Outsourcer or subcontractor SOC-2 Type II report(s), if applicable (Microsoft Word or PDF).	Appendix N , Section F.3.
46.	Implementation and Project Management Requirements Deviations and Interrogatories (Microsoft Word only).	Appendix O
47.	Operational Specifications and Requirements Deviations and Interrogatories (Microsoft Word only).	Appendix P
48.	Required Licenses for Subcontractors (PDF only).	Appendix P , Section C.6.a.
49.	Audit Procedures (Microsoft Word or PDF).	Appendix P , Section D.2.
50.	Fraud Plan (Microsoft Word or PDF).	Appendix P , Section D.6.
51.	Executive Summary (Microsoft Word or PDF).	Appendix P , Section D.7.
52.	Proposed Sample of the MBPD (Microsoft Word or PDF)	Appendix P , Section D.8.
53.	Sample Customer Satisfaction Survey (Microsoft Word or PDF).	Appendix P , Section E.20.
54.	Sample – Standard Reporting Package (Microsoft Word or PDF).	Appendix P , Section G.2.
55.	Examples – Online Reports (Microsoft Word or PDF).	Appendix P , Section G.3.
56.	SOC-1 Report (Microsoft Word or PDF)	Appendix P , Section H.1.
57.	Funding, Payment and Accounting Methodology Requirements Deviations and Interrogatories (Microsoft Word only).	Appendix Q
58.	Documentation of the financial support Respondent receives or may receive from other entities, if applicable (Microsoft Word or PDF).	Appendix Q , Section D.1.c.
59.	Independent Ratings and Reports (Microsoft Word or PDF).	Appendix Q , Section D.4.
60.	Price Proposal Interrogatories (Microsoft Word only).	Appendix R
61.	GBP Procedure-Specific Fee Schedule	Appendix Z

Article XIV. List of Appendices

- A. Signature Page
- B. Contractual Agreement
- C. Data Security and Breach Notification Agreement
- D. Business Associate Agreement
- E. Performance Guarantees
- F. Confidentiality and Nondisclosure Agreement
- G. Incumbency Certificate
- H. Minimum Requirements Questionnaire
- I. Organizational and Reference Information Interrogatories
- J. Plan Design, Benefits and Eligibility Requirements Interrogatories
- K. Provider Network Requirements Deviations and Interrogatories
- L. Legal Requirements and Regulatory Compliance Deviations and Interrogatories
- M. Communication Requirements Deviations and Interrogatories
- N. Information Systems Requirements Deviations and Interrogatories
- O. Implementation and Project Management Requirements Deviations and Interrogatories
- P. Operational Specifications and Requirements Deviations and Interrogatories
- Q. Funding, Payment and Accounting Methodology Requirements Deviations and Interrogatories
- R. Price Proposal Interrogatories
- S-1. Experience Data Descriptions
- S-2. Experience Data Files **FIRST AMENDED JULY 21, 2022**
- T. Claims File Layout
- U.1. Enrollment File Layout
- U-2. Payment Detail File Layout
- U-3. SSN Change File Layout
- U.4. Retroactive Termination File Layout
- V. Master Benefit Plan Document (MBPD)
- W. ERS Brand Guidelines
- X. ERS Editorial Style Guide & Usage Manual
- Y. Call Center Metrics Reporting
- Z. GBP Procedure-Specific Fee Schedule
- AA. ERS Sample SIG Questions

EXHIBIT F

**EyeMed Vision Care, LLC's
Contract to Provide Third-Party Administration of the
Self-Funded State of Texas Visionsm Plan under the
Texas Employees Group Benefits Program**

Business Associate Agreement

**BUSINESS ASSOCIATE AGREEMENT
BETWEEN EMPLOYEES RETIREMENT SYSTEM OF TEXAS
AND EYEMED VISION CARE, LLC,
AND ITS WHOLLY-OWNED SUBSIDIARY FIRST AMERICAN ADMINISTRATORS**

This Business Associate Agreement (“Agreement”) is effective upon execution by and between the Employees Retirement System of Texas (hereinafter “Health Plan” or “Covered Entity”) and EyeMed Vision Care, LLC, and its wholly-owned subsidiary First American Administrators, Inc. (each, hereinafter “Business Associate”). Health Plan and Business Associate may be individually referred to as a “Party” and collectively as the “Parties.”

PREAMBLE

WHEREAS, the requirements of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as incorporated in the American Recovery and Reinvestment Act of 2009, and the implementing regulations issued and amended by the U.S. Department of Health and Human Services Secretary (“Secretary”) (45 CFR Parts 160 and 164, known as the “Privacy and Security Rules,” require the Parties to reach agreements regarding the privacy, security and breach notification requirements related to ‘*protected health information*,’ as clarified by the Genetic Information Nondiscrimination Act of 2008 (“GINA”), Public Law 110-233 and applicable regulations (PHI) (these requirements are hereinafter collectively referred to as “HIPAA”); and

WHEREAS, Health Plan is a ‘*Covered entity*’ under HIPAA in that it is a covered group health plan, and as a covered entity must ensure the privacy and security of all PHI which its Business Associate ‘*uses*’ or ‘*discloses*;’ and

