



# Department of Health

## Request for Proposals

**RFP # 20238**

### **Medical Indemnity Fund (MIF) Administration Services**

**Issued: March 14, 2023**

#### **DESIGNATED CONTACT:**

Pursuant to State Finance Law §§ 139-j and 139-k, the New York State Department of Health (hereinafter referred to as the “**Department**” or as “**DOH**”) identifies the following designated person to whom all communications attempting to influence the Department’s conduct or decision regarding this procurement must be made.

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#### **PERMISSIBLE SUBJECT MATTER CONTACT:**

Pursuant to State Finance Law § 139-j(3)(a), the Department identifies the following allowable person to contact for communications related to the submission of written bids, written questions, pre-bid questions, and debriefings.

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# 1 CALENDAR OF EVENTS

<b>RFP # 20238 Medical Indemnity Fund (MIF) Administration Services</b>	
<b><u>EVENT</u></b>	<b><u>DATE</u></b>
Issuance of Request for Proposals	March 14, 2023
Deadline for Submission of Written Questions	Questions Due By March 28, 2023 <b>4:00 p.m. ET</b>
Responses to Written Questions Posted by DOH	<b>On or About</b> Responses Posted By April 11, 2023
Deadline for Submission of Proposals	Proposals Due On Or Before May 4, 2023 <b>4:00 p.m. ET</b>
<i>Anticipated</i> Contract Start Date	On Or About July 3, 2024

## 2 OVERVIEW

Through this Request for Proposals (“RFP”), the New York State (“State”) Department of Health (the “Department” or “DOH”) is seeking competitive proposals from qualified bidders to administer the New York State Medical Indemnity Fund (“the Fund” or “MIF”) to provide case management and third party administrator services for enrollee and provider claims related to the Fund. It is the Department’s intent to award one (1) contract from this procurement.

### 2.1 Introductory Background

The Medical Indemnity Fund was established for the purpose of reimbursing the health care costs of individuals who have suffered birth-related neurological injuries as a result of medical malpractice. More specifically, the Fund covers the enrollees’ costs of qualified health care services, supplies, equipment, medications, and certain home and vehicle modifications which are deemed necessary by their treating physicians, physician assistants, or nurse practitioners, and are subsequently verified by the Fund. Qualified plaintiffs must be found to have sustained a birth-related neurological injury as a result of medical malpractice by a New York court, and the resulting court-approved settlement or judgment must direct the DOH to enroll the qualified plaintiff in the Fund.

Since October 1, 2019, the Department has served as the overseer of the MIF, per Health and Mental Hygiene Article VII Legislation, Part K. For the purpose of this RFP, the Fund Administrator is defined as any person or entity designated by the Department to administer the Medical Indemnity Fund and perform the scope of work as defined in Section 4.0 (Scope of Work) below.

**The operations and administration of the MIF are subject to regulation, [10 NYCRR § 69-10 et seq](#), promulgated by the New York State Department of Health. The Department strongly suggests all bidders read the MIF regulations and Enrollee Handbook in full prior to reading this RFP and submitting a bid.**

Enrollment statistics:

- As of January 2023, the Fund has 928 active enrollees.

- The majority of enrollees reside in New York State.
- Seven (7) enrollees reside outside of the United States.
- Approximately 187 enrollees reside in other states.

## 2.2 Important Information

The Bidder **must** review, and is requested to have its legal counsel review, [Attachment 8](#), the DOH Agreement (Standard Contract), as the successful Bidder must be willing to enter into the Contract awarded pursuant to this RFP in the terms of [Attachment 8](#), **subject only to any amendments to the Standard Contract agreed by the Department during the Question and Answer Phase of this RFP** (see, [Section 5.2](#)). Please note that this RFP and the awarded Bidder’s Bid will become part of the Contract as Appendix B and C, respectively.

It should be noted that Appendix A of [Attachment 8](#), “Standard Clauses for New York State Contracts”, contains important information, terms and conditions related to the Contract to be entered into as a result of this RFP and **will be incorporated, without change or amendment**, into the Contract entered into between DOH and the successful Bidder. By submitting a response to this RFP, the Bidder agrees to comply with all the provisions of the Contract, including all of the provisions of Appendix A.

Note, [Attachment 7](#), the Bidder’s Certified Statements, **must** be submitted by each Bidder and includes a statement that the Bidder accepts, **without any added conditions, qualifications or exceptions**, the contract terms and conditions contained in this RFP including any exhibits and attachments, including, without limitation, [Attachment 8](#). It also includes a statement that the Bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with its Bid, such alternate proposals or extraneous terms will not be evaluated by the DOH.

Any qualifications or exceptions proposed by a Bidder to this RFP should be submitted in writing using the process set forth in [Section 5.2](#) (Questions) prior to the deadline for submission of written questions indicated in [Section 1](#). (Calendar of Events). Any such qualifications or exceptions that are not proposed prior to the deadline for the submission of written questions will not be considered by DOH after contract award. Any amendments DOH makes to the RFP as a result of questions and answers will be publicized on the DOH web site and will be available and applicable to all Bidders equally.

## 2.3 Term of the Agreement

The term of the Contract that will be entered into pursuant to this RFP between the Department and the successful Bidder is expected to be for a period of five (5) years commencing on the date shown on the Calendar of Events in [Section 1](#), subject to the availability of sufficient funding, successful Contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

## 2.4 Definitions

Unless otherwise defined within the RFP, the following will be used as defined in this Section:

<b>Agreement</b>	The final contract entered into between the Department and the successful bidder pursuant to this RFP.
<b>Applicant</b>	Plaintiff or person authorized to act on behalf of such person, or any of the defendants in regard to an underlying malpractice action, who submits an application for enrollment to the Fund.
<b>Bid</b>	Response to the RFP submitted by a Bidder to provide products or services to the Fund.
<b>Bidder</b>	Any individual, business, vendor or other legal entity, or any employee, agent, consultant, or person acting on behalf thereof, that submits a bid in response to this RFP.

<b>Birth-Related Neurological Injury</b>	An injury as defined in Public Health Law § 2999-H and 10 NYCRR § 69-10.1(c).
<b>Case Management Plan</b>	Comprehensive plan of care developed for the enrollee which identifies problems, defines goals/objectives and specific interventions or activities designed to meet the enrollee's needs as identified in initial and ongoing comprehensive assessments of an enrollee's medical needs.
<b>Case Manager</b>	A person who performs the functions set out in 10 NYCRR §69-10.4.
<b>Commissioner</b>	Commissioner of the New York State Department of Health
<b>Contractor</b>	Any individual, business, vendor, or other legal entity awarded a contract with the Department to furnish services for an agreed upon price.
<b>Department/DOH</b>	The New York State Department of Health
<b>Durable Medical Equipment (DME)</b>	Equipment and supplies ordered by a health care provider for everyday or extended use. Coverage for DME may include oxygen equipment, wheelchairs, crutches, or blood testing strips for diabetics.
<b>Enrollee</b>	A person defined in 10 NYCRR §69-10.1(l).
<b>Environmental Modification (EMOD)</b>	An interior or exterior physical adaptation to the residence in which an enrollee lives that is necessary to ensure the health, welfare, and safety of the enrollee, enables him or her to function with greater independence in the community and/or helps avoid institutionalization and has been ordered by a physician.
<b>Fund</b>	The New York State Medical Indemnity Fund established pursuant to Title 29-D, Article 4 of the New York State Public Health Law.
<b>Fund Administrator</b>	Any person or entity designated by the New York State Department of Health to administer the Medical Indemnity Fund.
<b>General Contractor</b>	The winning bidder selected to build and/or install an Environmental Modification (EMOD) for an enrollee.
<b>Main Project Site</b>	The main site location where the functions of the contract are completed, and key roles are predominantly located.
<b>Nurse Practitioner</b>	An individual: <ul style="list-style-type: none"> <li>a) Certified to practice as a nurse practitioner pursuant to Article 139 of the New York State Education Law;</li> <li>b) Duly authorized to practice as a nurse practitioner or the equivalent of a nurse practitioner in any other state in the United States or in the District of Columbia; or,</li> <li>c) Duly authorized to practice as a nurse practitioner or the equivalent of a nurse practitioner in another country.</li> </ul>
<b>Physician</b>	Physician licensed to: <ul style="list-style-type: none"> <li>a) Practice in New York State pursuant to Article 131 of the New York State Education Law;</li> <li>b) Duly authorized to practice as a licensed physician in any other state in the United States or the District of Columbia; or,</li> <li>c) Duly authorized to practice as a physician in another country.</li> </ul>
<b>Physician Assistant</b>	An individual: <ul style="list-style-type: none"> <li>a) Licensed to practice as a physician assistant in New York State pursuant to Article 131-B of the New York State Education Law;</li> <li>b) Duly authorized to practice as a physician assistant or the equivalent of a physician assistant in any other state in the United States or in the District of Columbia; or,</li> <li>c) Duly authorized to practice as a physician assistant or the equivalent in another country.</li> </ul>
<b>Prior Approval</b>	The process set forth in 10 NYCRR §69-10.6 et seq. for review of proposed non-routine expenditures such as EMODs, vehicle modifications, procurement of assistive technology, private duty nursing, planned specialist appointments and/or hospital treatment requiring travel and accommodations, hearing aids, custom

	made equipment, myo-electric limbs, treatment with specialty drugs, and experimental treatments and/or procedures, including the review process for any denial of a request for prior approval.
<b>Qualifying Health Care Costs</b>	Costs set forth in 10 NYCRR §69-10.1(z).
<b>Qualified Plaintiff</b>	Every plaintiff or claimant who: <ul style="list-style-type: none"> <li>a) Has been found by a New York court to have sustained a birth-related neurological injury as the result of medical malpractice; or,</li> <li>b) Has sustained a birth-related neurological injury as the result of alleged medical malpractice and has settled his or her lawsuit or claim therefor with the approval of a New York court; and,</li> <li>c) Has been ordered to be enrolled in the Fund by a New York court.</li> </ul>
<b>Remote Site</b>	Work site that is geographically in a location other than the main project site where functions of the contract are completed, or locations that are created for disaster recovery back-up.
<b>Staffing and Organization Plan</b>	Detailed description of the total number of staff proposed for the project, and how the staff is organized, including an organizational chart of key roles with the proposed number of supporting staff and units identified. The staffing and organization plan should also identify staff that support the project but are not FTE dedicated, and include their role and percentage of time dedicated to the project. The plan should also outline where the staff are located and how communication is handled between remote sites, the main project site, and the Department.
<b>Subcontractor</b>	Any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm, or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.
<b>Vehicle Modifications (VMOD)</b>	<ul style="list-style-type: none"> <li>a) Adaptive equipment designed to enable an enrollee to operate a vehicle or be transported in a vehicle such as hand controls, deep dish steering wheels, spinner knobs, wheelchair lock down devices, parking brake extensions, foot controls, wheelchair lifts, left foot gas pedals; or,</li> <li>b) Changes to the structure, internal design, or existing equipment of a vehicle such as replacement of the roof with elevated fiberglass top, floor cut-outs, extension of the steering column, raised door, repositioning of seats, wheelchair floor, and dashboard adaptations.</li> </ul>

### 3 BIDDERS' QUALIFICATIONS TO PROPOSE

#### 3.1 Minimum Qualifications

The Department will accept proposals from organizations or individuals with the following types and levels of experience as a prime contractor. DOH will accept proposals from organizations possessing:

A minimum of five (5) years of experience in all of the following:

- Providing case management;
- Enrollment services;
- Payment related accounting processes;
- Customer service functions;
- Administering claims-reviewing supporting documentation and coordination of benefits;
- Adjusting for rates of payment,
- provider services; and,
- Reporting and producing data or statistics.

Experience acquired concurrently is considered acceptable.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.

Failure to meet the Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

## **4 SCOPE OF WORK**

This Section describes the services that are required to be provided by the selected bidder. The selected bidder must be able to provide all of these services throughout the contract term.

**PLEASE NOTE:** Bidders will be requested to provide responses that address all of the requirements of this RFP as part of its Technical Proposal.

The terms “bidders”, “vendors” and “proposers” are also used interchangeably. For purposes of this RFP, the use of the terms “shall”, “must” and “will” are used interchangeably when describing the Contractor’s/Bidder’s duties.

### **4.1 General Duties**

Upon award, the Contractor must be able to perform the following tasks and will be held to the Service Level Agreement terms as detailed in [Attachment C](#). The Contractor must maintain the necessary data in appropriate files to measure its performance and report monthly on all Service Level Agreements (SLAs) illustrating daily, weekly, monthly, quarterly, and/or annual metrics against the SLAs defined in this RFP and attachments.