WHEREAS, Health Plan and Business Associate have entered into a Contractual Agreement (the “Contract”) under which Business Associate contracted to provide certain functions, activities, or services (collectively “Services”) to Health Plan, and in the continued performance of these Services may create, receive, use, disclose, or have access to PHI from or on behalf of Health Plan; and

WHEREAS, in performing Services for Health Plan, Business Associate is considered a ‘*Business Associate*’ as this term is defined in HIPAA; and

WHEREAS, the Parties agree that this Business Associate Agreement shall be attached to the Contract as Exhibit F to incorporate therein for all purposes as if restated in full the terms of this Agreement; and

WHEREAS, HIPAA mandates that a ‘*Covered Entity*’ enter into agreements with their ‘*Business Associates*’ to ensure the continued privacy and security of PHI; and

WHEREAS, the Parties desire to comply with HIPAA; and

WHEREAS, this Agreement is intended to ensure that Business Associate will establish and implement appropriate safeguards (including certain administrative and security requirements) for the PHI the Business Associate may create, receive, use, disclose, or have access to in connection with Services by Business Associate to Health Plan.

NOW THEREFORE, in consideration of the Parties' continuing obligations under the Contract, in compliance with HIPAA, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the statutory obligations imposed upon them and to protect the interests of the Parties.

SECTION I. DEFINITIONS

The following capitalized terms are defined in 45 CFR Parts 160 and 164. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in 45 CFR Parts 160 and 164. References herein to the Privacy and Security Rules, or a specific section thereof, shall mean the section as in effect or as amended.

- 1.1 *'Breach'* means the acquisition, access, use, or disclosure of PHI in a manner not permitted under 45 CFR §§ 164.500 et seq. (Subpart E) of this part which compromises the security or privacy of the protected health information. As set forth in 45 CFR 164.401(2), except as provided in 45 CFR 164.401(1), an acquisition, access, use or disclosure of protected health information in a manner not permitted under Subpart E is presumed to be a breach unless Health Plan or Business Associate demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors: (i) the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the PHI or to whom the disclosure was made; (iii) whether the PHI was actually acquired or viewed; and (iv) the extent to which the risk to the PHI has been mitigated. Further, a use or disclosure of protected health information that does not include the identifiers listed at 45 CFR § 164.514(e)(2), date of birth, and zip code does not compromise the security or privacy of the protected health information. *'Breach'* excludes unintentional, inadvertent and/or un-retainable breaches, as defined by 45 CFR 164.402(1).
- 1.2 *'Electronic Protected Health Information'* means PHI that is created, received, stored, maintained, processed and/or transmitted in an electronic format.
- 1.3 *'Health Information'* means any information, including *'genetic information,'* whether oral or recorded in any form or medium, that: (1) is created or received by a *'Health Care Provider,' 'Health Plan,'* public health authority, employer, life insurer, school or university, or *'Health Care Clearinghouse,'* and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.
- 1.4 *'Individually Identifiable Health Information'* means information that is a subset of *'Health Information,'* including demographic information collected from an individual, and: (1) is created or received by a *'Health Care Provider,' 'Health Plan,'* employer, or *'Health Care Clearinghouse,'* and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.5 *'Protected Health Information'* ("PHI") means Individually Identifiable Health Information: (1) except as provided in section (2) of this definition, that is (a) transmitted by electronic media; (b) maintained in any medium described in the definition of *'electronic media'* found at 45 CFR § 160.103; or (c) transmitted or maintained in any other form or medium. (2)

Protected Health Information excludes Individually Identifiable Health Information in (i) education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g; (ii) records described at 20 U.S.C. § 1232g(a)(4)(B)(iv); (iii) employment records held by a Covered Entity in its role as employer; and (iv) regarding a person who has been deceased for more than 50 years.

- 1.6 'Subcontractor' means a person to whom a 'Business Associate' delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
- 1.7 'Workforce' means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for Business Associate, is under the direct control of Business Associate, whether or not they are paid by Business Associate.
- 1.8 'Unsecured PHI' means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of Public Law 111-5 on the U.S. Department of Health and Human Services ("HHS") website.
- 1.9 For purpose of security requirements, 45 CFR Part 164 Subpart C: 'Availability' means the property that data or information is accessible and useable upon demand by an authorized person. 'Confidentiality' means the property that data or information is not made available or disclosed to unauthorized persons or processes. 'Integrity' means the property that data or information have not been altered or destroyed in an unauthorized manner.