- c) Operate the Fund in accordance with Article 29-D, Title 4 of the Public Health Law (PHL) and the regulations promulgated thereunder, 10 NYCRR §69-10;
- d) Operate all aspects of the Fund in accordance with Executive Order No. 26, Appended here to as Appendix A;
- e) Operate all aspects of the Fund as directed by the Department of Health; and
- f) Translate services either directly or through a translation service.

If the Department notifies the contractor that damages will be assessed because of nonconformance with an SLA, and the files are not maintained or are damaged in such a way that the contractor cannot substantiate its performance against an SLA, it will be construed and admitted to by implication that the contractor did not meet the SLA in question.

### **4.2 Application Review and Enrollment Process**

In accordance with Executive Order No. 26 the Fund must accept applications from enrollees or their designated representative and provide an enrollment process of Qualified Plaintiffs into the Fund.

The Contractor must:

- a) Develop an enrollment process for Departmental review and approval;
- b) Receive and accept application for enrollment from Applicants, or their designated representative;
- c) Accommodate requests from those who are not fluent in English;
- d) Review each application and supporting documentation submitted by the applicant to determine eligibility to enroll in the Fund;
- e) Request additional clarifying information within fifteen (15) days from receipt of application.
- f) Determine applicant’s enrollment in the Fund; and,
- g) Notify Applicant of enrollment determination into the Fund within five (5) business days of



receipt of all required information.

If the Applicant is eligible for enrollment pursuant to PHL §§ 2999-J(6) and (7), and 10 NYCRR § 69-10.2, within five (5) business days the Contractor must provide written notification to the Enrollee, via hard copy, assign a Case Manager and provide the Enrollee's information to the Department or Department designee. The Contractor must also issue an Enrollment Card with a unique Enrollment Identification Number and provide the Case Manager's name and contact information to the Enrollee within seven (7) business days.

The additional enrollment services include:

- Issue replacement ID cards within seven (7) business days of request;
- Produce written information materials and any forms necessary for use by Enrollees. Content must provide an overview of the Fund and the nature of the benefits provided by the Fund. All content must be approved by the Department and as required by Executive Order No. 26, be provided in English and ten qualifying non-English languages. Reasonable accommodations should be made for a person acting on behalf of the enrollee.
- Within one-hundred-eighty (180) days of contract execution, the Contractor must develop a comprehensive handbook for Enrollees and their families, to be approved by the Department. The handbook must be reviewed and updated quarterly and approved by the Department prior to posting or distribution. The handbook is the sole intellectual property of the Department. The handbook should explain, at a minimum,
  - What is covered by the Fund;
  - How to access coverage;
  - How to submit claims for payment;
  - Which services require prior approval;
  - How to obtain prior approval;
  - How to file a complaint;
  - How to request a review of a payment denial or appeal of a prior approval denial; and,
  - Any other processes of the Fund that the Department determines to be necessary for inclusion in the handbook.
- Create contingent notice for Departmental review and approval, announcing the suspension of new enrollments into the Fund, if the Fund is not accepting new enrollees pursuant to PHL § 2999-I(6) and 10 NYCRR § 69-10.20. This notification must also be posted on the Fund website as determined by the Department.

### **4.3 Case Management**

Case Management encompasses the planning, processing, and monitoring of the healthcare services provided to the enrollee. The Contractors' Case Management Team must communicate with the Claims Processing Team all necessary information and documentation in order to process claim transactions completely and timely.

The Contractor must develop a monthly reporting format to be approved by the Department and submit monthly reports to the Department containing information on case management activity and any other information the Department may require. The Contractor must maintain electronic record keeping system(s) or application(s) that include, at a minimum:

- g) Case management data for each enrollee, including backup documentation;
- h) Such documentation and records shall be made available to the Department upon request; and,
- i) The system shall be searchable and be capable of producing Department required reports such as case management histories by Enrollee, and any other types of summary reports as requested by the Department.

Case Management Timeframes and Deliverable Table:

Timeframe	Deliverable	Additional details
Within thirty (30) days of enrollment into the Fund	<ul style="list-style-type: none"> <li>• Conduct initial assessment of enrollee. Preferably in-person or via video technology.</li> <li>• Provide an individual enrollee orientation session to all new enrollee families.</li> <li>• Discuss claims and appeal process.</li> <li>• Establish a comprehensive, written Case Management Plan.</li> </ul>	<p>Orientation sessions can be provided during the initial assessment or separately, contingent upon the enrollee family schedule. The enrollee orientation session should include, at a minimum, providing the approved Enrollee Handbook, answering any enrollee and/or enrollee family questions, discussing case management services available, how to obtain said services, review required forms, where to locate and how to request.</p> <p>Initial Case Management Plan must be approved by the Department.</p>
Quarterly	<ul style="list-style-type: none"> <li>• Reassessment of enrollee's medical needs.</li> </ul>	<p>The Contractor must evaluate and document the enrollee's strengths, informal support system and environmental factors relevant to care, being sure to document any existing gaps in services being provided to the enrollee.</p> <p>Review the information provided by the enrollee, the enrollee's informal support system, and current providers (including school-related or habilitation services) regarding the services presently being provided to the enrollee. Verify services being received.</p>
Ongoing	<ul style="list-style-type: none"> <li>• Assist and educate the enrollee, or the enrollee's caregiver, via E-mail or phone, with any forms necessary for the receipt of, or reimbursement for, services.</li> <li>• Assist and educate an enrollee, or the enrollee's caregiver, in crisis intervention in the event that the enrollee has emergency service needs.</li> <li>• Develop and maintain a list of alternative provider sources that may be available to the enrollee in the event of service disruption.</li> <li>• Monitor the services provided under the Case Management Plan.</li> <li>• Verify that the services identified in the Case Management Plan are being received by the enrollee in the amount</li> </ul>	<p>If the enrollee already has a case manager in another health-related program, the Fund Administrator's case manager shall coordinate the enrollee's care in conjunction with the other case manager.</p> <p>Coordinate with other case managers for enrollee.</p>

	<p>and frequency specified in the case plan.</p> <ul style="list-style-type: none"> <li>• Document the case record regarding the enrollee's medical condition and progress made.</li> <li>• Maintain and employ staff with the proper credentials to ensure that a comprehensive Case Management Plan is prepared for each enrollee.</li> <li>• Assist with crisis intervention.</li> <li>• Maintain staffing levels, as approved by the Department, to ensure that a comprehensive Case Management Plan is prepared for each enrollee.</li> </ul>	
<p>Within seven (7) business days of any changes with current Case Managers</p>	<ul style="list-style-type: none"> <li>• Assign a new Case Manager and notify Enrollee of the new name and contact information.</li> </ul>	<p>An enrollee, or person acting on an enrollee's behalf, can request a change in Case Manager at any time by submitting a written request for reassignment on a form provided by the Fund Administrator. Reassignments will occur as promptly as possible based on Case Manager availability and existing caseloads.</p>

#### 4.4 Prior Approval Requirements & Responsibilities

Many expenses are covered by the Fund, however there are several, specific costs that require Prior Approval, as outlined below. The Contractor will be responsible for identifying those requests for services, items, modifications, etc., which require prior approval pursuant to 10 NYCRR § 69-10.6 and Department requirements (within 30 days).

- Assistive technology;
- Vehicle modifications (VMODs);
- Environmental modifications (EMODs);
- Myo-electric limbs;
- Certain types of transportation for medical care and services (including travel involving overnight accommodations);
- Private duty nursing;
- Treatment with a specialty drug;
- Experimental treatment for which the enrollee's provider has submitted documentation that complies with the standards set out in PHL§ 4910(2)(b)(i)-(iii);
- Custom-made durable medical equipment;
- Hearing aids;
- Respite care in excess of 1,080 hours in a calendar year; and
- Other items, as determined by the Department.

For those expenses requiring prior approval, the Contractor must assist/advise enrollees in the correct process for submission of the prior approval request including the necessary supporting documentation. In addition, the Contractor must:

- Receive, review, and process all prior approval requests and determine whether all or any portion of the request is a Qualifying Health Care Cost.
- Accept and support all forms of requests as approved by the Department, including, but not limited, to paper, fax, web-based application, and provider area of the website and/or vendor supplied web portal.
- Accept, process, and respond to approvals, based on Department business rules, received via the following formats including, but not limited, to HIPAA X12 278 standard format (versions 4010 & 5010), NYS proprietary format and other industry Standard paper and electronic formats.
- Accept and review evaluations and assessments required by the regulation for select benefits or services. The reviews must include completeness, scope, clarity, and compliance with the applicable regulation and correctness of medical necessity.
- Generate the necessary information and documentation in order to process claims for any services requiring prior approval such as environmental modifications, vehicle modifications, and assistive technology in accordance with the requirements of 10 NYCRR §§ 69-10.7, 69-10.8, 69-10.9 and 69-10.10, respectively.

A determination on prior approval requests, other than expedited requests, must be made within thirty (30) days of all necessary documentation in support of the request being received, pursuant to 10 NYCRR § 69-10.6. Expedited prior approval requests are requests where the enrollee has an emergency need for a service. These determinations must be made within two (2) business days of receiving a prior approval request from a licensed physician, physician assistant, or nurse practitioner on professional letterhead, pursuant to 10 NYCRR § 69-10.15. At a minimum, the request must address:

- The emergency needs of the enrollee for service;
- Item(s) which require the prior approval;
- Reason(s) that the service(s) or item(s) are needed on an expedited basis; and,
- Any additional supporting documentation provided by the professional/practitioner.

In the event the request does not provide any of the above listed items they will be requested from the submitter of the prior authorization request.

If an enrollee whose prior approval request has been denied requests an informal conference in addition to formal review, the Contractor must:

- Designate a person to participate in an informal conference with the enrollee and/or his authorized representative to discuss the reason(s) for the denial.
- Schedule the conference to occur no later than one (1) week before the formal review is scheduled to be held.

If an enrollee requests an expedited review of a denial for prior approval by the contractor, such reviews must be conducted within ten (10) business days from receipt of the request for expedited review and all documentation supporting the request being received.

If an enrollee requests an external appeal after denial the Contractor must have a mechanism of external appeals for prior approval of experimental/investigational services.

#### **4.4.1 Environmental Modification (EMOD) & Vehicle Modification (VMOD) Prior Authorization**

The Contractor will be responsible for assisting in completing, receiving, and reviewing Environmental and Vehicle Modification requests from an enrollee, or person authorized to act on the enrollee's behalf.

Upon the arrival of an EMOD or VMOD request, the Contractor must make a determination within 30 days from the date all necessary documentation has been received.

The Contractor must ensure a vehicle modification and an environmental modification is based on the enrollee's needs. The VMOD request must be accompanied by a vehicle modifications and equipment evaluation, based on the enrollee's needs, and has been obtained from a driver rehabilitation specialist who has been certified by the Association of Driver Rehabilitation Specialists. The EMOD request must be in accordance with the requirements of 10 NYCRR §§ 69-10.7.

In determining whether an EMOD general contractor is qualified, the Fund Administrator will take into account:

- Whether the EMOD general contractor has any outstanding judgments on file and whether any complaints have been upheld against the general contractor by the Better Business Bureau or the Office of the New York State Attorney General.
- If the enrollee lives in another state or in the District of Columbia, the same type of investigation will be undertaken in that jurisdiction.

Once the need has been determined, the enrollee or their representative must be notified, in writing, which services or items have been approved and/or denied.

The Contractor must authorize payment to the successful bidder of no more than one-third of the accepted bid amount upon acceptance of the bid, unless there are extenuating circumstances about which the contractor receives advance notice, such as a project that can be completed in one day or a project that involves the purchase of a product prior to installation or construction.

The Contractor must:

- Find and assign qualified experts to perform evaluations and assessments for services requiring prior approval;
- Assign an EMOD evaluator to the case;
- In the event there are constraints or scheduling concerns the Contractor must consult with the Department to identify and assign the appropriate EMOD evaluator.
- Develop criteria for reviewing the sufficiency of evaluations based on regulations;
- Review the EMOD evaluators report to determine if the report is complete and satisfies the applicable regulations.
- Notify the Enrollee or representative, in writing, of the approved and/or denied service(s);
- Outline the bidding process for the enrollee or their representative;
- Provide assistance with obtaining the minimum of three (3) required bids;
- Review all bids to determine qualified EMOD and VMOD contractors and for bid content to determine acceptability;
- Conduct bid evaluation;
- Choose winning EMOD and VMOD contractor in accordance with the applicable regulations;
- Determine the payment for approved service;
- Receive and review post-modification evaluation report(s) to ensure the modification meet approved requirements, meets the enrollee's functional needs, and meets all applicable State and local building codes for the services(s) requested; and,
- Authorize final payment as part of the weekly claims payment file or as determined by the Department.