SECTION II. GENERAL TERMS

- 2.1 This Agreement shall remain in effect for a period coterminous with the Contract and any extensions, amendments and renewals thereof.
- 2.2 Except as otherwise might be defined herein, all terms first appearing in 'single' quotation marks and italicized shall have the same meaning set forth in HIPAA, including 45 CFR §§ 164.103, 164.105, 164.304, 164.501 and 164.502.
- 2.3 In the event of an inconsistency between the terms of this Agreement and the mandatory terms of HIPAA, the mandatory terms of HIPAA shall prevail. Where the terms of this Agreement are different from those included in HIPAA but the terms of HIPAA are permissive, the terms of this Agreement shall control.
- 2.4 The terms of HIPAA may be expressly amended from time to time by Legislation, HHS, or as a result of interpretations by HHS, a court, or another regulatory agency with authority over the Parties. In such an event, the Parties will work together in good faith to determine the impact on the Parties' obligations and whether the specific event requires the need to amend this Business Associate Agreement. In any situation under the Business Associate Agreement where a question arises as to the applicability of state or federal law or regulations to the Health Plan, then Health Plan's interpretation of the applicability of such law or rule shall control.
- 2.5 The Parties agree to take such action as necessary to amend this Agreement from time to time as is necessary to comply with HIPAA, the Privacy and Security Rules and HITECH.
- 2.6 Any ambiguity in this Agreement shall be resolved to permit compliance with HIPAA and HITECH.

- 2.7 Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- 2.8 This Agreement does not create or confer any rights or remedies onto third parties.
- 2.9 Modification of the terms of this Agreement shall not be effective or binding upon the Parties unless and until such modification is committed to writing and executed by the Parties hereto.
- 2.10 This Agreement shall be binding upon the Parties hereto, and their respective legal representatives, trustees, receivers, successors and permitted assigns.
- 2.11 Should any provision of this Agreement be found unenforceable, it shall be deemed severable and the balance of the Agreement shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.
- 2.12 To the extent not preempted by federal law, this Agreement and the rights and obligations of the Parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the state of Texas, including all matters of construction, validity and performance.
- 2.13 All notices and communications required or permitted to be given hereunder shall be delivered by certified mail, first class postage prepaid or via first class mail, with a copy by email, to the individual(s) listed in Section VII. Notices, or at such other address as such Party shall from time to time designate in writing to the other Party, and shall be effective from the date of mailing. Either party may waive the requirement for a particular notice or communication to be delivered via certified mail or first class mail and instead accept it solely by email. Further, either party may change its notice information by sending written notice of such change to the other party in the manner set forth above, without any requirement to amend this Agreement.
- 2.14 This Business Associate Agreement, including such portions as are incorporated by reference herein, constitutes the entire Business Associate Agreement by, between and among the Parties, and such Parties acknowledge by their signature hereto that they do not rely upon any representations or undertakings by any person or Party, past or future, not expressly set forth in writing herein. In the event of a conflict between the Contract and this Business Associate Agreement, the conflict shall be resolved to permit compliance with HIPAA and HITECH.
- 2.15 These provisions shall survive termination of this Agreement: 4.7, 4.8, 4.9, 4.10, 4.14, 4.15, 4.16 and 4.18.

SECTION III. SPECIFIC PERMITTED AND REQUIRED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- 3.1 Business Associate agrees to create, receive, 'use,' or 'disclose' PHI only in a manner that is consistent with this Agreement and HIPAA, or as permitted or required by law, and in connection with providing the Services to Health Plan identified in the Contract. Accordingly, in providing Services to or for Health Plan, Business Associate, for example, will be permitted under HIPAA to:
 - (a) 'use' and 'disclose' PHI for 'treatment,' 'payment,' or 'health care operations.'

- (b) de-identify PHI and maintain such de-identified health information indefinitely; provided that all identifiers are destroyed or returned in accordance with this Agreement.
- (c) create a '*limited data set*,' provided that Business Associate:
 - (a) does not '*use*' or further '*disclose*' PHI contained in the '*limited data set*' except as necessary to provide the Services or as provided for in this Agreement or otherwise '*required by law*,'
 - (b) uses appropriate Safeguards to prevent the '*use*' or '*disclosure*' of PHI contained in the '*limited data set*' other than as provided for by this Agreement;
 - (c) reports to Health Plan any '*use*' or '*disclosure*' of PHI contained in the '*limited data set*' of which Business Associate becomes aware that is not provided for by this Agreement;
 - (d) ensures that any agents or subcontractors to whom it provides access to the '*limited data set*' agree to the same or functionally equivalent restrictions and conditions that apply to Business Associate under this Agreement; and
 - (e) does not re-identify PHI or contact the '*individuals*' whose information is contained within the '*limited data set*.'

3.2 Additionally, under HIPAA, Business Associate may '*use*' or '*disclose*' PHI received by the Business Associate in its capacity as a Business Associate to Health Plan to perform functions, activities, or services for, or on behalf of, Health Plan as specified in the Contract.

Further, Business Associate may '*use*' or '*disclose*' PHI if:

- (1) The use relates to: (a) the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate, or (b) data aggregation services relating to the health care operations of Health Plan.

For purposes of this Agreement, the following terms shall have the meanings identified:

- (i) '*data aggregation services*' shall mean the combining of PHI by Business Associate with the PHI 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 Health Plan or another covered entity, and
 - (ii) '*legal responsibilities*' of the Business Associate shall mean responsibilities imposed by law or regulation but (unless otherwise expressly permitted by Health Plan) shall not mean obligations Business Associate may have assumed pursuant to contracts, agreements, or understandings with entities other than Health Plan.
- (2) The disclosure of information received in such capacity is for the proper management and administration of the Business Associate or to carry out its legal responsibilities and, when the law requires such disclosure, or the Business Associate obtains reasonable assurances from the person to whom the information

is disclosed that it will be held confidential and the person agrees to notify the Business Associate of any breaches of confidentiality. In this regard, *'required by law'* shall have the meaning set forth in HIPAA.

- 3.3 Business Associate may use and disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR 164.502 (j)(i).

SECTION IV. OBLIGATIONS OF BUSINESS ASSOCIATE

- 4.1 To the extent such agreements are otherwise permitted under the Contract, Business Associate shall include in all agreements or contracts with its agents, contractors, subcontractors or vendors, if such agreements or contracts involve Business Associate's *'disclosure'* to or *'use'* by the agents, contractors, or subcontractors of PHI received in connection with Services, the same or functionally equivalent restrictions and conditions on the *'use'* and *'disclosure'* of PHI that are set forth in this Agreement; such agreement or contract shall comply with 45 CFR § 164.314.
- 4.2 Business Associate shall ensure compliance with this Agreement by its *'workforce'* and *'subcontractors.'*
- 4.3 Business Associate shall adopt privacy, security and breach notification policies and procedures that are consistent with the requirements of HIPAA as applicable to Business Associate.
- 4.4 Business Associate shall implement, maintain and use *'administrative safeguards,' 'physical safeguards'* and *'technical safeguards'* ("Safeguards") that reasonably and appropriately protect the confidentiality, integrity and availability of PHI as required by 45 CFR Part 164 Subpart C ("Security Rule") in the same manner that those requirements apply to Health Plan pursuant to 45 CFR § 164.504, and ensure that PHI is not *'used'* or *'disclosed'* except as provided for by HIPAA and by this Agreement.
- 4.5 Business Associate shall protect against any reasonably anticipated threats or hazards to the security or integrity of such information, as required by 45 CFR § 164.306.
- 4.6 Business Associate shall prevent, detect, contain and correct against any reasonably anticipated uses or disclosures unpermitted by this Agreement, as required by 45 CFR § 164.306 and § 164.308.
- 4.7 Business Associate shall report to Health Plan any *'use'* or *'disclosure'* of PHI, including by its employees, agents, contractors, or subcontractors, that is not provided for by HIPAA or by this Agreement and shall report to Health Plan any breach of unsecured PHI as required by 45 CFR § 164.410, and any successful *'security incident'* of which it becomes aware. Trivial and unsuccessful attempts to penetrate Business Associate's networks or systems, such as scans, "pings," or similar strategies, need not be reported.
- 4.8 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a *'use'* or *'disclosure'* of PHI by Business Associate in violation of the requirements of this Agreement or of any *'security incident'* of which it becomes aware.
- 4.9 In accordance with HIPAA, Business Associate shall make available to Health Plan, in the time and manner designated by Health Plan, PHI that is contained in *'designated record sets.'* At Health Plan's request, the PHI shall be made available to Health Plan or as directed by Health Plan, to an *'individual'* in order to meet the requirements under 45 CFR § 164.524. If the *'individual'* requests an electronic copy of the information, Business

Associate must provide Health Plan with the information requested in the electronic form and format requested by the '*individual*' and/or Health Plan if it is readily producible in such form and format; or, if not, in a readable electronic form and format as requested by Health Plan.

- 4.10 Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Health Plan to respond to a request by an '*individual*' for an accounting of disclosures, and at Health Plan's request, to make available the information necessary to provide an accounting of disclosures of PHI as provided for in HIPAA. Health Plan acknowledges and agrees that neither this Agreement nor the Contract requires Business Associate to make any disclosure for which an accounting would be required under HIPAA.
- 4.11 At Health Plan's request, Business Associate shall make available PHI in its possession or under its control in '*designated record sets*' for amendment, and shall incorporate any amendments to PHI in accordance with the requirements of the Privacy Rule and any instructions provided by Health Plan.
- 4.12 Business Associate shall follow any written instructions received from Health Plan with respect to restricting the '*uses*' and '*disclosures*' of certain PHI. Business Associate shall ensure that the PHI is not '*used*' or '*disclosed*' in a manner that would violate the restriction, unless otherwise directed by Health Plan.
- 4.13 When necessary to accommodate '*individuals*' reasonable requests for '*confidential communications*,' Business Associate shall communicate with an '*individual*' regarding his/her PHI only in the alternative manner or at the alternative location instructed by Health Plan, unless otherwise directed by Health Plan.
- 4.14 Upon termination, cancellation, expiration, or other conclusion of this Business Associate Agreement, Business Associate shall, after consultation with Health Plan and in accordance with Health Plan's determination, return to Health Plan or destroy (after obtaining Health Plan's permission) all PHI, in whatever form or medium (including in any electronic medium under Business Associate's custody or control) that Business Associate (or its agents, contractors, or subcontractors) created or received for or from Health Plan, including all copies of and any data or compilations that allow identification of any '*individual*' who is a subject of the PHI. Business Associate will identify any PHI that Business Associate (or its agents, contractors, or subcontractors) created or received for or from Health Plan that cannot feasibly be returned to Health Plan or destroyed. If, at the termination of the Business Associate Agreement, the Parties agree that returning or destroying PHI is not feasible due to state or federal law or regulatory requirements applicable to the Business Associate and Health Plan, or due to Business Associate's record retention policies, Business Associate shall extend the protections of the Business Associate Agreement to such PHI, and will limit its further '*uses*' or '*disclosures*' of that PHI to those purposes that make return or destruction of that PHI impractical or impossible. Health Plan hereby acknowledges and agrees that infeasibility includes Business Associate's need to retain PHI for purposes of complying with its work product documentation standards.
- 4.15 For purposes of determining Health Plan's compliance with the Privacy Rule or this Agreement, Business Associate shall make available to the Secretary of HHS (or its agents) the Business Associate's internal practices, books and records relating to the '*use*' and '*disclosure*' of PHI in connection with Services, in a time and manner designated by the Secretary.