#### **4.5 Customer Service**

The Contractor must answer and maintain a toll-free number provided by the Department for potential Applicants and current Enrollees of the Fund to be staffed by employees who are trained and able to accurately respond to enrollee or enrollee representatives' questions about the Fund. The representatives must provide assistance in completing claims forms, and identifying documentation required with a claim, handle payment-related complaints, and assist in resolving issues with claims processing.

This toll-free line must be open and available for answering calls Monday through Friday from 8:30 am through 5:00 pm, unless such day is a Department-approved State holiday. Any holidays must be requested and

approved in advance by the Department. The Department requires the toll-free line to provide language interpretation services for those not fluent in English and Telecommunication Device for the Deaf (TDD) and Teletypewriter (TTY) services for callers who are hearing impaired.

All calls will be answered by a live representative within thirty (30) seconds. The percentage of incoming calls to the Contractor's telephone line in which the caller disconnects prior to the call being answered by a customer service representative will not exceed three percent (3%). For hours when the toll-free line is not staffed, automated equipment shall be in place to accept messages. Messages left outside of scheduled call line hours must be responded to no later than the next business day after the message is left.

The Contractor must establish a process for responding to written correspondence, which must be approved by the Department. All written correspondence, including E-mail, pertaining to the Fund must be acknowledged within the next business day.

In accordance with Executive Order No. 26, the contractor must assist the Department with maintaining and updating the content of the Department [website](#). The website shall be reviewed by the Contractor on a bi-annual basis (twice annually), allow for download of applications, program-related forms, and provide information on the submission of applications, materials, and forms.

The website shall provide general information about the Fund, including, but not limited to:

- Eligibility criteria;
- The process for enrollment into the Fund; and
- Any other information relevant to the Fund determined by the Department to be beneficial to Enrollees and Providers.

#### **4.6 Provider Service**

The Contractor must develop and maintain provider support materials on the NYS DOH public [website](#) and/or vendor-supplied web portal based on Department approval. The provider support materials will need to be reviewed quarterly to ensure they are current. The Contractor must maintain and make accessible archived and historic provider support information. Provider materials include, but are not limited, to:

- Provider manuals;
- Companion guides;
- Claims, prior approval, and other NYS forms;
- Provider bulletins;
- Quick reference information;
- Frequently Asked Questions (FAQs);
- Training materials, tutorials, and schedules;
- Links;
- Help guides; and,
- Newsletter(s).

The Contractor must develop and post stakeholder alerts and provide technical support for stakeholders requesting to subscribe for program alerts.

The Contractor must maintain provider data with date-specific history as required by Department business rules including, but not limited, to:

- Provider ID;
- NPI (if applicable);
- Provider Taxpayer ID and associated information;
- Provider Legal and DBA Names;
- Provider Addresses (e.g., mailing, pay to, and service location addresses);

- Provider Licenses and Certification (e.g., License numbers, DEA numbers, and CLIA Number);
- Provider Contact Information (e.g., phone numbers and email addresses);
- Provider Notes; and,
- Provider Sanctions.

The Contractor must accept provider updates via, hard copy, fax, web portal or other medium as determined by the Department.

As part of maintaining provider information, the contractor is required to verify any sanctions against potential and current providers. The Contractor must search applicable databases, including, but not limited to, federal Provider Sanctioned websites and databases and the New York State Office of Medicaid Inspector General (OMIG) websites and databases.

The Contractor will provide the ability to send providers email and electronic alert messages by provider type, or other criteria as determined by the Department.

The Contractor must maintain full responsibility for and tracking of all federal form 1099 processing, including issuance to providers (hard-copy as specified by the Department), submission of data to the Federal and State tax authorities (IRS, NYS Department of Taxation and Finance, and other entities as specified by the Department). Production of replacement or corrected 1099s based on provider request, State or contractor review, and issuance of notices to providers, such as form "B" notices, for purposes of correcting mismatched employer identification numbers. The Contractor is responsible for responding to and resolving all 1099 inquiries and issues regarding correct reporting of tax information based on the Federal 1099 and New York State policies (including incorrect FEINs).

#### **4.7 Claims Administration and System Functionality**

The Contractor must perform all aspects of claims administration including the receipt and review of claims; the determination of whether such claims meet the requirements for payment, and the proper rates to pay such claims pursuant to such regulations, as outlined in [Attachment D](#).

Contractor must develop and maintain an electronic workflow system/web-based application for the claims and prior approval process, which must include, at a minimum, the ability to enter claims and prior approvals; review and make determinations; access claims and prior approvals and all supporting materials (including claims edits and previously adjudicated claims); inquire on, and update, existing claims and prior approvals; and, enter and maintain text notes associated with the prior approval.

The system must provide the functionality to automatically enforce Department-defined business rules to make a determination on claims and prior approval requests, provide the capability to modify, add and delete criteria used for the determination of claim review and prior approval requests in a flexible manner that allows for rapid change while maintaining a date specific history of applied criteria and maintain claims and prior approval data with date-specific history as required by Department business rules, including, but not limited, to:

- Prior Approval (PA) Number;
- PA Submit Date;
- PA Type Code;
- PA Effective and Expiration Date;
- PA Edit Code (if applicable);
- PA Edit Disposition Code (if applicable);
- PA Count; and,
- PA Medium Source.

Contractor must enforce claim and prior approval Authorization edits based on Department business rules including, but not limited, to:

- j) Data presence, validity, and completeness;

- k) Duplicate or near duplicate services;
- l) Provider information;
- m) Enrollee information; and,
- n) Valid reference information including service limits.

The electronic workflow system/web-based application must provide the capability to:

- Authorize several periods of time with different procedures within a single claim or prior approval;
- Process electronic claims and prior approvals received in a proprietary format specified by the Department;
- Process electronic claims and prior approvals received in [HIPAA X12](#) standard formats;
- Track each claim and prior approval through all the steps in the authorization process and show adjustments to the amount to be paid as defined by the Department;
- Assign to each claim and prior approval a unique number for tracking and monitoring purposes;
- Enter and maintain text notes associated for each service line and document for all claim and prior approval formats;
- Produce rosters for specific claim and prior approval types, listing claim and prior approval requests and resulting determinations;
- Image, OCR and/or data enter, edit, and verify claims and prior approvals as directed by the Department;
- Route and track hard copy claims and prior approvals in accordance with Department business rules;
- Electronically associate hard-copy, digital, and other electronic media claim and prior approval supporting materials received at any point during processing, and route through the application; and,
- Archive and restore all information related to claims adjudication in a manner that is retrievable for processing adjustments, voids, and other transactions as specified by the Department.

#### **4.8 Accounting Processes**

Throughout the term of this contract the Contractor is responsible for accepting, researching, reviewing, tracking, requesting stopping/voiding and reissuing of payments made. Additional responsibilities include updating provider/enrollee information and addresses for any returned documentation to the Department, Department designee or the Contractor. This documentation includes, but is not limited to, returned checks, refund checks, Electronic Fund Transfer (EFT) payments and letters/emails to enrollee families. Once the Contractor has confirmed that the check(s) or EFT payment(s) have been stopped/voided, the Contractor shall review and reissue payment in the appropriate format.

Any refund checks that are determined to be valid and need to be deposited into the MIF account must be sent to the Department or, on direction, the Department's designee by the Contractor in a trackable format to be approved by the Department. The Department must be notified via E-mail when the refund checks are sent, including a report of all checks and reason for refund.

Any outstanding or uncashed check must be investigated by the Contractor on an annual basis or as requested by the Department. This process will include, at a minimum:

- Receiving the Outstanding Checks listing from the Department;
- Researching and completing data entry in the listing
- Drafting and mailing 90-day letters to all outstanding payees;
- Drafting and mailing 60-day Certified Letters to outstanding payees, whose check is over \$1,000;
- Providing any payee responses to the Department for checks to be stopped;
- Reissuing any stopped checks, after confirmation by the Department; and,



- Any other Outstanding Check activities as requested by the Department.

#### **4.9 Appearance at Proceedings**

The Contractor must be prepared to provide the appropriate staff, to appear, either in person or by phone, and testify on behalf of the Fund, when requested by the Department. Requested staff must participate in meetings or serve as a witness at conferences, hearings (including appeal hearings), litigation (potential or actual), and any other proceedings involving work performed pursuant to the Contract. This includes, at a minimum, the following:

- Preparation and production of documents for use at proceedings;
- Determination of services or prior approvals;
- Appeals of claims denials; and,
- Adjustments to payments and rates of payment.

#### **4.10 Staffing**

The Contractor must provide the Department with a Staffing and Organization Plan, within thirty (30) days of contract execution, which describes how the project staff will be organized, located and how communication will be handled between the main site and remote sites. The Plan must include the total number of each staff for each function, ratio for case management, designated full time key role staff as defined in section 4.10.1 of this RFP, organizational chart of key roles, identify staff that support the project but are not dedicated full time employees, subcontractors pre-approved by the Department, their respective roles, and job descriptions for all professional, managerial, and supervisory positions.

The Plan must include how the Contractor plans to make available the appropriate staff for calls with the Department, as needed, to discuss Fund processes, requests for information, complaints and any other request, issue or concern raised by the Department.

The Department reserves the right to request a resume for any staff member assigned to the project. Replacement of staff must be approved by the Department. After approval is received from the Department, staff must only be replaced with staff of comparable or increased experience, training, and ability to the incumbent in the position.

The Contractor may only replace or alter the number and distribution of staff in Key Roles as proposed, with written approval of the Department. In the event the Department gives written approval of the termination, transfer, or reassignment of staff in Key Roles, such personnel will remain assigned to the performance of duties under this contract until replacement personnel, approved by the Department, are in place performing the Key Staff functions.

The Contractor must ensure all staff are trained in updates made to MIF administrative requirements, technology advances that correlate to their duties and responsibilities and ensure full time Key Roles (Case Management Director, Project Director, Project Manager and Operations Director) remain staffed by experienced personnel, as outlined in section 4.10.1 Key Roles. If the roles are vacated, they must be refilled within forty-five (45) days, with weekly recruitment updates, via email, provided to the Department.

All employees, sub-contractors, or agents of the Contractor performing work under this Agreement must be trained staff or technicians who meet or exceed the professional, technical, and training qualifications set forth in this RFP. They must comply with all security and administrative requirements of the Department that are communicated to the contractor.

The Department reserves the right to conduct a security background check or otherwise approve any employee, sub-contractor or agent furnished by the Contractor. The Department may refuse access to, or require replacement of, any personnel for cause based on professional, technical, or training qualifications, quality of work or change in security status or non-compliance with the Department's security or other requirements.

Approval of the Organization Plan, by the Department, shall not relieve the Contractor of the obligation to perform all work in compliance with the Agreement. The Department reserves the right to reject and/or bar from any facility for cause any employee, sub-contractor, or agent of the Contractor.

#### 4.10.1 Key Staff

The contractor must be prepared to provide detailed resumes for the individuals proposed by the Contractor to perform the Key Staff positions under the Contract.