- 4.16 If Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses '*unsecured protected health information*' (as defined in 45 CFR 164.402 and in HITECH Section 4402 (h)), it shall, immediately following the discovery of a '*breach*' of such information, as defined by HIPAA, notify Health Plan of such breach. Such notice shall include:
- (1) The identification of each '*individual*' whose '*unsecured protected health information*' has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during such '*breach*;'
 - (2) A brief description of what happened, including the date(s) of the '*breach*' and discovery of the '*breach*;'
 - (3) A description of the type of '*unsecured protected health information*' that was involved in the '*breach*;'
 - (4) A description of the investigation into the '*breach*,' mitigation of harm to the individuals, and protection against further breaches;
 - (5) The results of any and all investigation performed by Business Associate related to the '*breach*;' and
 - (6) Contact information of the most knowledgeable individual for Health Plan to contact relating to the '*breach*' and its investigation into the '*breach*.'
- 4.17 Health Plan has elected to delegate to Business Associate the provision of the HITECH Security Breach services described in Attachment 1, as allowed by HITECH and any subsequent regulation or guidance from HHS.
- 4.18 In addition to HIPAA, Business Associate shall comply with all applicable state and federal security and privacy laws.
- 4.19 In the event that Business Associate transmits or receives any Covered Electronic '*Transaction*' on behalf of Health Plan, it shall comply with all applicable provisions of the Standards for Electronic Transactions Rule to the extent required by law.
- 4.20 Business Associate agrees that it will not receive remuneration directly or indirectly in exchange for PHI without authorization unless an exception under 13405(d) of HITECH applies.
- 4.21 Business Associate agrees that it will not receive remuneration for certain communications that fall within the exceptions to the definition of '*Marketing*' under 45 CFR § 164.501 unless permitted by HITECH.
- 4.22 Business Associate agrees that it will not use or disclose '*genetic information*' for underwriting purposes, as that term is defined in 45 CFR § 164.502.
- 4.23 The safeguards set forth in this Agreement shall apply equally to PHI, confidential and personal information. "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, if the name and data elements are not encrypted: (a) social security number; (b) driver's license number or government-issued identification number; or (c) account number or credit or debit card number in combination with any required security code, access code or password, that would permit access to a person's financial account; provided, however, that "personal information" shall not include publicly available information that is lawfully made available to the public from the federal, state or local government.

SECTION V. OBLIGATIONS OF HEALTH PLAN

- 5.1 Health Plan shall not request Business Associate to 'use' or 'disclose' PHI in any manner that would not be permissible under HIPAA if done by Health Plan.
- 5.2 Health Plan shall notify Business Associate of limitation(s) in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent such limitation affects Business Associate's permitted 'uses' or 'disclosures.'
- 5.3 Health Plan shall notify Business Associate of changes in, or revocation of, permission by an 'individual' to 'use' or 'disclose' PHI to the extent such changes affect Business Associate's permitted 'uses' or 'disclosures.'
- 5.4 Health Plan shall notify Business Associate of restriction(s) in the 'use' or 'disclosure' of PHI that Health Plan has agreed to in accordance with 45 CFR Section 164.522, to the extent such restriction affects Business Associate's permitted 'uses' or 'disclosures.'

SECTION VI. TERMINATION OF AGREEMENT

- 6.1 Upon Health Plan's knowledge of a material breach of this Business Associate Agreement (or its agents, employees, contractors, and subcontractors), Health Plan shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time period specified by Health Plan; or
 - (2) Immediately terminate this agreement if Business Associate has breached a material term in this Agreement and cure is not possible; or
 - (3) If neither termination nor cure is feasible, report the violation to the Secretary of HHS.
- 6.2 The Parties agree that if Health Plan terminates this Agreement pursuant to this section, it shall also terminate all provisions of the Contract for Services that relate to Business Associate's 'use' or 'disclosure' of PHI, and Health Plan shall have the discretion to terminate the Contract for Services in its entirety and pursue all remedies available under the Parties' Contract.

SECTION VII. NOTICES

Any notice or report to be given pursuant to this Agreement shall be sent to the persons listed below in accordance with Section 2.13 of this Agreement.

Covered Entity:

Employees Retirement System of Texas
P.O. Box 13207
Austin, Texas 78711-3207
Attn: Porter Wilson, Executive Director
Email: porter.wilson@ers.texas.gov

cc: Cynthia Hamilton, General Counsel
Email: general.counsel@ers.texas.gov

Business Associate:

EyeMed Vision Care
4000 Luxottica Place
Mason, OH 45040
Attn: Matthew MacDonald
Email: MMacDonald@luxottica.com

First American Administrators
4000 Luxottica Place
Mason, OH 45040
Attn: Matthew MacDonald
Email: MMacDonald@luxottica.com

THIS SPACE INTENTIONALLY LEFT BLANK.

SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the Parties have executed this Business Associate Agreement as of the day and year written below.

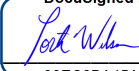
EYEMED VISION CARE, LLC

By: 

Matt MacDonald
President

Date: February 27, 2023

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

DocuSigned by:
By: 
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Porter Wilson
Executive Director


Date: 3/1/2023

FIRST AMERICAN ADMINISTRATORS, INC.

By: 

Matt MacDonald
President

Date: February 27, 2023

Reviewed As to Form by EyeMed Legal:


ATTACHMENT 1

DELEGATION OF HITECH BREACH NOTIFICATION

The following Health Information Technology for Economic and Clinical Health Act (“HITECH”) Security Breach services will be provided by Business Associate as indicated by Covered Entity in the Business Associate Agreement, as allowed by HITECH and any subsequent regulation or guidance from the HHS:

1. Investigate any unauthorized access, use, or disclosure of Health Plan participant protected health information (“PHI”).
2. Determine whether there is a significant risk of an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of any Health Plan participant’s PHI as provided for in HITECH.
3. Determine whether the incident falls under any of the HITECH Security Breach notification exceptions.
4. Document and retain each HITECH Security Breach risk assessment and exception analyses, and make this information available to Health Plan upon request.
5. Provide Health Plan with written notification that describes the HITECH Security Breach incident in detail including a list of the impacted participants and/or a copy of a participant notification.
6. After notice to and consultation with Health Plan, notify each Health Plan participant impacted by the HITECH Security Breach by first class mail, or such other notification method permitted under HITECH, within the applicable statutory notification period, and provide toll-free numbers to the impacted participants in order to handle any participant questions regarding the incident. The notification will include the following:
 - a. A brief description of the incident, including the date of the Security Breach and the date it was discovered;
 - b. A description of the types of PHI involved in the Security Breach (i.e., name, birth date, home address, account number, Social Security Number, etc.);
 - c. The steps that individuals might take to protect themselves from potential harm; and
 - d. A brief description of what the Business Associate is doing to mitigate the harm and to avoid further incidents.
7. Provide a substitute notice, as described in HITECH, to impacted participants if there is insufficient mailing address information.
8. Maintain a log and submit to HHS an annual report of Security Breaches that impact fewer than 500 participants.

9. After notice to and consultation with Health Plan, notify HHS within the time required in HITECH or regulations pertaining thereto in the event the Security Breach impacts more than 500 individuals.
10. After notice to and consultation with Health Plan, notify media when required under HITECH or regulations pertaining thereto, subject to approval by Health Plan, which approval shall not be unreasonably withheld.

The above listed HITECH Security Breach services may be changed from time to time by Business Associate as necessary, after notice to and consultation with Health Plan, and as required to maintain compliance with HIPAA, HITECH, HHS regulation and/or HHS guidance.

EXHIBIT J

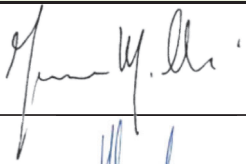


**EyeMed Vision Care, LLC's
Contract to Provide Third-Party Administration of the
Self-Funded State of Texas Visionsm Plan under the
Texas Employees Group Benefits Program**

Incumbency Certificate

LIST OF AUTHORIZED REPRESENTATIVES
FOR ESSILORLUXOTTICA (ULTIMATE PARENT COMPANY OF EYEMED VISION
CARE LLC AND FIRST AMERICAN ADMINISTRATORS, INC.)

INCUMBENCY CERTIFICATE

EssilorLuxottica (ultimate parent company of EyeMed Vision Care LLC and First American Administrators, Inc.) ("Contractor") hereby certifies that each person whose name appears below is an authorized officer who is at a vice president or higher level and authorized to act on Contractor's behalf (including the authorization to sign any binding legal document) with respect to the attached Contractual Agreement to Provide Third-Party Administration of the Self-Funded State of Texas VisionSM Plan under the Texas Employees Group Benefits Program between the Employees Retirement System of Texas ("ERS") and Contractor. Contractor further certifies that the true signature of each such person is set forth below opposite his/her name, and that ERS may rely upon this certificate until such time as it receives another certificate bearing a later date.