Position Title	Minimum Qualification Requirements
Case Management Director	<ul style="list-style-type: none"> <li>• Nine (9) or more years in health or social services, with five (5) or more years of supervisory experience;</li> <li>• Three (3) or more years developing Case Management Plans including performance and assessments; and</li> <li>• Bachelor’s degree or equivalent combination of education and experience as determined by the Department.</li> </ul>
Project Director	<ul style="list-style-type: none"> <li>• Ten (10) or more years of managerial experience;</li> <li>• Five (5) years’ experience managing staff;</li> <li>• Bachelor’s degree or equivalent combination of education and experience as determined by the Department;</li> <li>• Experience establishing and leading a team to include hiring, onboarding, and overseeing many staff, activities, and organizational changes;</li> <li>• Past documented experience seamlessly bringing on a new project/client on time and on budget; and,</li> <li>• Documented analytical, organizational, and problem-solving skills.</li> </ul>
Project Manager	<ul style="list-style-type: none"> <li>• Five (5) or more years of experience in project management, oversight, planning, design, development, and operation of projects in health or social services arena; and,</li> <li>• Project Management Professional (PMP) Certification from the Project Management Institute (PMI).</li> </ul>
Operations Director	<ul style="list-style-type: none"> <li>• Nine (9) or more years’ experience in health and social services operations, including managing a staff for all aspects of customer service, claims management, enrollment, investigation, and resolution of highly complex matters of significance. Five (5) or more of these years must be supervisory; and,</li> <li>• Bachelor’s degree or equivalent combination of education and experience as determined by the Department.</li> </ul>

#### 4.11 Reporting

Over the life of the contract the Contractor must provide reports, as requested, in a format approved by the Department. The Contractor must create statistics, periodic records, and reports regarding the operation of the Fund and submit by the specified due date. The Contractor must acknowledge the Department's request(s) for information, complaints, and any other request, issue, or concern within one (1) business day of receipt. A thorough and comprehensive response to reporting requests must be provided within three (3) business days

from initial receipt unless another date is agreed upon by the Department. The reports must contain, at a minimum, the following:

- o) The total number of Enrollees;
- p) The number of applications received;
- q) The number of approved or denied applications;
- r) Claims processing and payment activity;
- s) Number of claims approved or denied;
- t) Customer Service Call Center statistics;
- u) Case management activity;
- v) Weekly Claims Report;
- w) Effective Date reporting;
- x) Prior approval outcomes; and,
- y) Any other information the Department may require.

Quarterly claims reports must contain, including, at a minimum, the following:

- z) Summary of claims activity by Enrollee;
- aa) The number and types of claims received;
- bb) The number and types of claims approved or denied; and,
- cc) Any other related information deemed necessary by the Department.

Within one-hundred-eighty (180) days of contract execution, the Contractor must provide a report describing the internal processes that will be in place to ensure the Fund procedures are followed and how statutory and regulatory requirements will be met in the performance of the contract. Such descriptions should include separation of duties and any managerial reviews, authentications, and/or validation procedures.

Within ninety (90) days of contract execution the Contractor must develop a quality assurance plan which outlines creating quality measurements to track improvements, executing quality improvement testing and activities, development of quality assurance standards and processes, multi-level verification of claims processing accuracy and documents the fixes for claims errors and issues.

The Contractor must maintain a searchable electronic record keeping system which is capable of producing reports as requested and perform data extracts, at a minimum daily. This system should include case management, prior approval and claims data for each enrollee, including backup documentation. It must provide a tool-based repository and managed workflow approach which supports extraction and distribution of data with secure access. Capability must include publish ("push") then retrieve ("pull"), trace and monitor extracts, audit and control, error/exception handling, balancing and operational statistics. The system must also provide the ability to identify, correct, and report data quality/defect issues including data redundancy, incorrect values, missing values, and inconsistent values of the data sources and to continually monitor the quality of the data extracted.

Extraction reports must be maintained online for a minimum of six (6) months, with the ability to archive extract files for a period of five (5) years or the life of the contract, whichever is longer.

#### **4.11.1 Audit**

The Contractor must assist the Department Audit staff and any other authorized personnel who perform MIF audits, including, but not limited to, the Office of the State Comptroller (OSC), the U.S. Department of Health and Human Services (DHHS) and The Office of the Attorney General (OAG), in responding to audit findings or requests for information. The support would include providing access to contractor personnel and facilities, all application programs, system programs, and operating system libraries. Access to all documentation would include software and operating manuals and the right to photocopy or scan the searchable PDF files. All records and data related to the Fund operation are the property of the Department and shall be made available upon request by the Department. Failure to comply with the Department's request for documentation may result in the contractor being found non-responsive.

The contractor must collect and manage information about the enrollee population to include:

- Special needs status;
- Disease management;
- Outcomes;
- High dollar case management files; and,
- Maintain clinical, utilization and indicators of special population.

The Contract must maintain, at a minimum, the following information in an active records management platform:

- Enrollment applications and information to be retained and archived for the life of the enrollee;
- Adjudicated claims transaction for the past twelve (12) years;
- Claims Review/Monitoring until six (6) years after enrollee reaches age of majority (27); and,
- Nine (9) years of inpatient/nursing home claims.

The Contractor shall maintain all records and data in a manner to allow successful and readable transfer to the Department or the Department's designee in accordance with the requirements described in [Attachment C](#). Records shall be retained for a period of seven (7) years after the expiration of the contract. At the completion of seven (7) years after the expiration of the contract, all records and data shall be destroyed upon approval of the Department at the Contractor's expense. The records/data destruction shall be in compliance with all HIPAA and records/data destruction policies in effect for NYS contracts at that time.

During the life of the Agreement and during the seven (7) year period after the expiration of the Agreement, all requests for records and or data related to the Fund shall be submitted to the Department within five (5) business days.

#### **4.11.2 Annual Survey**

The Contractor will be responsible for developing and conducting an Annual Survey of Enrollees in a format approved by the Department. The purpose of the survey will be to gather feedback from the Enrollees and their families on their experience with the Fund including items such as case management, responsiveness of staff, accuracy of reply by staff, timeliness of claim(s) payment(s), and area of opportunity for improvement. Once the survey results are received the Contractor must compile and analyze the results and provide a report of the analysis to the Department for review and/or approval.

#### **4.12 Business Operations**

Thirty (30) calendar days from contract execution and annually thereafter, the contractor must submit to the Department for review and approval a draft Business Continuity Plan that is based upon the contractor's business continuity and disaster recovery methodology. At a minimum, the Business Continuity Plan must provide for back-up processing capability at remote site(s) from the contractor's primary site(s), such that normal payment processing, as well as other systems and services deemed necessary by the Department, can continue in the event of a disaster or major hardware problem at the primary site(s). At a minimum, the Business Continuity Plan must be reviewed, updated, and submitted to the Department for review and/or approval on an annual basis.

Thirty (30) calendar days from contract execution and annually thereafter, the Contractor must submit to the Department for review and approval a draft Disaster Recovery Plan (DRP). The Contractor must:

- Maintain and execute a detailed disaster recovery/business continuity plan that meets approved disaster recovery requirements. The approved plan needs to include details regarding data, backups, storage management, and contingency operations that are capable of restoring the Production Environment within required recovery timeframes.
- Perform annual Disaster Recovery (DR) testing. The DR test results, and the lessons learned documentation will be shared with the Department.
- Develop action plan(s) to address issues or vulnerabilities found during disaster recovery testing routines and update the DR/BC plan accordingly.

- Establish the DR environment in a different geographic area to ensure business continuity when natural calamity hits a specific location.

The DRP must at a minimum address/contain:

- Natural disasters (e.g., earthquake, fire, flood, storms, pandemics);
- Terrorist acts;
- Power disruptions or failure;
- Computer software, hardware, or network failure;
- Computer shutdowns due to hackers, viruses, etc., as well as significant compromise/degradation of system performance;
- Proposed off-site procedures, location, and protocols;
- Processing shutdowns; and,
- Labor strikes including walkouts and shutdowns.

At a minimum, the DRP must be reviewed, updated, and submitted to the Department for review and/or approval on an annual basis. All proposed off-site procedures, locations, and protocols to be included in the Disaster Recovery Plan must be submitted for Department review and approval prior to implementation.

The Contractor must develop a process for fraud prevention and detection within one-hundred-eighty (180) days of contract execution to be approved by the Department. This process must include, at a minimum, internal audits, verification procedures, how the Contractor will assist the Department in the audit and investigation of fraudulent activity. The Department must be notified by the Contractor within five (5) business days of any potentially fraudulent activity.

The Contractor must provide a failover environment to eliminate any business outages due to hardware, software, or network malfunctions. The system shall maintain high availability, no less than 99 percent, to ensure business continuity. It must provide immediate failover capability to switch operations from production to failover environment daily or as needed by the Department to allow for maintenance and refresh. The Contractor must ensure the hardware or software architecture eliminates single point-of-failure and ensures the system operates reliably despite failure of component compromising the system.

The Contractor must provide production failover and redundancy capabilities in the event of technical difficulties in the production environment. Failover of the production environment must occur within five (5) minutes as outlined in SLA [Attachment C](#).

#### **4.13 Information Technology**

The application and all systems and components supporting it, including, but not limited to, any forms and databases that include Personal Health, Personal Identification or other New York State information, must comply with all NYS security policies and standards listed at <http://its.ny.gov/tables/technologypolicyindex.htm>.

Before developing or utilizing new Commercial Off the Shelf (COTS) application programs, systems programs, operating systems, websites and/or vendor-supplied web portals, that will affect the Medical Indemnity Fund (MIF), prior approval must be granted by the Department. The Contractor must provide access to the Department, and any designed entities based on role and access policy approved by the Department. Permissions and privileges to enable access to authorized users, using role-based access control (RBAC) to provide varying levels of access based on user roles and responsibilities must be set upon request from the Department.

#### **4.14 Security**

The selected Contractor shall comply with all privacy and security policies and procedures of the Department ([nys-p03-002\\_information\\_security\\_policy.pdf](#)) and applicable State and Federal law and administrative guidance with respect to the performance of the Contract. The Contractor is required, if applicable, to execute

a number of security and privacy agreements with the Department including a Data Use Agreement (DUA) at contract signing.

The Contractor is expected to provide secure and confidential backup, storage, and transmission for hard copy and electronically stored information. Under no circumstances will any records be released to any person, agency, or organization without specific written permission of the DOH. The Contractor is obligated to ensure any Subcontractor hired by the Contractor who stores, processes, analyzes, or transmits MIF data on behalf of the Contractor has the appropriate security requirements in place. Contractor is required to include in all subcontracts with their Subcontractors language surrounding the security and privacy requirements. If any breach or suspected breach of the data or confidentiality occurs, whether the breach occurred with the Contractor or Subcontractor, DOH must be notified immediately.

The Contractor is required to maintain and provide to the Department upon request their data confidentiality plans and procedures for meeting security requirements as they relate to the deliverables and services within this RFP, including all plans as they relate to subcontractor work where applicable. Contractor will develop and maintain adequate fully trained staff to respond to all stakeholder inquiries while protecting confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe requirements related to confidentiality and operating guidelines for functions included in this RFP.

The Contractor will comply fully with all current and future updates of the security procedures of the DOH as well as with all applicable State and Federal requirements, in performance of the Contract.

#### Moderate-Plus Security Controls Baseline

The Department has defined a *Moderate-Plus Security Controls Baseline* based on, and consistent with the security provisions described in the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53 Rev. 5 at the Moderate level. Additionally, the Department has augmented these federal standards with New York State Policies and Standards. The *Moderate-Plus Security Controls Baseline* includes a System Overview document. The awarded bidder shall complete the System Overview document to thoroughly and accurately describe the technical security environments that will support the proposed system.

#### System Security Plan (SSP)

The Department requires the selected bidder/vendor to maintain a System Security Plan (SSP) that aligns with the *Moderate-Plus Security Controls Baseline* for any system that will transfer, process, or store Department data. The Department considers bidder responses to represent a commitment by the bidder to adhere to, and demonstrate compliance with, the *Moderate-Plus Security Controls Baseline*. The Department will provide necessary templates and guidelines with respect to SSP format to the selected bidder/vendor upon contract award.

#### Data Use Agreement (DUA)

Selected bidder/vendor shall execute a Data Use Agreement (DUA) and submit a System Security Plan (SSP) Attestation to the Department upon contract award. The SSP Attestation requires the selected bidder/vendor to certify to the Department that the selected bidder/vendor system adheres to the *Moderate-Plus Security Controls Baseline*.

#### Demonstration of Compliance with *Moderate-Plus Security Controls Baseline*

Prior to the Department permitting release of Departmental data consisting of sensitive data or Protected Health Information (PHI) into the vendor system, the selected bidder/vendor shall demonstrate compliance with the *Moderate-Plus Security Controls Baseline* to the Department's satisfaction. The selected bidder/vendor may demonstrate compliance by (i) completing SSP workbook templates provided by the Department, or (ii) retaining an independent third-party assessor to complete a security assessment review and validate that the controls described in the SSP are implemented correctly, operating as intended, and producing the desired outcome, or (iii) by demonstrating compliance with an external, independent, framework that aligns with the *Moderate-Plus Security Controls Baseline*.

#### Plan of Actions and Milestones (POA&M)

Selected bidder/vendor shall also submit a Plan of Actions and Milestones (POA&M) that addresses any deficient controls in its SSP. The POA&M shall provide target implementation dates for any control that is not fully implemented. Deficient controls shall be prioritized and mitigated with compensating controls consistent with federal and State law, policies and standards.

Selected bidder/vendor shall update and resubmit the POA&M to the Department each quarter throughout the term of the contract to demonstrate progress and assure the timely mitigation of deficient security controls and any third-party assessor findings.

Selected bidder shall submit an updated SSP Attestation to the Department on an annual basis, and when there is any significant change to the system. A significant change is one that is likely to affect the security state of the information system<sup>1</sup>. The Department reserves the right to require the vendor to retain, at the vendor's expense, a third-party firm to perform additional security assessments at any time.

#### FedRAMP Certified Cloud Solutions

If the selected vendor solution utilizes a FedRAMP Certified cloud solution, the vendor shall indicate how such cloud services are utilized, including the type of cloud service utilized (e.g., Infrastructure as a Service [IaaS], Platform as a Service [PaaS], and/ or Software as a Service [SaaS]).

Additionally, vendor shall provide a matrix that illustrates whether the vendor, or the cloud service provider, is responsible for each security control. Vendor shall also indicate if responsibility for a given control is shared between the vendor and the cloud service provider.

Selected vendor shall also provide evidence to the Department that the cloud service offerings have been certified against criteria consistent with the *Moderate-Plus Security Controls Baseline*. The scope of this certification shall include all locations that store, process, connect to, or provide access to Department data, whether at rest or in transit.

The Department reserves the right to request documentation to verify compliance with FedRAMP and FISMA Authorizations including but not limited to:

- a) System Security Plans
  - b) Cloud Security Alliance ASA certification reports
  - c) SOC audit reports
  - d) Other independent security assessment results
  - e) Artifacts employed in support of cloud provider certification
  - f) Identification of cloud provider supply chain vendors and associated contracts as applicable

#### Department Templates

The DUA, SSP Attestation, *Moderate-Plus Security Controls Baseline* SSP templates, and POA&M templates will be provided to the selected bidder/vendor by the Department upon contract award.

#### Legal and Regulatory Compliance

Bidders/vendors should familiarize themselves with all applicable New York State and federal laws, regulations, policies, and standards for IT systems that transfer, process, or store Department data.

Selected vendor shall provide secure and confidential storage for hard copy and electronically stored information, as well as that posted on the internet. Under no circumstances will any records, hard copy or electronic, nor any information contained therein, be released to any person, agency, or organization without specific written permission of the Department.

## 4.15 Transition

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<sup>1</sup> NIST SP 800-37, *Revision 1, Guide for Applying the Risk Management Framework to Federal Information Systems: A Security Life Cycle Approach* (Appendix F, Section F.6, Page F-8)

The transition represents a period when the current contract activities performed by the Contractor must be turned over to the Department, another Department agent or successor Contractor during or at the end of the Contract Term.

The Contractor shall ensure that any transition to the Department, Departmental agency or successor Contractor be done in a way that provides the Department with uninterrupted enrollment, enrollee services, provider services, case management, claims administration, customer service, prior approval review, reporting, security, and privacy services. This includes a complete and total transfer of all data, files, reports, and records generated from the inception of the Contract through the end of the Contract to the Department or another Department agent should that be required during or upon expiration of its contract.

The Contractor shall provide technical and business process support as necessary and required by the Department to transition and assume contract requirements to the Department or another Department agent should that be required during or at the end of the Contract.

The Contractor shall manage and maintain the appropriate number of staff to meet all requirements listed in the RFP during the transition. All reporting and record requirements, security standards, and performance standards are still in effect during the transition period.

Contractor is required to develop a turnover work plan and timeline to securely and smoothly transfer any data and records generated from the inception of the Contract through the end of the Contract to the Department or another Department agent should that be required during or upon expiration of its Contract. The plan and documentation must be submitted to the Department no later than one-hundred and eighty (180) calendar days before the last day of its Contract with the Department of Health or upon request of the Department. The Turnover Plan will describe how the contractor will address all turnover activities required to provide a successful and complete transition to the Department or the successor contractor(s).

At a minimum, the Turnover Plan must include:

- A draft work schedule outlining all meetings required with the Department and its successor contractor(s) to coordinate the turnover of activities outlined in this RFP while providing all required turnover services.
  - An outline of the schedule and process to transfer to the Department and its successor contractor(s) all manuals, standard operating procedures, and all MIF-related documentation.
  - An inventory of all in-progress work, and the method and proposed schedule to transfer these activities to the Department and its successor contractor(s).
  - A training plan, including a technical application walk-through for all MIF-related applications and systems, the standard operating procedures and proposed schedule to complete training for the Department and its successor contractor(s).
- dd) Updates or replacements for all data and reference files, computer programs, and all other documentation that will be required by the Department or a successor contractor to run acceptance tests.
- ee) Updated computer programs, data, and reference files, that will be required by the Department or its successor contractor(s) to operate the MIF.
- ff) An inventory, and proposed schedule to turn over all hardcopy and electronically stored documents in accordance with the applicable State and federal regulations.

Upon turnover of Fund Administration services as defined in this RFP, the contractor will facilitate a seamless transition to another vendor providing such services, as designated by the Department. The contractor will



identify and, whenever possible, remedy any actual or potential barriers to transition. No additional payments will be made to the contractor for any activities, services, and support required to be performed during any transition period or after contract end.

#### 4.16 Payment

Payment of invoices and/or vouchers submitted by the successful Bidder pursuant to the terms of the Contract entered into pursuant to this RFP by the Department shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be:

The Contractor will submit invoices to the Department based on the [Attachment B](#): Cost Proposal. The monthly invoice amount will be equal to the total submitted cost per enrollee (Line 5) divided by 12 for a cost per enrollee per month (PEPM). The cost PEPM multiplied by the number of actual enrollees will total the monthly invoice amount.

The cost/unit pricing shall cover all costs as outlined on the bid price page(s) herein. All pricing submitted pursuant to this Request for Proposal (RFP) shall include all direct and indirect (physical and administrative) costs for the performance of services; including, but not necessarily limited to, all administrative, reporting or other requirements (such as current/future minimum wage levels, benefits, etc. set by law); overhead, fees, taxes, travel, profit and any other ancillary fees and costs including permits, licenses, insurance, etc.; and services not explicitly stated in the RFP, but necessarily attendant thereto as and as applicable to the associated item for which the rate is being quoted.

Once the format is approved, the Contractor shall provide complete and accurate itemized monthly statements to be reviewed and approved by the Department. Invoices containing all required information and supporting documentation must be submitted in an electronic format to:

[MIFContracts@health.ny.gov](mailto:MIFContracts@health.ny.gov)

All entities to be carbon copied on invoice submissions will be identified upon contract execution.

If invoices are not submitted within the thirty (30) calendar days after the end of the prior month, liquidated damages may be assessed. If liquidated damages are assessed, a credit to the Department in the defined amount shall be noted on the Contractor's invoice submission. The Contractor shall reference [Attachment C](#) of this RFP.

Payment by the Department will be made in accordance with the State Finance Law, upon receipt of such statements and upon approval by the Department, in accordance with State procedures and practices.

Payment for invoices and/or vouchers submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at <https://www.osc.state.ny.us/state-vendors> by email at [epayments@osc.state.ny.us](mailto:epayments@osc.state.ny.us) or by telephone at 518-474-6019. Contractor acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <https://www.osc.state.ny.us/state-vendors>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller

Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor  
Albany, NY 12236

Payment of such invoices and/or vouchers by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

Contractor acknowledges that it will not receive payment on any invoices submitted under this Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

No Department employee has the authority to request that the Contractor perform any additional work beyond the work authorized or described herein, or to incur additional expenses above the amount set forth in Appendix D of this Agreement.

#### **4.17 Subcontracting**

Bidder's may propose the use of a subcontractor. The Contractor shall obtain prior written approval from DOH before entering into an agreement for services to be provided by a subcontractor. The Contractor is solely responsible for assuring that all the requirements of this RFP is met. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of the prime contract, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the agreement between the DOH and the Contractor. DOH reserves the right to request removal of any Bidder's staff or subcontractor's staff if, in DOH's discretion, such staff is not performing in accordance with the Contract.

NOTE: Subcontractors whose contracts are valued at or above \$100,000 will be required to submit the Vendor Responsibility Questionnaire upon selection of the prime Contractor.

#### **4.18 Contract Insurance Requirements**

Prior to the start of work under the Contract, the Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of the Contract, insurance of the types and in the amounts set forth in [Attachment 8](#), the New York State Department of Health Contract, Section IV. Contract Insurance Requirements as well as Professional Liability, Crime Insurance, Data Breach and Privacy/Cyber Liability including Technology Errors and Omissions.

#### **4.19 Minority & Women-Owned Business Enterprise (M/WBE) Requirements**

Pursuant to New York State Executive Law Article 15-A, the Department recognizes its obligation to promote opportunities for maximum feasible participation of **certified** minority-and woman-owned business enterprises and the employment of minority group members and women in the performance of DOH contracts.

#### **Business Participation Opportunities for M/WBEs**

For purposes of this RFP, DOH hereby establishes an overall goal of 10% for M/WBE participation, 5% for Minority-Owned Business Enterprises ("MBEs") participation and 5% for Women-Owned Business Enterprises ("WBEs"), based on the current availability of qualified MBEs and WBEs and outreach efforts to certified M/WBE firms. The successful Bidder who becomes the Contractor under the Contract entered into with the Department pursuant to this RFP must document good faith efforts to provide meaningful participation by M/WBEs as subcontractors or suppliers in the performance of the Contract consistent with the M/WBE participation goals established for this procurement, and Contractor must agree that DOH may withhold

payment pending receipt of the required M/WBE documentation. For guidance on how DOH will determine “good faith efforts,” refer to 5 NYCRR §142.8.

The directory of New York State Certified M/WBEs can be viewed at: <https://ny.newnycontracts.com>. The directory is found in the upper right-hand side of the webpage under “Search for Certified Firms” and accessed by clicking on the link entitled “MWBE Directory.” Engaging with firms found in the directory with like product(s) and/or service(s) is strongly encouraged, and all communication efforts and responses should be well documented to establish Contractor’s “good faith efforts”.

By submitting a Bid in response to this RFP, a Bidder agrees to complete an M/WBE Utilization Plan (Form 1), Staffing Plan (Form 4) and Equal Employment Opportunity (EEO) Policy Statement (Form 5) found in ([Attachment 5](#)) for this RFP. DOH will review the submitted forms and if not accepted, DOH may issue a notice of deficiency. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days after Bidder’s receipt of such notice. DOH may disqualify a Bidder as being non-responsive to this RFP under the following circumstances:

- a) If a Bidder fails to submit form 1
- b) If a Bidder fails to submit form 4;
- c) If a Bidder fails to submit form 5;
- d) If a Bidder fails to submit a written remedy to a notice of deficiency; or
- e) If DOH determines that the Bidder has failed to document good-faith efforts to provide meaningful participation by M/WBEs under the Contract in accordance with the goals for this RFP established by the Department.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified in its M/WBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOH but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor’s Quarterly M/WBE Contractor Compliance & Payment Report to the DOH, by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the M/WBE goals of the Contract.

If (a) the Department determines that the Contractor is not in compliance with the M/WBE requirements of the Contract and the Contractor refuses to comply with such requirements, or (b) the Department finds that the Contractor has willfully and intentionally failed to comply with the M/WBE participation goals established in the Contract, the Contractor may be required to pay to the Department liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to M/WBEs had the Contractor achieved the contractual M/WBE goals; and (2) all sums actually paid to M/WBEs for work performed or materials supplied under the Contract.

A New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm’s contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Department’s website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS M/WBE certification to [OHIPcontracts@health.ny.gov](mailto:OHIPcontracts@health.ny.gov) before the Deadline for Questions as specified in [Section 1](#). (Calendar of Events). Nothing prohibits an M/WBE Vendor from proposing as a prime Contractor.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.)**

## **4.20 Participation Opportunities for NYS Certified Service-Disabled Veteran-Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by NYS-certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. DOH recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOH contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, DOH conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at:

<https://ogs.ny.gov/veterans/>

Bidders are encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

## **5 ADMINISTRATIVE INFORMATION**

The following administrative information will apply to this RFP. Failure to comply fully with this information may result in disqualification of your proposal.

### **5.1 Restricted Period**

“Restricted period” means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals (“RFP”), Invitation for Bids (“RFP”), or solicitation of proposals, or any other method for soliciting a response from bidders intending to result in a procurement contract with DOH and ending with the final contract award and approval by DOH and, where applicable, final contract approval by the Office of the State Comptroller.

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies designated contacts on face page of this RFP to whom all communications attempting to influence this procurement must be made.

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the bidder is non-responsible and therefore ineligible for this contract award. Two (2) violations within four (4) years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in DOH procurements for a period of four (4) years.

### **5.2 Questions**

Potential Bidders may submit written questions and requests for clarification pertaining to this RFP between the issuance of this RFP and the deadline for the submission of written questions specified in [Section 1](#) (Calendar of Events). All questions and requests for clarification of this RFP should cite the relevant RFP, including the RFP number and title Medical Indemnity Fund (MIF) RFP #20238, the section and paragraph

number of this RFP or of the Attachment to this RFP to which the question relates, where applicable, and must be submitted via email to [OHIPcontracts@health.ny.gov](mailto:OHIPcontracts@health.ny.gov) no later than the Deadline for Submission of Written Questions specified in [Section 1.](#) (Calendar of Events). Questions received after the deadline **may not** be answered.

If a potential Bidder discovers any ambiguity, conflict, discrepancy, omission, or other apparent error in this RFP, the Bidder shall immediately notify DOH of such error in writing at [OHIPcontracts@health.ny.gov](mailto:OHIPcontracts@health.ny.gov) and request that DOH clarify or modify the Terms of this RFP. If, prior to the deadline for the Submission of Bids, a Bidder fails to notify DOH of a known error or an error that reasonably should have been known, the Bidder shall assume the risk of bidding notwithstanding such apparent ambiguity, conflict, discrepancy, omission or other error. If awarded the Contract pursuant to the terms of this RFP, the Bidder shall not be entitled to an amendment to the terms of the Contract to correct or clarify any such ambiguity, conflict, discrepancy, omission or other error nor to any additional compensation by reason of the error or its correction.

### **5.3 Right to Modify RFP**

DOH reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by DOH, at any time prior to the Deadline for Submission of Proposals specified in [Section 1.0](#) (Calendar of Events). Modifications to this RFP shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any such clarifications or modifications as deemed necessary by DOH will be posted to the DOH website.

If a prospective bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the bidder shall immediately notify DOH of such error in writing at [OHIPcontracts@health.ny.gov](mailto:OHIPcontracts@health.ny.gov) and request clarification or modification of the RFP.

If, prior to the Deadline for Submission of Proposals, a bidder fails to notify DOH of a known error or an error that reasonably should have been known, the bidder shall assume the risk of proposing. If awarded the Contract, the bidder shall not be entitled to additional compensation by reason of the error or its correction.

### **5.4 DOH's Reserved Rights**

The Department of Health reserves the right to:

1. Reject any or all proposals received in response to the RFP;
2. Withdraw the RFP at any time, at the Department's sole discretion;
3. Make an award under the RFP in whole or in part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFP in the best interests of the State;
13. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;

15. Every offer shall be firm and not revocable for a period of three hundred and sixty-five days from the bid opening, to the extent not inconsistent with section 2-205 of the uniform commercial code. Subsequent to such three hundred and sixty- five days, any bid is subject to withdrawal communicated in a writing signed by the bidder; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a bidder's proposal and/or to determine a bidder's compliance with the requirements of the solicitation.

## 5.5 Debriefing

Once an award has been made, a Bidder may request a debriefing of their Bid. The debriefing will be limited solely to the Bidder's own Bid and will not include any discussion of other bids. A Bidder's request for a debriefing must be received by the Department no later than fifteen (15) business days after the date of the award notification to the successful Bidder or non-award announcement to the unsuccessful Bidder, depending upon whether the Bidder requesting the debriefing is the successful Bidder or an unsuccessful Bidder.

## 5.6 Protest Procedures

In the event an unsuccessful Bidder wishes to protest the award resulting from this RFP, the protesting Bidder must follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the OSC's Guide to Financial Operations, which is available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

## 5.7 Freedom of Information Law ("FOIL")

All Bids may be disclosed or used by the Department to the extent permitted by law. The Department may disclose a Bid to any person for the purpose of assisting in evaluating the Bid or for any other lawful purpose. All Bids will become State agency records, which will be available to the public in accordance with the New York State Freedom of Information Law. **Any portion of the Bid that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the Bid as specified in Section 6.1.2. of this RFP.** If the Department agrees with the proprietary claim, the designated portion of the Bidder's Bid will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

## 5.8 Piggybacking

New York State Finance Law section 163(10)(e) (see also <https://ogs.ny.gov/procurement/piggybacking-using-other-existing-contracts-0>) allows the Commissioner of the NYS Office of General Services to consent to the use of the Contract entered into pursuant to this RFP by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

## 5.9 Intellectual Property

Any work product created pursuant to this RFP and the Contract awarded hereunder and any subcontract shall become the sole and exclusive property of the New York State Department of Health, which shall have all rights of ownership and authorship in such work product.

## 6 PROPOSAL CONTENT

The following includes the format and information to be provided by each Bidder. Bidders responding to this RFP must satisfy all requirements stated in this RFP. All Bidders are requested to submit complete Administrative and Technical Proposals, and are required to submit a complete Cost Proposal. A proposal that is incomplete in any material respect may be rejected.

To expedite review of the proposals, Bidders are requested to submit proposals in separate Administrative,

Technical, and Cost packages inclusive of all materials as summarized in Attachment A, Proposal Documents. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents.

**DOH will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals.**

## **6.1 Administrative Proposal**

The Administrative Proposal should contain all items listed below. An Administrative Proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP may be subject to verification for accuracy. Please provide the forms in the same order in which they are requested.

### **6.1.1 Bidder's Disclosure of Prior Non-Responsibility Determination**

Submit a completed and signed [Attachment 1](#), "Prior Non-Responsibility Determinations."

### **6.1.2 Freedom of Information Law – Proposal Redactions**

Bidders must clearly and specifically identify any portion of their proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See [Section 5.7](#), (Freedom of Information Law)

### **6.1.3 Vendor Responsibility Questionnaire Attestation- Attachment 3**

Complete, certify, and file a New York State Vendor Responsibility Questionnaire. DOH recommends that bidders file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep).

Bidders must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us).

Bidders opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep), or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form. Bidders should complete and submit the Vendor Responsibility Attestation, [Attachment 3](#).

### **6.1.4 Vendor Assurance of No Conflict of Interest or Detrimental Effect- Attachment 4**

Submit [Attachment 4](#), Vendor Assurance of No Conflict of Interest or Detrimental Effect, which includes information regarding the Bidder, members, shareholders, parents, affiliates and subcontractors. [Attachment 4](#) must be signed by an individual authorized to bind the Bidder contractually.

### **6.1.5 M/WBE Forms- Attachment 5**

Submit completed Form #1 and/or Form #2, Form #4 and Form #5 as directed in [Attachment 5](#), "Guide to New York State DOH M/WBE RFP Required Forms."

### **6.1.6 Encouraging Use of New York Businesses in Contract Performance- Attachment 6**

Submit [Attachment 6](#), "Encouraging Use of New York State Businesses in Contract Performance" to indicate the New York Businesses you will use in the performance of the Contract.

### **6.1.7 Bidder's Certified Statements- Attachment 7**

Complete, sign and submit [Attachment 7](#), "Bidder's Certified Statements", which includes information regarding the Bidder. [Attachment 7](#) must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder.

### **6.1.8 Diversity Practices Questionnaire – Attachment 10**

The Department has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents to this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement should include as part of their response to this procurement, [Attachment 10](#) "Diversity Practices Questionnaire". Responses will be formally evaluated and scored.

### **6.1.9 Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination**

Bidder should complete and submit [Attachment 11](#) certifying that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

### **6.1.10 Executive Order 16 Prohibiting Contracts with Businesses Conducting Business in Russia**

Bidder should complete and submit [Attachment 12](#) certifying the status of their business operations in Russia, if any, pursuant to Executive Order 16.

### **6.1.11 State Finance Law Consultant Disclosure Provisions**

In accordance with New York State Finance Law Section 163(4)(g), State agencies must require all Contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract.

The successful bidder for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract.

The successful bidder must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department, the Office of the State Comptroller, and Department of Civil Service.

Submit State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report, available at: <http://www.osc.state.ny.us/agencies/forms/ac3271s.doc> and <http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>.

### **6.1.12 Sales and Compensating Use Tax Certification (Tax Law, § 5-a)**

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain Contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractor's sales



delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offeror meeting the registration requirements but who is not so registered in accordance with the law.

The successful Bidder must file a properly completed Form ST-220-CA with the Department and Form ST-220-TD with the DTF. These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Submit these Forms, available through these links:

- ST-220 CA: [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)
- ST-220 TD: [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)

## **6.2 Technical Proposal**

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Bidder to perform the services contained in this RFP. The Technical Proposal should demonstrate the qualifications of the Bidder and the staff to be assigned to provide services related to the services included in this RFP.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the information requested to be provided by Bidders. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP may be subject to verification for accuracy.

While additional data may be presented, the following should be included. Please provide the information in the same order in which it is requested. Your proposal should contain sufficient information to assure DOH of its accuracy. Failure to follow these instructions may result in disqualification.

Pricing information contained in the Cost Proposal cannot be included in the Technical Proposal documents.

### **6.2.1 Title Page**

Submit a Title Page providing the RFP subject and number; the Bidder's name and address, the name, address, telephone number, and email address of the Bidder's contact person; and the date of the Proposal.

### **6.2.2 Table of Contents**

The Table of Contents should clearly identify all material (by section and page number) included in the Bidder's proposal.

### **6.2.3 Documentation of Bidder's Eligibility Responsive to Section 3.0 of RFP**

Bidders must be able to meet all the requirements stated in Section 3.0 of the RFP. The bidder must submit documentation that provides sufficient evidence of meeting the criterion/criteria set forth in Section

3.0. This documentation may be in any format needed to demonstrate how the Bidder meets the minimum qualifications to propose.

DOH will accept proposals from organizations or individuals with the following types and levels of experience as a prime contractor. DOH will accept proposals from organizations possessing:

A minimum of five (5) years of experience in all of the following:

- Providing case management;
- Enrollment services;
- Payment related accounting processes;
- Customer service functions;
- Administering claims-reviewing supporting documentation and coordination of benefits;
- Adjusting for rates of payment, provider services; and,
- Reporting and producing data or statistics.

Experience acquired concurrently is considered acceptable.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.

Failure to meet the Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

#### **6.2.4 Technical Proposal Narrative**

The Technical Proposal should provide satisfactory evidence of the Bidder's ability to meet, and expressly respond to, each element listed below.

Elements of the Technical Proposal are as follows:

##### **6.2.4.1 General Duties**

Bidders should provide a plan for completing of the following services according to the RFP and SLA in [Attachment C](#):

- a) Operate the Fund in accordance with Article 29-D, Title 4 of the Public Health Law (PHL) and the regulations promulgated thereunder, 10 NYCRR §69-10;
- b) Operate all aspects of the Fund in accordance with Executive Order No. 26, Appended here to as Appendix A;
- c) Operate all aspects of the Fund as directed by the Department of Health; and
- d) Translate services either directly or through a translation service.

##### **6.2.4.2 Applications Review and Enrollment Process**

Bidder should describe their plan/process to perform/provide the below in accordance with Executive Order No.26:

- a) Develop an enrollment process for Departmental review and approval;
- b) Receive and accept application for enrollment from Applicants, or their designated representative;
- c) Accommodate requests from those who are not fluent in English;
- d) Review each application and supporting documentation submitted by the applicant to determine eligibility to enroll in the Fund;
- e) Request additional clarifying information within fifteen (15) days from receipt of application.
- f) Determine applicant's enrollment in the Fund; and,
- g) Notify Applicant of enrollment determination into the Fund within five (5) business days of receipt of all required information.
- h) Issue replacement ID cards within seven (7) business days of request;
- i) Produce written information materials and any forms necessary for use by Enrollees. Content must provide an overview of the Fund and the nature of the benefits provided by the Fund. All content must be approved by the Department and as required by Executive Order No. 26, be provided in English and ten qualifying non-English languages. Reasonable accommodations should be made for a person acting on behalf of the enrollee.
- j) Within one-hundred-eighty (180) days of contract execution, the Contractor must develop a comprehensive handbook for Enrollees and their families, to be approved by the Department. The handbook must be reviewed and updated quarterly and approved by the Department prior to posting or distribution. The handbook is the sole intellectual property of the Department.
  - i. The handbook should explain, at a minimum,
    1. What is covered by the Fund;
    2. How to access coverage;
    3. How to submit claims for payment;
    4. Which services require prior approval;
    5. How to obtain prior approval;
    6. How to file a complaint;
    7. How to appeal a denial of payment or a denial of prior approval; and,
    8. Any other processes of the Fund that the Department determines to be necessary for inclusion in the handbook.
- k) Create contingent notice for Departmental review and approval, announcing the suspension of new enrollments into the Fund, if the Fund is not accepting new enrollees pursuant to PHL § 2999-I(6) and 10 NYCRR § 69-10.20. This notification must also be posted on the Fund website as determined by the Department.

#### **6.2.4.3 Case Management**

- a) Bidder should provide their plan on how they will communicate with the Claims Processing Team all necessary information and documentation in order to process claim transactions completely and timely.
- b) Bidder should describe how they plan to develop a monthly reporting format for the Department and submit monthly report to the containing information on case management activity and any other information the Department may require. The Contractor must maintain electronic record keeping system(s) or application(s) that include, at a minimum:
  - Case management data for each enrollee, including backup documentation;
  - Such documentation and records shall be made available to the Department upon request; and,
  - The system shall be searchable and be capable of producing Department required reports such as case management histories by Enrollee, and any other types of summary reports as requested by the Department.
- c) Bidder should outline how they plan to meet all timeframes and deliverables outlined in section 4.3 Case Management.

#### 6.2.4.4 Prior Approval Requirements & Responsibilities

- a) Bidder should provide their plan for identifying requests for services, items, modifications which require prior approval pursuant to 10 NYCRR § 69-10.6 and Department requirements (within 30 days). See section 4.4, Prior Approval Requirements & Responsibilities for listing of applicable items.
- b) For those expenses requiring prior approval, the Bidder should provide a plan/process on how they will assist/advise enrollees in the correct process for submission of the prior approval request including the necessary supporting documentation. In addition, the Contractor the Bidder should describe how they will :
- Receive, review, and process all prior approval requests and determine whether all or any portion of the request is a Qualifying Health Care Cost.
  - Accept and support all forms of requests as approved by the Department, including, but not limited, to paper, fax, web-based application, and provider area of the website and/or vendor supplied web portal.
  - Accept, process, and respond to approvals, based on Department business rules, received via the following formats including, but not limited, to HIPAA X12 278 standard format (versions 4010 & 5010), NYS proprietary format and other industry Standard paper and electronic formats.
  - Accept and review evaluations and assessments required by the regulation for select benefits or services. The reviews must include completeness, scope, clarity, and compliance with the applicable regulation and correctness of medical necessity.
  - Generate the necessary information and documentation in order to process claims for any services requiring prior approval such as environmental modifications, vehicle modifications, and assistive technology in accordance with the requirements of 10 NYCRR §§ 69-10.7, 69-10.8, 69-10.9 and 69-10.10, respectively.
- c) Bidder should provide their process on determination of prior approval requests, expedited requests, timeframes and denials as outlined in Section 4.4.
- d) Bidder should submit their plan for assisting, receiving, and reviewing Environmental and Vehicle Modification requests from an enrollee, or person authorized to act on the enrollee's behalf. The Bidder should include how they plan to achieve making a determination within 30 days from the date all necessary documentation has been received (Section 4.4.1).

The Bidder's plan should include how they plan to:

- Find and assign qualified experts to perform evaluations and assessments for services requiring prior approval;
- Assign an EMOD evaluator to the case;
- In the event there are constraints or scheduling concerns the Contractor must consult with the Department to identify and assign the appropriate EMOD evaluator.
- Develop criteria for reviewing the sufficiency of evaluations based on regulations;
- Review the EMOD evaluators report to determine if the report is complete and satisfies the applicable regulations.
- Notify the Enrollee or representative, in writing, of the approved and/or denied service(s);
- Outline the bidding process for the enrollee or their representative;
- Provide assistance with obtaining the minimum of three (3) required bids;
- Review all bids to determine qualified EMOD and VMOD contractors and for bid content to determine acceptability;
- Conduct bid evaluation;
- Choose winning EMOD and VMOD contractor in accordance with the applicable

- regulations;
- Determine the payment for approved service;
- Receive and review post-modification evaluation report(s) to ensure the modification meet approved requirements, meets the enrollee's functional needs, and meets all applicable State and local building codes for the services(s) requested; and,
- Authorize final payment as part of the weekly claims payment file or as determined by the Department.

#### 6.2.4.5 Customer Service

- a) Bidder should describe how they plan to authorize payment to the successful bidder of no more than one-third of the accepted bid amount upon acceptance of the bid, unless there are extenuating circumstances about which the contractor receives advance notice, such as a project that can be completed in one day or a project that involves the purchase of a product prior to installation or construction.
- b) Bidder should provide a plan which details out their experience and ability on answering, within thirty (30) seconds, a toll-free number with language interpretation services for those not fluent in English and Telecommunication Device for the Deaf (TDD) and Teletypewriter (TTY) services for callers who are hearing impaired , provided by the Department for potential Applicants and current Enrollees of the Fund, open and available for calls Monday through Friday from 8:30 am through 5:00 pm, unless such day is a Department-approved State holiday.
- c) The Bidder should detail how they plan to staff the toll-free line with employees who are trained and able to accurately respond to enrollee or enrollee representatives' questions about the Fund. The representatives must provide assistance in completing claims forms, and identifying documentation required with a claim, handle payment-related complaints, and assist in resolving issues with claims processing.
- d) Bidder should describe their plans for hours when the toll-free line is not staffed, and what automated equipment shall be in place to accept messages and their plan to responded to messages no later than the next business day after the message is left.
- e) Bidder should provide their plan on responding to written correspondence and seeking the Departments approval.
- f) Bidder should provide their plan to assist the Department with maintaining and updating the content of the Department [website](#), review it on a bi-annual basis (twice annually), allow for download of applications, program-related forms, and provide information on the submission of applications, materials, and forms.
- g) The website shall provide general information about the Fund, including, but not limited to:
  - Eligibility criteria;
  - The process for enrollment into the Fund; and
  - Any other information relevant to the Fund determined by the Department to be beneficial to Enrollees and Providers.

#### 6.2.4.6 Provider Service

- a) Bidder should describe their plan, qualifications, experience, and ability to develop and maintain provider support materials on the NYS DOH public website and/or vendor-supplied web portal.
- b) Bidders should describe their plan to review, quarterly, and also maintain and make accessible archived and historic provider support information via hard copy, fax, and provider area of the website

and/or vendor-supplied web portal. Bidders should include the following provider materials in their response:

- Provider manuals;
  - Companion guides;
  - Claims, prior approval, and other NYS forms;
  - Provider bulletins;
  - Quick reference information;
  - Frequently Asked Questions (FAQs);
  - Training materials, tutorials, and schedules;
  - Links;
  - Help guides; and,
  - Newsletter(s).
- c) Bidders should describe their experience with developing and posting stakeholder alerts and providing technical support for stakeholders requesting to subscribe for program alerts.
- d) Bidders should describe their experience maintaining provider data with date-specific history as required by Department business rules including, but not limited, to:
- Provider ID;
  - NPI (if applicable);
  - Provider Taxpayer ID and associated information;
  - Provider Legal and DBA Names;
  - Provider Addresses (e.g., mailing, pay to, and service location addresses);
  - Provider Licenses and Certification (e.g., License numbers, DEA numbers, and CLIA Number);
  - Provider Contact Information (e.g., phone numbers and email addresses);
  - Provider Notes; and,
  - Provider Sanctions.
- e) Bidders should provide their plan and experience with maintaining full responsibility for and tracking of all federal form 1099 processing, including issuance to providers (hard-copy as specified by the Department), submission of data to the Federal and State tax authorities (IRS, NYS Department of Taxation and Finance, and other entities as specified by the Department). Bidder should include any experience and plan to assist providers with replacement or corrected 1099s based, State or contractor review, and issuance of notices to providers, such as form “B” notices, for purposes of correcting mismatched employer identification numbers.
- f) Bidder should provide plan and experience in resolving all 1099 inquiries and issues regarding correct reporting of tax information based on the Federal 1099 and New York State policies (including incorrect FEINs).

#### **6.2.4.7 Claims Administration and System Functionality**

- a) Bidder should describe their plan, qualification and experience in performing the claims administration and system functionality responsibilities as reference in RFP Section 4.7 and [Attachment D](#).

#### **6.2.4.8 Accounting Processes**

- a) Bidder should provide their plan for accepting, researching, reviewing, tracking, requesting stopping/voiding and reissuing of payments made as well as updating provider/enrollee information and addresses for any returned documentation to the Department, Department designee or the Contractor.

- b) This documentation includes, but is not limited to, returned checks, refund checks, Electronic Fund Transfer (EFT) payments and letters/emails to enrollee families. Once the Contractor has confirmed that the check(s) or EFT payment(s) have been stopped/voided, the Contractor shall review and reissue payment in the appropriate format.
- c) Bidder should outline how they plan to investigate any outstanding or uncashed check an annual basis or as requested by the Department. This process should include, at a minimum:
  - Receiving the Outstanding Checks listing from the Department;
  - Researching and completing data entry in the listing
  - Drafting and mailing 90-day letters to all outstanding payees;
  - Drafting and mailing 60-day Certified Letters to outstanding payees, whose check is over \$1,000;
  - Providing any payee responses to the Department for checks to be stopped;
  - Reissuing any stopped checks, after confirmation by the Department; and,
  - Any other Outstanding Check activities as requested by the Department.

**6.2.4.9 Appearance at Proceedings**

- a) Bidder should describe their plan, qualification, and experience in providing the appropriate staff, to appear, either in person or by phone, and testify on behalf of the Fund, when requested by the Department. Requested staff must participate in meetings or serve as a witness at conferences, hearings (including appeal hearings), litigation (potential or actual), and any other proceedings involving work performed pursuant to the Contract. This includes, at a minimum, the following:
  - Preparation and production of documents for use at proceedings;
  - Determination of services or prior approvals;
  - Appeals of claims denials; and,
  - Adjustments to payments and rates of payment.

**6.2.4.10 Staffing**

- a) Bidder should describe their qualifications, experience, and ability to provide the Staffing, along with Key staff, as referenced in RFP Sections 4.10 and 4.10.1.

**6.2.4.11 Reporting**

- a) Bidders should describe their plan to provide reports, as requested, in a format approved by the Department, create statistics, periodic records, and reports regarding the operation of the Fund and submit by the specified due date.
- b) Bidder should provide their plan to acknowledge the Department's request(s) for information, complaints, and any other request, issue, or concern within one (1) business day of receipt. Bidder should describe how they plan to provide a thorough and comprehensive response to reporting requests within three (3) business days from initial receipt unless another date is agreed upon by the Department. To include, at a minimum, the following:
  - a) The total number of Enrollees;
  - b) The number of applications received;
  - c) The number of approved or denied applications;
  - d) Claims processing and payment activity;
  - e) Number of claims approved or denied;
  - f) Customer Service Call Center statistics;
  - g) Case management activity;

- h) Weekly Claims Report;
  - i) Effective Date reporting;
  - j) Prior approval outcomes; and,
  - k) Any other information the Department may require.
- c) Bidders should submit their plan to provide quarterly claims reports containing, at a minimum, the following:
- a) Summary of claims activity by Enrollee;
  - b) The number and types of claims received;
  - c) The number and types of claims approved or denied; and,
  - d) Any other related information deemed necessary by the Department.
- d) Bidder should provide plan on how they anticipate providing a report describing the internal processes that will be in place to ensure the Fund procedures are followed and how statutory and regulatory requirements will be met in the performance of the contract within one-hundred-eighty (180) days of contract execution, Such descriptions should include separation of duties and any managerial reviews, authentications, and/or validation procedures.
- e) Bidder should provide plan on how they will develop a quality assurance plan which outlines creating quality measurements to track improvements, executing quality improvement testing and activities, development of quality assurance standards and processes, multi-level verification of claims processing accuracy and documents the fixes for claims errors and issues within ninety (90) days of contract execution.
- f) Bidders should outline their plan to maintain a searchable electronic record keeping system which is capable of producing reports as requested and perform data extracts, at a minimum daily. This system should include case management, prior approval and claims data for each enrollee, including backup documentation and provide a tool-based repository and managed workflow approach which supports extraction and distribution of data with secure access. The Bidders plan should outline their capability of including publish (“push”) then retrieve (“pull”), trace and monitor extracts, audit and control, error/exception handling, balancing and operational statistics. Bidder should provide their ability to identify, correct, and report data quality/defect issues including data redundancy, incorrect values, missing values, and inconsistent values of the data sources and to continually monitor the quality of the data extracted.
- g) Bidder should outline their plan to extraction reports and maintain online for a minimum of six (6) months, with the ability to archive extract files for a period of five (5) years or the life of the contract, whichever is longer.

#### **6.2.4.12 Business Operations**

- a) Bidder should describe their qualifications, experience, and ability to provide the Business Operation deliverables as referenced in RFP Section 4.12.

#### **6.2.4.13 Information Technology**

- a) Bidders should describe their process for complying with all applicable Information Technology policies and procedures as described in 4.13 of this RFP.

#### **6.2.4.14 Security**

- a) Bidders should describe their process for complying with all applicable privacy and security policies and procedures as described in 4.14 of this RFP.



#### **6.2.4.15 Transition**

- a) Bidders should describe their process for adhering to the turnover and transition requirements as described in 4.15 of this RFP.

#### **6.2.4.16 Payment**

- a) Bidders should describe their process for adhering to the payment requirements as described in 4.16 of this RFP.

#### **6.2.4.17 Subcontracting**

- a) Bidders should describe their process for adhering to the subcontracting requirements as described in 4.17 of this RFP.

#### **6.2.4.18 Contract Insurance Requirements**

- a) Bidders should confirm their ability to provide the required contract insurance requirements as described in 4.18 of this RFP.

#### **6.2.4.19 Minority & Women-Owned Business Enterprise (M/WBE) Requirements**

- a) Bidder should provide their plan to meet the M/WBE participation goal to include all required forms timely as outlined in Section 4.19 of this RFP.

#### **6.2.4.20 Participation Opportunities for NYS Certified Service-Disabled Veteran-Owned Businesses**

- a) Bidders should their plan on making good faith efforts to promote and assist in the participation of SDVOBs on the Contract of services and materials.

### **6.3 Cost Proposal**

Submit a completed and signed [Attachment B – Cost Proposal](#). The Cost Proposal shall comply with the format and content requirements as detailed in this RFP and in [Attachment B](#). Failure to comply with the format and content requirements may result in disqualification.

The bid price is to cover the cost of furnishing all of the product(s)/ services sought to be procured, including but not limited to travel, materials, equipment, overhead, profit and labor to the satisfaction of the Department ^ and the performance of all work set forth in said specifications.

## **7 PROPOSAL SUBMISSION**

A proposal consists of three distinct parts: (1) the Administrative Proposal, (2) the Technical Proposal, and (3) the Cost Proposal. Proposals should be submitted as prescribed below.

Submit a complete Proposal via email to: [OHIPcontracts@health.ny.gov](mailto:OHIPcontracts@health.ny.gov) with the subject “Offer RFP # 20238 Medical Indemnity Fund (MIF) Administration Service.” Include, as attachments to the email, three complete distinct PDF files labeled “Administrative Proposal”, “Technical Proposal”, or “Cost Proposal”. Example: “Technical Proposal Submission, ABC Company, RFP #20238”. In the event an electronic submission cannot be read by the Department, the Department reserves the right to request a hard copy and/or electronic resubmission of any unreadable files. The Bidder shall have 2 business days to respond to such requests and

must certify the resubmission is identical to the original submission. Hardcopy will prevail. Late bids will not be considered.

Where signatures are required, the proposal should have a handwritten signature and be signed in blue ink. A scanned signature can be used for electronic submission in the PDF. DOH reserves the right to request hardcopy originals of all signature pages at any time.

The DOH discourages overly lengthy proposals. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the DOH to evaluate proposals fairly and completely, proposals should follow the format described in this RFP to provide all requested information. The Bidder should not repeat information in more than one section of the proposal. If information in one section of the proposal is relevant to a discussion in another section, the Bidder should make specific reference to the other section rather than repeating the information. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team.

Submission of proposals in a manner other than as described in these instructions (e.g., fax) will not be accepted.

Any qualifications or exceptions proposed by a bidder to this RFP should be submitted in writing using the process set forth in [Section 5.2](#) (Questions) prior to the deadline for submission of written questions indicated in [Section 1.0](#) (Calendar of Events). Any such qualifications or exceptions that are not proposed prior to the deadline for submission of written questions will not be considered by DOH after contract award. Any amendments DOH makes to the RFP as a result of questions and answers will be publicized on the DOH web site.

## **7.1 No Bid Form**

Bidders choosing not to bid are requested to complete the No-Bid form, [Attachment 2](#). Although not mandatory, such information helps the Department direct solicitations to the correct bidding community.

## **8 METHOD OF AWARD**

### **8.1 General Information**

DOH will evaluate each proposal based on the “Best Value” concept. This means that the proposal that best “optimizes quality, cost, and efficiency among responsive and responsible offerers” shall be selected for award (State Finance Law, Article 11, §163(1)(j)).

DOH, at its sole discretion, will determine which proposal(s) best satisfies its requirements. DOH reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this RFP may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall remain confidential until evaluations have been completed and a selection of the winning proposal is made.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **70%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **30%** of a proposal's total score.

Bidders may be requested by DOH to clarify the contents of their proposals. Other than to provide such information as may be requested by DOH, no Bidder will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events).

In the event of a tie, the determining factors for award, in descending order, will be:

- (1) lowest cost and
- (2) proposed percentage of M/WBE participation.

## **8.2 Submission Review**

DOH will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in [Section 6.0](#) (Proposal Content) and [Section 7.0](#) (Proposal Submission), including documentation requested for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of DOH, may be rejected.

## **8.3 Technical Evaluation**

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of Program Staff of DOH will review and evaluate all proposals.

Proposals will undergo a preliminary evaluation to verify Minimum Qualifications to Propose (Section 3.0).

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual Committee Member scores will be averaged to calculate the Technical Score for each responsive Bidder.

The Technical Proposal evaluation is **70% (up to 70 points)** of the final score.

## **8.4 Cost Evaluation**

The Cost Evaluation Committee will examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost requirements. If a cost proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

The Cost Proposals will be scored based on a maximum cost score of 30 points. The maximum cost score will be allocated to the Cost Proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the Cost Proposal(s) offered at the lowest final cost, using this formula:

$$C = (A/B) * 30\%$$

A is Total price of lowest Cost Proposal;

B is Total price of Cost Proposal being scored; and

C is the Cost score.

The Cost Proposal evaluation is **30% (up to 30 points)** of the final score.

## **8.5 Composite Score**

A composite score will be calculated by the DOH by adding the Technical Proposal points and the Cost Proposal points awarded. Finalists will be determined based on composite scores.

## **8.6 Reference Checks**

The Bidder should submit references using [Attachment 9](#) (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process to verify Bidder's qualifications to propose (Section 3.0).

## **8.7 Best and Final Offers**

DOH reserves the right to request best and final offers. In the event DOH exercises this right, all Bidders that submitted a proposal that are susceptible to award will be asked to provide a best and final offer. Bidders will be informed that should they choose not to submit a best and final offer, the offer submitted with their proposal will be construed as their best and final offer.

## **8.8 Award Recommendation**

The Evaluation Committee will submit a recommendation for award to the Bidder(s) with the highest composite score(s) whose experience and qualifications have been verified.

The Department will notify the awarded Bidder(s) and Bidders not awarded. The awarded Bidder(s) will enter into a Contract substantially in accordance with the terms of Attachment 8, DOH Agreement, to provide the required product(s) or services as specified in this RFP. The resultant Contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller.

## **9 ATTACHMENTS**

The following attachments are included in this RFP and are available via hyperlink or can be found at: <https://www.health.ny.gov/funding/forms/>.

1. [Bidder's Disclosure of Prior Non-Responsibility Determinations](#)
2. [No-Bid Form](#)
3. [Vendor Responsibility Attestation](#)
4. [Vendor Assurance of No Conflict of Interest or Detrimental Effect](#)
5. [Guide to New York State DOH M/WBE Required Forms & Forms](#)
6. [Encouraging Use of New York Businesses in Contract Performance](#)
7. [Bidder's Certified Statements](#)
8. [DOH Agreement](#) (Standard Contract)
9. [References](#)
10. [Diversity Practices Questionnaire](#)
11. [Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination](#)
12. [Executive Order 16 Prohibiting Contracting with Business Conducting Business in Russia](#)

The following attachments are attached and included in this RFP:

- A. Proposal Document Checklist
- B. [Cost Proposal](#)
- C. [Service Level Agreements \(SLA\)](#)
- D. [Claims Administration Tasks](#)

**ATTACHMENT A  
PROPOSAL DOCUMENT CHECKLIST**

Please reference Section 7.0 for the appropriate format and quantities for each proposal submission.

<b>RFP20238– Medical Indemnity Fund (MIF) Administration Services</b>		
<b>FOR THE ADMINISTRATIVE PROPOSAL</b>		
<b>RFP §</b>	<b>SUBMISSION</b>	<b>INCLUDED</b>
§ 6.18.1	Attachment 1 - Bidder’s Disclosure of Prior Non-Responsibility Determinations	<input type="checkbox"/>
§ 6.18.2	Freedom of Information Law – Proposal Redactions (If Applicable)	<input type="checkbox"/>
§ 6.1.3	Attachment 3 - Vendor Responsibility Attestation	<input type="checkbox"/>
§ 6.1.4	Attachment 4 - Vendor Assurance of No Conflict of Interest or Detrimental Effect	<input type="checkbox"/>
§ 6.1.5	M/WBE Participation Requirements:	<input type="checkbox"/>
	Attachment 5 - Form 1	<input type="checkbox"/>
	Attachment 5 - Form 2 (If Applicable)	<input type="checkbox"/>
	Attachment 5 - Form 4	<input type="checkbox"/>
	Attachment 5 - Form 5	<input type="checkbox"/>
§ 6.1.6	Attachment 6 - Encouraging Use of New York Businesses	<input type="checkbox"/>
§ 6.1.7	Attachment 7 - Bidder’s Certified Statements	<input type="checkbox"/>
§ 6.1.8	Attachment 9 - References	<input type="checkbox"/>
§ 6.1.9	Attachment 10 - Diversity Practices Questionnaire	<input type="checkbox"/>
§ 6.1.10	Attachment 11 - EO 177 Prohibiting Contracts with Entities that Support Discrimination	<input type="checkbox"/>
§ 6.1.11	Attachment 12 – EO 16 Contracting with Businesses Conducting Business in Russia	<input type="checkbox"/>
§ 6.1.12	State Finance Law Consultant Disclosure	<input type="checkbox"/>
§ 6.1.13	Sales and Compensating Use Tax Certification	<input type="checkbox"/>
<b>FOR THE TECHNICAL PROPOSAL</b>		
<b>RFP §</b>	<b>SUBMISSION</b>	<b>INCLUDED</b>
§ 6.2.1	Title Page	<input type="checkbox"/>
§ 6.2.2	Table of Contents	<input type="checkbox"/>
§ 6.2.3	Documentation of Bidder’s Eligibility (Requirement)	<input type="checkbox"/>
§ 6.2.4	Technical Proposal Narrative	<input type="checkbox"/>
<b>FOR THE COST PROPOSAL REQUIREMENT</b>		
<b>RFP §</b>	<b>REQUIREMENT</b>	<b>INCLUDED</b>
§ 6.3	<a href="#">Attachment B</a> - Cost Proposal	<input type="checkbox"/>

**ATTACHMENT B**  
**COST PROPOSAL**  
**RFP #20238**

**Medical Indemnity Fund (MIF) Administration Services Cost Proposal Bid Form**  
**Request For Proposals (RFP) #20238**

The Bidder must submit a completed signed [Attachment B](#) Cost Proposal found on the funding page [here](#). The bidder must use the [Attachment B](#) Cost Proposal and comply with the format and content requirements as detailed in this document. Failure to comply with the format and content requirements may result in disqualification.

The cost/unit pricing shall cover all costs as outlined on the bid price page(s) herein. All pricing submitted pursuant to this Request for Proposal (RFP) shall include all direct and indirect (physical and administrative) costs for the performance of services; including, but limited to, all administrative, reporting or other requirements (such as current/future minimum wage levels, benefits, etc. set by law); overhead, fees, taxes, travel, profit and any other ancillary fees and costs including permits, licenses, insurance, etc.; and services not explicitly stated in the RFP.

Rates/fees as quoted should be expressed in decimals, not to exceed two places for each item quoted. A price MUST be submitted for all of the below deliverable categories. Additionally, pricing shall be submitted only on, and in the form prescribed by, this Proposal Bid Form. No other (additional) charges beyond the services specified herein (those listed on this page) shall be permitted by the Contractor, nor will they receive any consideration.