Printed Name	Title	Signature
Francesco Milleri	Chairman and Chief Executive Officer	
Stefano Grassi	Chief Financial Officer	
Alexander Lunshof	Group General Counsel	

Dated: August 24, 2022

LIST OF AUTHORIZED REPRESENTATIVES FOR EyeMed Vision Care, LLC and our wholly owned subsidiary, First American Administrators, Inc. (FAA)

INCUMBENCY CERTIFICATE

EyeMed Vision Care, LLC and our wholly owned subsidiary, First American Administrators, Inc. (FAA) (“Contractor”) hereby certifies that each person whose name appears below is an authorized officer who is at a vice president or higher level and authorized to act on Contractor’s behalf (including the authorization to sign any binding legal document) with respect to the attached Contractual Agreement to Provide Third-Party Administration of the Self-Funded State of Texas VisionSM Plan under the Texas Employees Group Benefits Program between the Employees Retirement System of Texas (“ERS”) and Contractor. Contractor further certifies that the true signature of each such person is set forth below opposite his/her name, and that ERS may rely upon this certificate until such time as it receives another certificate bearing a later date.

Printed Name	Title	Signature
Matthew MacDonald	President	
Sara Francescutto	Chief Financial Officer – North America	
Jason Rome	Senior Vice President, Sales & Account Management	
Adam Stulberg	Vice President, Product Development	
Hector Rincon	Vice President, Sales	
Cathy Holley	Vice President & Secretary	
Natasha D’Sa	Assistant Secretary	

EXHIBIT H

**EyeMed Vision Care, LLC's
Contract to Provide Third-Party Administration of the
Self-Funded State of Texas Visionsm Plan under the
Texas Employees Group Benefits Program**

Data Security and Breach Notification Agreement

DATA SECURITY AND BREACH NOTIFICATION AGREEMENT

All capitalized terms not defined in this Data Security and Breach Notification Agreement (“**Agreement**”) shall have the meaning ascribed to them in the Contractual Agreement (“**Contract**”) between the Employees Retirement System of Texas (“**ERS**”) and EyeMed Vision Care, LLC, and its wholly-owned subsidiary First American Administrators, Inc. (together, “**CONTRACTOR**”).

Article 1. Purpose

- 1.1 To ensure continued security for ERS, its members, annuitants, retirees, participants, alternate payees and beneficiaries (collectively “**Participants**”) and their respective Personal Data (as hereinafter defined), and to mitigate the risk of identity theft and fraud, CONTRACTOR agrees to be bound by the provisions contained in this Agreement.

Article 2. Specific Requirements

- 2.1 CONTRACTOR, including its affiliates that handle Personal Data (defined below), subsidiaries, representatives, officers, directors, principals, employees, agents, assigns and any subcontractors and independent contractors (“**Agents**”), as a condition of handling Participants’ personally identifying and / or sensitive personal information and, if applicable, protected health information (“**PHI**”) (together, “**Personal Data**”) must annually, or more frequently upon request of ERS, (i) issue certificates of compliance with this exhibit to ERS and permit ERS to initiate independent audits to verify compliance with same, (ii) provide evidence of compliance to ERS in accordance with §2054.138 of the Texas Government Code and, (iii) respond fully and completely to ERS’ vendor security questionnaire.
- 2.2 All Personal Data must be processed fairly and lawfully, according to the laws and regulations of the United States of America and the state of Texas. CONTRACTOR shall comply with the applicable provisions of: Privacy Act of 1974, Computer Matching and Privacy Protection Act of 1988, Texas Business and Commerce Code, ch. 521 and information security standards as outlined in Title 1, Texas Administrative Code, § 202. Further, CONTRACTOR shall comply with all applicable federal and state laws and regulations pertaining to the handling and use of Personal Data. In the event of a conflict between applicable laws, the Contract and this Agreement, the strictest provision or provisions offering protections to ERS and its Participants shall apply.
- 2.3 The amount of Personal Data collected must be adequate, relevant and not excessive in relation to the purposes for which it is collected or for which it is further processed. If applicable, PHI must be collected only for purposes consistent with what is communicated to the Participant and not further processed in a way incompatible with those purposes. All other Personal Data must be collected only for purposes as necessary for CONTRACTOR to perform and fulfill its obligations under the Contract and not further processed in a way incompatible with those purposes. Further processing of such Personal Data for historical, statistical or other business purposes is not incompatible with the original purpose, provided it is permitted under the Contract and the further processing includes adequate additional controls protecting the rights of the Participant.
- 2.4 If CONTRACTOR serves as a recordkeeper for ERS or collects data on behalf of ERS, all Personal Data must be accurate and complete, and where necessary, kept up to date. Every reasonable step must be taken to ensure that Personal Data that is inaccurate or incomplete, keeping in mind the purposes for which it was collected or for which it is further processed, is definitively erased or corrected in accordance with applicable law.
- 2.5 If CONTRACTOR did not execute a Business Associate Agreement (“**BAA**”) in connection with the Contract, but CONTRACTOR subsequently receives or handles any PHI, CONTRACTOR agrees to immediately notify ERS. ERS will then determine, in ERS’ sole discretion, whether CONTRACTOR must execute a BAA to address the privacy, security and breach notification

requirements related to PHI. If applicable, CONTRACTOR agrees to act in good faith and to cooperate in the execution of a BAA.

- 2.6 CONTRACTOR shall maintain industry-accepted standards, such as those recommended by the National Institute of Standards and Technology (NIST), and shall incorporate other applicable state and federal laws and regulations regarding the confidentiality, integrity, accessibility and availability of Personal Data, including, but not limited to, maintenance of disaster recovery and business continuity plans. CONTRACTOR agrees to allow ERS to view these standards and plans upon request onsite at ERS' premises.
- 2.7 CONTRACTOR shall maintain computer files containing Personal Data in a secure, hardened facility which provides environmental and access controls. All computer files containing Personal Data, including, but not limited to, duplicate or backup copies, shall be encrypted while at rest and in transit. Additionally, all mobile devices, including, but not limited to, laptop computers, and external storage devices which contain, process or interact with ERS data, including, but not limited to, Personal Data, shall be encrypted at all times.
- 2.8 Except as specifically permitted by ERS, Personal Data must not be kept in a form that permits identification of Participants for any longer than is necessary for the purposes for which the data was collected or for which it is further processed. For example, this can be implemented with linked separate files that contain identification information and related sensitive information, respectively.

Article 3. Processing Confidentiality and Security

- 3.1 Personal Data shall not be made available to or viewed by any person or entity (including any Agent of CONTRACTOR), in any fashion, no matter what technology is employed, at any location outside the fifty (50) states of the United States of America. Access to Personal Data for purposes of this requirement occurs whenever it is possible to view Personal Data from outside the United States, whether or not the Personal Data is actually sent out of the United States or is actually viewed by someone outside the United States.
- 3.2 When building, testing, enhancing and maintaining processing systems that contain, or will contain, Personal Data, developers must not use actual Personal Data. Instead, they must use fictional or sanitized data that preserves the essential characteristics of the Personal Data, but that does not relate to identifiable individuals. In emergency situations where processing with actual Personal Data is required, use of such information may be permitted only if security procedures are approved in advance, in writing, by ERS' Executive Director, Deputy Executive Director and General Counsel and Information Security Officer.
- 3.3 All authentication access to processing systems and networks containing Personal Data must be logged so that access attempts to systems and networks containing Personal Data can be traced to a specific user. CONTRACTOR is responsible for monitoring and following up on potential security-relevant events.
- 3.4 When no longer needed, or as required by applicable state or federal law or the Contract, all copies of Personal Data, including, but not limited to, copies on backup tapes, must be irreversibly destroyed according to standards and procedures as provided in the Contract and applicable law including, as applicable, NIST 800-88 standards. A document describing the Personal Data destroyed, the reasons for such destruction, date and manner thereof and who performed such destruction must be prepared for each destruction process and promptly submitted to ERS. Permission to destroy Personal Data may be granted only by ERS, and only if all legal retention requirements and related business and auditing purposes have been met, and as consistent with the terms of the Contract. In the event there is any litigation or investigative proceedings related to the Personal Data or CONTRACTOR's performance under the Contract or this Agreement, then the Personal Data must be retained during the pendency of such litigation or investigative proceedings.

Article 4. Data Breach Monitoring and Notification

- 4.1 CONTRACTOR must take proactive steps to monitor for breaches of system security, including, but not limited to, acquisition, access, use or disclosure of Personal Data (each, a “**Notification Event**”). In the event of such a Notification Event, CONTRACTOR must notify ERS immediately, but in any event within 72 hours from the time the Notification Event is discovered or reasonably should have been discovered with the exercise of reasonable diligence, whichever is earlier. The primary contacts for notification at ERS are the Deputy Executive Director and General Counsel and Information Security Officer. At any time upon request of ERS, CONTRACTOR must notify, at CONTRACTOR’s expense, the affected Participant(s), including those Participants reasonably believed to have been affected, as quickly as possible, but in any event within 72 hours from the time the Notification Event is discovered, unless requested to withhold notification by law enforcement or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.
- 4.2 If CONTRACTOR is required to notify at one time more than 10,000 Participants of a Notification Event, pursuant to applicable law, CONTRACTOR shall also notify, without unreasonable delay, all consumer reporting agencies that maintain files on consumers on a nationwide basis of the timing, distribution, and content of the notices.
- 4.3 In addition to indemnification of the Indemnified Parties pursuant to the Contract and any criminal or civil penalties, including injunctive relief, that may apply, **CONTRACTOR AGREES TO DEFEND, INDEMNIFY, SAVE AND HOLD HARMLESS, AND TO PROVIDE, AT CONTRACTOR’S SOLE COST AND EXPENSE, ONE (1) YEAR OF CREDIT MONITORING SERVICE TO, ANY PARTICIPANT(S) WHOSE PERSONAL DATA HAS BEEN DISCLOSED PURSUANT TO A NOTIFICATION EVENT.** ERS will designate the vendor that will provide the credit monitoring service.

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SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective upon execution by both parties.

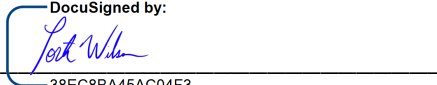
EYEMED VISION CARE, LLC

By: 

Matt MacDonald
President

Date: February 27, 2023

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

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By: 
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Porter Wilson
Executive Director

Date: 3/1/2023

FIRST AMERICAN ADMINISTRATORS, INC.

By: 

Matt MacDonald
President

Date: February 27, 2023

Reviewed As to Form by EyeMed Legal:
