

STATE OF ALASKA REQUEST FOR PROPOSALS



Alaska Medicaid Vision Program Services

RFP 190000080

ISSUED JUNE 24, 2019

The Department of Health and Social Services (DHSS), Division of Health Care Services (HCS) is soliciting proposals for a contractor to manage the Alaska Medicaid Vision Program. The contractor will be responsible for verifying Medicaid member eligibility and benefit limits as well as manufacture and supply of covered vision products. Specific products include frames, lenses, and lens add ons.

ISSUED BY:

DEPARTMENT OF HEALTH & SOCIAL SERVICES
DIVISION OF FINANCE & MANAGEMENT SERVICES

PRIMARY CONTACT:

SUSAN JABAL
PROCUREMENT OFFICER
SUSAN.JABAL@ALASKA.GOV

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA'S
"ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT
OFFICER LISTED IN THIS DOCUMENT TO RECEIVE SUBSEQUENT AMENDMENTS.

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Section 1. Introduction & Instructions

Sec. 1.01 Purpose of the RFP

The Department of Health and Social Services (DHSS), Division of Health Care Services (HCS), is soliciting proposals for a contractor to manage the Alaska Medicaid Vision Program. The contractor will be responsible for verifying Medicaid member eligibility and benefit limits as well as supply of covered vision products. Specific products include frames, lenses, and lens add ons.

Vision dispensing Medicaid providers will contact the awarded contractor for all vision product orders. The contractor will present the dispensing provider with accurate information regarding coverage and limitations for all Medicaid orders. The contractor will have the authority to deny and approve vision product requests based off of eligibility and available benefit limits of the patient. Once the coverage is approved, the vision contractor will be required to manufacture the order in accordance with the vision prescription and all applicable federal, state, and city regulations, codes, and laws. The contractor will then supply the products to the vision dispensing Medicaid provider within a set period of time.

Sec. 1.02 Budget

The Department of Health and Social Services, Division of Health Care Services (HCS) estimates an annual budget of \$1,300,000.00 for these services. If all renewal options are executed, the total contract term will be five years in length, with a total value not to exceed \$6,500,000.00.

The contract and subsequent terms will be executed in one-year increments (as described in Section 2.02); all renewals are optional and will be exercised at the sole discretion of the state.

Sec. 1.03 Deadline for Receipt of Proposals

Proposals must be received no later than 2:00 pm prevailing Alaska Time on Friday, July 19, 2019.

Sec. 1.04 Minimum Qualifications

In order for offers to be considered responsive, offerors must meet the following minimum requirements. Please ensure start and end dates (month and year) are indicated, and that experience is detailed sufficiently to ensure verification of all aspects of the minimums below:

1. The offeror must have a minimum of two (2) years, in the last five (5) years, experience as a vision contractor or supplier with a Medicaid State agency or other third party payer.

An offeror's failure to meet these minimum prior experience requirements will cause their proposal to be considered non-responsive and their proposal will not advance to the evaluation stage.

Sec. 1.05 Required Review

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which award could not be made. Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the procurement officer, in writing, at least ten days before the deadline for receipt of proposals.

Sec. 1.06 Questions Prior to Deadline for Receipt of Proposals

Questions must be submitted in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing. Questions must be received no later than 12 noon on Monday, July 8, 2019.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the RFP. Other questions may be more complex and may require a written amendment to the RFP.

The procurement officer will make that decision. All questions are requested in writing to the below:

Procurement Officer: Susan Jabal
susan.jabal@alaska.gov

Sec. 1.07 Return Instructions

This RFP requires three (3) submissions in order to be considered responsive:

1. A Frame Sample Kit
2. A Technical Proposal
3. A Cost Proposal

The methods for submitting each portion of an offerors response are described below.

Frame Sample Kit Submission

The offeror must submit a Frame Sample Kit as part of their response to this RFP, as described in Section 5.03. The Frame Sample kit must be received by the Procurement Officer prior to the deadline for receipt of proposals.

Frame Sample Kits must be addressed as follows:

Department of Health and Social Services
Division of Finance and Management Services
Attention: Susan Jabal, Procurement Officer
RFP Number: 190000080
RFP Title: Alaska Medicaid Vision Services

If mailing via US Mail, please use the following address:

PO Box 110650
Juneau, AK 99811-0650

If utilizing a delivery service, please use the following address:

333 Willoughby – Suite 760
Juneau, AK 99801

An offeror's failure to submit the Frame Sample Kit prior to the deadline will cause the proposal to be disqualified. Any submissions received after the deadline will not be opened or accepted for evaluation.

Technical and Cost Proposal - Email Submission

The preferred method of technical response submission to this solicitation is via email, sent to the following address:
hss.procurement.proposal@alaska.gov

The email submission must contain the RFP number in the subject line. In the body of the email, please indicate the Procurement Officer's name, the Offeror's name, the number of attachments, and the names of the attachments being submitted.

When submitting a proposal via email, the technical proposal and cost proposal must be saved as separate, clearly labeled PDF documents, such as "Vendor A – Technical Proposal.pdf" and "Vendor A – Cost Proposal.pdf" (Vendor A is the name of the offeror). The maximum size of a single email (including all text and attachments) that can be received by the State is 20mb (megabytes). If the email containing the proposal exceeds this size, the proposal must be sent in multiple emails that are each less than 20 megabytes; each email must comply with the requirements above. Please also include an indication of multiple email submissions (1 of 2, 2 of 2, etc).

It is the offeror's responsibility to ensure that the Procurement Officer has received the proposal in full, prior to the deadline. The Procurement Officer will respond to the email to confirm receipt. If you do not receive a confirmation, it is your responsibility to contact the Procurement Officer to confirm. The State is not responsible for lost, unreadable, or corrupt emails, or missing attachments.

An offeror's failure to submit its proposal prior to the deadline will cause the proposal to be disqualified. Late proposals or amendments will not be opened or accepted for evaluation.

Technical and Cost Proposal - Paper Submission

If submitted a proposal by mail, Offerors must submit one hard copy of their proposal, to the procurement officer, in a sealed package. The cost proposal included with the package must be sealed separately from the rest of the proposal and must be clearly identified.

The sealed proposal package(s) must be addressed as follows:

Department of Health and Social Services
Division of Finance and Management Services
Attention: Susan Jabal, Procurement Officer
RFP Number: 190000080
RFP Title: Alaska Medicaid Vision Services

If mailing via US Mail, please use the following address:

PO Box 110650
Juneau, AK 99811-0650

If utilizing a delivery service, please use the following address:

333 Willoughby – Suite 760
Juneau, AK 99801

An offeror's failure to submit its proposal prior to the deadline will cause the proposal to be disqualified. Late proposals or amendments will not be opened or accepted for evaluation.

Faxed proposals will not be accepted. Oral proposals will not be accepted.

Sec. 1.08 Proposal Contents

The following information must be included in all proposals:

Authorized Signature

All proposals must be signed by an individual authorized to bind the offeror to the provisions of the RFP. Proposals must remain open and valid for at least 90-days from the date set as the deadline for receipt of proposals.

Offeror's Certification

By signature on the proposal, offerors certify that they comply with the following:

- a. the laws of the State of Alaska;
- b. the applicable portion of the Federal Civil Rights Act of 1964;
- c. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- d. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- e. all terms and conditions set out in this RFP;
- f. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury;
- g. that the offers will remain open and valid for at least 90 days; and
- h. that programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any offeror fails to comply with [a] through [h] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

Vendor Tax ID

A valid Vendor Tax ID must be submitted to the issuing office with the proposal or within five days of the State's request.

Conflict of Interest

Each proposal shall include a statement indicating whether or not the firm or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The Commissioner of the Department of Health and Social Services reserves the right to consider a proposal non-responsive and reject it or cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be developed by the offeror. The Commissioner's determination regarding any questions of conflict of interest shall be final.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

Each proposal must include a signed certification form, see Section 8: Attachments.

Sec. 1.09 Assistance to Offerors With a Disability

Offerors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

Sec. 1.10 Amendments to Proposals

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

Sec. 1.11 Amendments to the RFP

If an amendment is issued, it will be posted directly to the solicitation on the Alaska Online Public Notices. All vendors who have registered with the procurement officer will receive direct notification of the amendment.

Sec. 1.12 RFP Schedule

The RFP schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted by the same number of days.

- Issue RFP on June 24, 2019
- Deadline for receipt of questions on Monday, July 8, 2019
- Deadline for receipt of proposals on Friday, July 19, 2019
- Proposal Evaluation Committee complete evaluation by July 30, 2019
- State of Alaska issues Notice of Intent to Award a Contract by July 31, 2019
- State of Alaska issues contract award by August 10, 2019
- Contract begins September 1, 2019

This RFP does not, by itself, obligate the State. The State's obligation will commence when the contract is approved by the Commissioner of the Department of Health and Social Services, or the Commissioner's designee. Upon written notice to the contractor, the State may set a different starting date for the contract.

The State will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the State.

Sec. 1.13 Pre-Proposal Conference

A pre-proposal conference will not be held for this solicitation. Interested parties may submit questions in writing per RFP Section 1.06.

Sec. 1.14 Alternate Proposals

Offerors may only submit one proposal for evaluation. In accordance with 2 AAC 12.830 alternate proposals (proposals that offer something different than what is asked for) will be rejected.

Sec. 1.15 News Releases

News releases related to this RFP will not be made without prior approval of the project director.

Section 2. Scope of Work & Deliverables

Sec. 2.01 BACKGROUND INFORMATION

The State of Alaska provides covered vision services to eligible Alaska Medicaid members who have a benefit plan inclusive of vision services and who have not met their yearly vision product limit as defined in 7 AAC 110.700-715. The state contracts out the production of vision products to external contractors rather than producing the product themselves.

In the past the sole responsibility of the vision contractor has been to supply glasses to Medicaid beneficiaries. The services of this solicitation introduce additional professional service requirements to include verifying member eligibility and benefit limits, and denying orders for vision products that not covered within the members benefit package.

Estimated Annual Usage

VOLUME: Volume is highly variable depending on State funding levels. For the period of July 1, 2017, through June 30, 2018, 41,786 pairs of eyeglasses were provided. There are no guarantees as to minimum or maximum, either expressed or implied in this RFP. The numbers of frames provided under the contract in effect from July 1, 2017 – June 30, 2018 were as follows.

FRAMES:

Toddlers' Frames	0
Plastic Kids' Frames	10,732
Metal Kids' Frames	4,888
Specialty (V2025)	607
Plastic Teens'/Adults' Frames	11,370
Metal Teens'/Adults' Frames	<u>14,189</u>
TOTAL	41,786

LENSES (per lens, all types in each category):

Single vision	64,505
Bifocal	15,061
Trifocal	<u>844</u>
TOTAL	80,410

Lens Material (Polycarbonate, Plastic, Glass)

Polycarbonate	66,717
Plastic	13,367
Glass	<u>326</u>
	80,410

For the period of 07/01/2017 – 06/30/2018, the number of lenses made were 0.04% glass, 16.6% plastic, and 83.36% polycarbonate.

Sec. 2.02 CONTRACT TERM AND WORK SCHEDULE

The initial term of the contract resulting from this RFP will be from September 1, 2019 – August 31, 2020. The resultant contract will include four (4) one-year renewal options, to be exercised at the sole discretion of the state. If all renewal options are exercised, the full contract term will include five years of service.

Unless otherwise provided in this RFP, the State and the successful offeror/contractor agree:

1. that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect, and
2. to provide written notice to the other party of the intent to cancel such month-to-month extension at least 30-days before the desired date of cancellation.

Sec. 2.03 SCOPE OF WORK

The Department of Health and Social Services (DHSS), Division of Health Care Services (HCS), requires a contractor to manage the Alaska Medicaid Vision Program. The successful contractor will be responsible for verifying Medicaid member eligibility and benefit limits as well as supply of covered vision products. Specific products include frames, lenses, and lens add ons.

Vision dispensing Medicaid providers will contact the awarded contractor for all vision product orders. The contractor will present the dispensing provider with accurate information regarding coverage and limitations for all Medicaid orders. The contractor will have the authority to deny and approve vision product requests based off of eligibility and available benefit limits of the patient. Once the coverage is approved, the vision contractor will be required to manufacture the order in accordance with the vision prescription and all applicable federal, state, and city regulations, codes, and laws. The contractor will then supply the products to the vision dispensing Medicaid provider within a set period of time.

Sec. 2.04 DELIVERABLES

In accordance with the Scope of Work above, the contractor will be responsible for the following:

Deliverable 1: Determination of Eligibility

Vision products are to be supplied to Medicaid members with current enrollment in Medicaid and have vision product benefits available. Prior to provision of services, the Contractor is responsible for verifying Medicaid member eligibility and remaining member benefits available via Medicaid Management Information System (MMIS). The successful contractor will be required to apply to gain access to MMIS, including completion of all agreements regarding HIPAA and security compliance.

Member Medicaid Eligibility:

Members Medicaid eligibility will be verified utilizing the Medicaid Management Information System (MMIS). Contractor will only authorize vision products for members with a current Medicaid eligibility status and an eligibility code and subtype which include vision products as a covered service. The Department will supply the contractor with the covered eligibility codes and subtypes. Contractor will have access to MMIS to allow for verification once enrolled as an Alaska Medicaid provider and once all appropriate documentation is completed to allow access into the provider portal through MMIS.

Denials:

The Contractor is responsible for approving and denying orders based off of member eligibility, benefit limit, and/or medical justification (2nd pair of glasses for child under 21). A member has a right to a Fair Hearing upon denial of services. If the member requests a Fair Hearing the Department may require the contractor to represent their organization for the determination of denial.

Member Benefit Limits:

Prior to filling an order, the contractor must verify member has available benefits remaining based off of their benefit package. Children (under the age of 21) are eligible for one complete pair of glasses per calendar year. Children (under the age of 21) are eligible for one additional complete pair of glasses per calendar year, **if medically necessary**. Any subsequent pairs of glasses may be allowed if the department gives prior authorization based upon medical justification submitted by the provider. Adults (over the age of 21) are eligible for one complete pair of glasses every one (1) calendar year. Any subsequent pair of glasses may be allowed if the department gives prior authorization based upon medical justification submitted by the provider.

It is the contractors responsibility to track and monitor individual members' utilization of vision products. The Department will not reimburse the contractor for vision products issued to members who are not eligible for vision services and will not reimburse the contractor for vision product exceeding limits unless the Department has issued a prior authorization for exceeding the limit.

Member benefit limits are defined as follows:

Children (up to age 21)	Lenses	Frames
First Pair	Covered (one pair per calendar year)	Covered (one pair per calendar year)
Second Pair	Covered when Medically Necessary	Covered when Medically Necessary
>= Third Pair	Covered when Medically Necessary, and requires HCS Prior Authorization	Covered when Medically Necessary, and requires HCS Prior Authorization

Adults (21 and Older)	Lenses	Frames
First Pair	Covered (one pair per one calendar year)	Covered (one pair per one calendar year)
Second Pair	Covered when Medically Necessary, and requires HCS Prior Authorization	Covered when Medically Necessary, and requires HCS Prior Authorization
>= Third Pair	Covered when Medically Necessary, and requires HCS Prior Authorization	Covered when Medically Necessary, and requires HCS Prior Authorization

Note: Benefit limits are subject to change. The Dept will notify the contractor if a change in benefit packages occur.

Medical Necessity

Medical Necessity for Children is defined as:

- lost glasses
- broken frames or lenses
- changes in prescription

When medical necessity is required, the Contractor may not fill orders for children without the appropriate medical necessity notated on the order. If the Contractor fills an order for a second pair of glasses for children without the appropriate medical necessity the State of Alaska may either deny reimbursement or recoup any reimbursement that is found to be out of compliance.

Prior Authorization

Some lenses and frames require prior authorization from the Department as mandated by current Department regulations. The Contractor will only fill these orders upon receipt of a properly completed order form and approved prior authorization from the Department. The Contractor will be notified by the Department upon approval of these frames and lenses. If the Contractor receives an incomplete order, the Contractor will outreach to the dispensing provider in regards to the incomplete order. If the Contractor fills an order without the appropriate prior authorization, the Department will not reimburse the Contractor for the vision product.

prior authorization is required for the following:

- any subsequent complete pair of eyeglasses requiring prior authorization as notated in the Member Benefit Limits section of this contract
- prism lenses (V2715)
- tinted lenses (V2744 or V2745)
- prescribed, ultraviolet coating (V2755)
- deluxe\specialty frames (V2025)
- all services provided under HCPCS codes V2199, V2299, V2399, V2499 and V2799

Note: prior authorization requirements are subject to change. The contractor will be notified by the Department if requirements are altered.

Specialty / NonStandard Lenses or Lens Add-Ons

From time to time, the Contractor may be asked to provide specialty lenses or lens add-ons for which are not specified in this RFP. These lenses might be covered using the appropriate unlisted vision codes V2199, V2299, V2399, V2499, or V2599.

All items covered in this section require prior authorization from the Department. The Contractor must receive approval from the Department for the cost of the item prior to filling the order.

Deliverable 2: Provision of Lenses, Frames, and/or Add-Ons

Once appropriate eligibility and required authorizations are determined, the vendor will fill lens, frames, and/or add on orders according to the following:

Lenses

Final manufacturing process must be done by a U.S. manufacturer and will meet first quality requirements of American National Standard Z80.1-2005, or most current, for impact resistant dress eyewear, or American National Standard Z87.1-2003, or most current, for impact resistant occupational protective lenses.

Lenses will be glass, plastic or polycarbonate, as prescribed, without any differentiation in price. Lenses, other than glass, will be scratch resistant coated, both sides of the lens, as a standard feature. All glass lenses must be impact resistant.

The following lenses are not covered by the department:

- deluxe lens feature (V2702)
- anti-reflective coating (V2750)
- mirror coating (V2761)
- polarization (V2762)
- progressive (V2781)

Note: Non-covered lenses are subject to change. The contractor will be notified by the Dept if coverage is altered.

Frames

The Contractor will provide standard dress eyewear and replacement parts. Frames furnished will meet American National Standard Z80.5-2004.

The Contractor must offer the following standard frame selection (V2020):

- two (2) toddler frame styles
- seven (7) metal frame styles for kids
- five (5) plastic frame styles for kids
- five (5) plastic frame styles for teens \ adults
- ten (10) metal frame styles for teens \ adults

Unisex frames are acceptable for all categories (toddler, kids, and adults/teens).

All frames must be offered in at least two (2) sizes. The Contractor is responsible for choosing the appropriate sizes for each frame. The Contractor is also responsible for providing a variety of shapes, colors and styles for each age and gender category. At least one of the toddler frame styles shall have regular temple pieces. Adjustable temple bands are acceptable for one of the styles. A range of color choices must be made available within a style, gender and age category. Frame material must contain no scratches, fissures, bubbles, discoloration, or other defects in workmanship.

Each frame must include a hard-sided case at no additional charge to the Department.

Specialty Frames

Specialty frames require a prior authorization from the Department, as describe in Deliverable 1.

The Contractor must offer the following specialty frames selection (V2025):

- two (2) toddler frame styles, frames must be flexible, made entirely of plastic with no metal parts
- two (2) teen\adult sizes in each gender, frames must be flexible, made entirely of plastic with no metal parts

Unisex frames are acceptable for all categories (toddler, kids, and teen\adult).

Each specialty frame must include a nylon strap and a hard-sided case at no additional charge to the department.

Replacement Parts

Limited replacement parts (nose pads, temple covers, and screws) must be made available to the dispensing provider at no cost to the Department. The dispensing Provider will be responsible for the cost of the replacement parts, shipping, and handling.

Quality Control and Rejection

Throughout the term of the contract, dispensing providers can communicate reports on the general quality of the products and services to the Department. If the Department receives more than ten (10) complaints in a six (6) month period regarding the quality of a specific frame, the Department reserves the right to require that particular frame to be replaced with one of equal or greater quality at the same price.

Any frames or lenses rejected due to nonconformity to the terms or specifications of the contract, whether held by the Department or returned by the provider, will be at the Contractor's risk and expense. The provider will be required to, in accordance with the timeframes identified Deliverable 6, replace the order with an product of acceptable quality. The Contractor must notify the Department within three (3) days of any complaints received.

Frame Substitution

If during the period of the contract, the manufacturer of any frame(s) listed in the frame list is discontinued; the Contractor will substitute another frame at the same price, consisting of equal or greater quality frames, subject to Department approval. The Department must be notified in writing thirty (30) days in advance of the impending change.

Lens Errors

Errors made by the prescribing and/or dispensing vendors regarding the prescriptions are not the responsibility of the Contractor. If the patient cannot wear glasses due to a prescribing or refracting error, the dispensing provider may return the glasses for correction at the dispensing providers expense to include shipping. Replacement costs may not exceed contracted rates. Neither the Contractor nor the Department will be held responsible for the costs of the replacement. The dispensing provider will be responsible. However, if it is a Contractor error, the Contractor will be responsible for replacement.

Repairs

Except as provided under the guarantee clause, the Contractor will not be required to provide eyeglass repairs under the contract.

Measurement And Fitting

The Contractor will not be required to furnish any measurement or fitting services under the contract.

Deliverable 3: Frame Sample Kits

The Contractor shall be responsible for providing sample frames to dispensing providers.

A sample kit will include a representative sampling of all the styles (both plastic, metal and specialty), sizes (toddler, kids and teens/adults), and each gender offered by the Contractor to the recipients as required under Deliverable 2: Frames. The kit must include a complete listing of all frames offered under this contract featuring color selections and eye sizes offered for each frame style. For any frame not included in the representative kit, a color photo image must be provided.

Dispensing providers shall be responsible for the cost of the sample kit(s) and any replacement frames.

If a replacement frame is requested for a sample kits, this will be provided at the same cost of a Standard Frame.

The Sample Kits will be comprised of frames listed in the categories below:

- toddler: two (2) frames
- kids female: five (5) plastic; seven (7) metal
- kids male: five (5) plastic; seven (7) metal
- kids specialty: two (2) frame
- teen \ adult female: five (5) plastic; ten (10) metal
- teen \ adult male: five (5) plastic; ten (10) metal
- teen \ adult specialty: two (2) frame

Deliverable 4: Annual Frame Review

Ninty (90) days prior to the annual renewal time, the Contractor shall provide an itemized list of all the frames that were purchased during each year of the contract. This data will identify which frame styles are most popular. Upon review of this list, the Department has the option to request a selection of new styles of frames to replace underutilized frames. If offered frames are replaced, the contractor must offer replacement frames to the dispensing providers to update their sample kits. Replacement frames can be billed to the dispensing provider at the contracted price. The new replacement frames for the Department's Sample Kit will be provided at no charge.

Deliverable 5: Guarantee

If within ninety (90) days after delivery an article furnished under the contract is found to be unsatisfactory due to Contractor error, defective workmanship and/or materials, the contractor must correct, adjust, or replace the article without cost to the Department or the dispensing provider. The replacement or correction must be resolved within 10 days of notification of the issue.

Deliverable 6: Ordering & Delivery

Website & Print Catalog

The contractor must provide a website and upon request, a print catalog to dispensing providers, of available frames. The catalog must include a complete listing of all frames offered under this contract featuring color selection and eye sizes offered for each frame style. The Contractor must provide these at no charge to the dispensing provider.

The contractor must offer ordering capability via website or secure email, and fax.

Shipping & Handling

All delivery and handling charges are to be included in the prices submitted by the offeror. No additional charges may be billed to the state.

Delivery

Glass, plastic or polycarbonate ophthalmic lenses will be prepared, framed, and delivered within the time limitations set forth below.

- Delivery time for all stock lenses (including plastic lenses) which can be ground and/or cut, edged, and framed at the Contractor's prescription laboratory will be limited to ten (10) working days after receipt of a properly completed prescription. The dispensing ophthalmologist, optometrist, or optician will be notified in writing and/or by telephone by the Contractor when prescriptions cannot be delivered within the specified delivery time.
- Delivery time for glass, plastic, or polycarbonate lenses which require factory preparation and/or fitting into ophthalmic frames will be that which is considered the best possible service from the time of receipt of the prescription, but will not normally exceed twenty (20) working days. The dispensing ophthalmologist, optometrist, or optician will be properly notified in all instances when special prescriptions require more than twenty (20) working days for completion and delivery.
- Date of receipt of order will be considered day one. Shipment from factory will constitute delivery within the 10 or 20 day period.
- All goods specified will be shipped prepaid by USPS Priority Mail. Pairs of glasses are shipped individually per prescription order. If multiple orders are received from the same dispensing provider and the order can be filled within the delivery time frame, orders may be combined.

Late Delivery

If the Contractor encounters an internal issue with their factory or staff that will cause a delay in the performance of services required in this contract, the Contractor will notify the Department within three (3) day, in writing, of the situation, expected delay, and a plan/timeline for resolution of the issue. The Contractor will also notify the dispensing provider(s), in writing. Notifications of this type must be approved in advance by the Department. The State will provide approval or denial of the plan/timeline for resolution of the issue.

Order Forms

The Contractor must provide print and electronic order forms to providers as part of the services of this contract, at no additional charge to the state. Order forms must include fields for:

- member's Medicaid ID
- member's name and date of birth
- dispensing provider's name, NPI number, phone number, and address.
- prescribing provider's name, and NPI number.
- member's diagnosis
- prior authorization, if applicable
- reason for medical necessity (as applies to Children)

Patient Identification

All claims for goods and services provided under the contract will identify the recipient served by name and Alaska Medical Assistance identification number.

Order Review And Processing

- All purchases initiated through this contract will be ordered on the Contractor's order form.
- All order forms received by the Contractor must be stamped with the date and time upon receipt. The Contractor must retain a copy of each order received. Orders must be retained for seven years.
- Providers may submit orders via the contractor's website, or they may fax order(s), with or without Medical Assistance coupon(s), to the Contractor. Telephone orders will not be accepted, all orders must be in writing on the approved order form.
- Upon receipt of each order, the Contractor will review the order form for completeness including verification of member eligibility and conformity with Medical Assistance program policy and resolve discrepancies prior to processing. The processing time will begin once all discrepancies have been resolved and the prescription is ready to dispense.

Deliverable 7: Reporting

The below are required as part of the services of this contract, and must be included in the pricing quoted. No additional costs for these services may be billed to the state.

Denials

The Contractor will be responsible for generating and submitting a daily report of all denied orders

Utilization Reporting

The Contractor will provide the Department with a monthly detail and summary reporting which include the quantity of goods or services provided under the resultant contract. The reports must include as a minimum all goods and services delivered by the Contractor including:

- reporting period dates
- date report generated
- reporting period and year-to-date
- materials (by HCPCS assigned codes) provided
- number of lenses provided by procedure codes
- number of frames and parts provided by procedure codes
- total number of frames with lenses, by category
- total number of frames without lenses, by category
- total number of frames by frame name
- number of replacement orders filled as a result of Contractor error
- data itemizing frame style selections
- denied number of jobs and reason for denial

The Department will approve report content and format during contract implementation. The Contractor will deliver monthly, quarterly and annual reports to the state via secure email. The State must receive the Contractor's report no later than fifteen (15) days after the end of the preceding report month. The reports will be submitted in electronic reporting format content as approved by the State; and other information as approved or requested by the Department.

Deliverable 8: Customer Service / Training

The below are required as part of the services of this contract, and must be included in the pricing quoted. No additional costs for these services may be billed to the state.

Communications

The Department will review/approve all marketing, notifications, and or training and education materials provided by the successful contractor. Communications such as working individually with a provider or answering questions from providers may be done without Department review.

The Contractor must have a dedicated toll free number available for dispensing providers: Monday through Friday from 8:00 a.m. to 5:00 p.m. Alaska time.

Training

The Contractor will conduct a one-day training/input sessions for dispensing providers in each of the following communities: Anchorage, Fairbanks, and Juneau, within 45 days of contract issuance. The Contractor is responsible for notifying dispensing providers a minimum of 30 days in advance of the training of the dates, times, and locations.

All material, dates, times, and locations must be approved by the Department. The State may provide space to conduct these trainings, upon request by the contractor if space is available. If the contractor uses a state space for the facility, they must work with the state to determine availability.

The Contractor will annually attend one billing training session in Anchorage, Alaska, with the State's Medicaid fiscal agent intermediary to answer questions relating to the vision contract.

All costs for trainings, including travel, are at the contractors expense and should be included in the offeror's pricing.

Deliverable 9: Claims Submission

Prior to execution of the contract the successful contractor must complete a Provider Enrollment application (<https://medicaidalaska.com>) as an optical provider or provide proof of enrollment (ie: provider Medicaid number). The Contractor will submit electronic claims to the Departments claims processing fiscal agent (currently Conduent State Healthcare, LLC) in the current HIPAA compliant format. Claims must conform to State Medical Assistance billing procedures. The claims submitted will include such information as is necessary for the Department to determine the exact nature of all expenditures.

The Contractor will not submit claims to the Department until the order is complete and shipped to the provider. Billing of third parties for eyewear is not required.

If the Contractor disagrees with a denied or reduced claim, the Contractor may request a first-level appeal in accordance with 7 AAC 105.270.

Section 3. Contract Information

Sec. 3.01 CONTRACT TYPE

This contract will be a fee for service contract.

Sec. 3.02 PRICE ADJUSTMENTS

Contract prices for equipment and/or service will remain firm through the initial term of the contract (August 31, 2020).

The contractor may request price adjustments annually, in writing, 30 days prior to the renewal date. The written request must be submitted to the DHSS Contract Administrator. If the contractor fails to request a CPI price adjustment 30 days prior to the adjustment date, the adjustment will be effective 30 days after the department receives their written request.

Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Urban Alaska.

<https://data.bls.gov/PDQWeb/cu>

The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six month average, using July through December 2019 and each July through December six month average thereafter.

The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. If a price adjustment is jointly approved by the Contract Administrator with HCS's concurrence, an amendment must be issued before the increased rate may be charged by the contractor.

If the CPI difference results in a negative percentage change, that savings must be passed along to the state; implemented via contract amendment at the renewal date.

Sec. 3.03 PROPOSED PAYMENT PROCEDURES

The state will make payments based on a negotiated payment schedule, which will be indicated in the resultant contract. Payment will be made via the claims submission process identified in Deliverable 9.

Sec. 3.04 CONTRACT PAYMENT

No payment will be made until the contract is approved by the Commissioner of the Department of Health and Social Services or the Commissioner's designee. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract. The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

Sec. 3.05 LOCATION OF WORK

The state will not provide workspace for the contractor. The contractor must provide its own workspace.

Travel

Travel will be required as part of the services of this contract, as identified in Deliverable 8. All travel will be arranged and paid for by the contractor, and must be included in the offerors quoted pricing. No additional costs can be billed to this contract.

Performance of Work Within United States

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

Sec. 3.06 SUBCONTRACTORS

Subcontractors may be used to perform work under this contract. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

Subcontractor experience shall not be considered in determining whether the offeror meets the requirements set forth in Section 1.04: Minimum Qualifications.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;
- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and
- a written statement, signed by each proposed subcontractor that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the state to consider their proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the project director.

Sec. 3.07 JOINT VENTURES

Joint ventures will not be allowed.

Sec. 3.08 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

Sec. 3.09 F.O.B. POINT

All goods purchased through this contract will be F.O.B. final destination. Unless specifically stated otherwise, all prices offered must include the delivery costs to any location within the State of Alaska. Ownership of and title to the ordered items remains with the contractor until the items have been delivered to their final destination and are accepted by the state.

Sec. 3.10 CONTRACT PERSONNEL

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director. Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

Sec. 3.11 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project director. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The project director may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

Sec. 3.12 CONTRACT CHANGES - UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project director will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the project director has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Commissioner of the Department of Health and Social Services or the Commissioner's designee.

Sec. 3.13 NONDISCLOSURE AND CONFIDENTIALITY

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. See Appendix E of the Standard Agreement Template, in Section 8: Attachments, for the state's HIPAA Business Associate Agreement (BAA). The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

Sec. 3.14 INSURANCE REQUIREMENTS

The successful offeror must provide proof of workers' compensation insurance prior to contract approval.

The successful offeror must secure the insurance coverage required by the state. The coverage must be satisfactory to the Department of Administration Division of Risk Management. An offeror's failure to provide evidence of such insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

Offerors must review form Appendix B in the Standard Agreement Template (Section 8), for details on required coverage. No alteration of these requirements will be permitted without prior written approval from the Department of Administration, Division of Risk Management. Objections to any of the requirements in Appendix B must be set out in the offeror's proposal.

Sec. 3.15 **TERMINATION FOR DEFAULT**

If the project director determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work. This clause does not restrict the state's termination rights under the contract provisions (Appendix A of the Standard Agreement Template), attached in Section 8.05.

Sec. 3.16 **INFORMAL DEBRIEFING**

When the contract is completed, an informal debriefing may be performed at the discretion of the project director. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

Section 4. Proposal Format and Content

Sec. 4.01 PROPOSAL FORMAT AND CONTENT

In preparing a proposal response, all narrative portions should be straightforward, detailed, and precise. Do not simply restate or paraphrase information in this RFP. The Department of Health and Social Services will determine the responsiveness of a proposal by its quality, not its volume or packaging.

Please limit your proposals to 20 pages, not including the frames list, or cost proposal.

Sec. 4.02 INTRODUCTION

Proposals must include the complete name and address of offeror's firm and the name, email address, and telephone number of the person the state should contact regarding the proposal.

Proposals must confirm that the offeror will comply with all provisions in this RFP; and, if applicable, provide notice that the firm qualifies as an Alaskan bidder. Proposals must be signed by a company officer empowered to bind the company. An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

Sec. 4.03 UNDERSTANDING OF THE PROJECT

Offerors must provide comprehensive narrative statements that illustrate their understanding of the requirements of the project and the project schedule.

Sec. 4.04 METHODOLOGY / MANAGEMENT PLAN USED FOR THE PROJECT

Offerors must provide comprehensive narrative statements that set out the methodology and management plan they intend to employ and illustrate how these will serve to accomplish the work and meet the required delivery schedule.

At minimum, Offerors should provide in this section descriptions of the methodology that will be used for the following:

- to accurately determine eligibility and provide approval/denial
- utilization management for member benefit limits
- to process and deliver orders
- to provide customer service
- claims submission processes
- quality control measures, for products as well as the required services of this contract
- a description of your error resolution plan, which must incorporate, at minimum, the guarantee identified in Deliverable 5,
- a description of how you will handle incomplete/incorrect orders, late deliveries, and prescription errors
- a description of the proposed training per deliverable 8

The offeror must also include in their proposal the following documents for review:

- A sample order form (deliverable 6)

- A sample utilization report (deliverable 7)

Sec. 4.05 FRAMES LIST AND SAMPLES

Offerors must provide the following, to be submitted along with their proposal. The sample kit must be received by the procurement officer prior to the deadline for receipt of proposals, and should be mailed per the return instructions in section 1.07.

As a part of the written proposal, offerors must provide a comprehensive Frames List, using the template provided in Section 8, indicating the products that will be available for purchase through this contract. This list should be organized to clearly indicate frames by ages, gender, eye sizes, and color choices. The list must meet the required minimums indicated in Deliverable 2. Please indicate in the list which frames are included in the sample kit.

Submitted separately, but ensuring receipt prior to the deadline for receipt of proposals, the offeror must provide one (1) complete sample kit for inspection and evaluation. Failure to receive the sample by the deadline will cause an offeror's proposal to be rejected as non-responsive. Please ensure plenty of time for the sample kit to be received timely, the state is not responsible for lost or delayed sample kits.

Sec. 4.06 EXPERIENCE AND QUALIFICATIONS

The offeror must describe how they fully meet the minimum qualification listed in Section 1.04.

Offerors must also provide a narrative description of the organization of the project team and an organizational chart that identifies lines of authority. For each key person who will work on the contract, please provide the following:

- Title, and a description of what work this individual will be responsible for
- resume, and copies of any certifications/credentials referenced in their resume
- at what location this work will be performed

Key persons are defined as those responsible for contract and customer service management and claims submission/processing staff.

Included in this section, the offeror's proposal also should provide:

- Two (2) letters of reference for similar projects the offeror's firm has completed. Please ensure current contact names, email addresses, and phone numbers are included, so that we may contact references.
- A list of any subcontractors that will be used. Include the following for each subcontractor:
 - complete name and address of the subcontractor
 - type and estimated quantity of work the subcontractor will be performing
 - to whom in your firm will the subcontractor report to

Sec. 4.07 COST PROPOSAL

Please complete the Cost Proposal template provided in Section 8: Attachments.

The completed cost proposal, including the proposed budget, along with any reference to pricing, is to be excluded from the body of the offeror's proposal.

Instead, it should accompany the proposal in a separate, sealed envelope if mailing proposal, or as a separate PDF if submitting via email. Failure to comply with this requirement may result in a proposal being rejected as non-responsive.

Sec. 4.08 EVALUATION CRITERIA

All proposals will be reviewed to determine if they are responsive. Proposals determined to be responsive will be evaluated using the criterion that is set out in Section 5: Evaluation Criteria and Contractor Selection.

An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

Section 5. Evaluation Criteria and Contractor Selection

The total number of points used to score this proposal will be 1,000

Sec. 5.01 UNDERSTANDING OF THE PROJECT (5%)

Proposals will be evaluated against the questions set out below:

- 1) How well has the offeror demonstrated a thorough understanding of the purpose and scope of the project?
- 2) How well has the offeror identified pertinent issues and potential problems related to the project?
- 3) To what degree has the offeror demonstrated an understanding of the deliverables the state expects it to provide?
- 4) Has the offeror demonstrated an understanding of the state's time schedule and their ability to meet it?

Sec. 5.02 METHODOLOGY / MANAGEMENT PLAN (15%)

Proposals will be evaluated against the questions set out below:

- 1) How comprehensive is the methodology and does it depict a logical approach to fulfilling the requirements of the RFP?
- 2) How well does the methodology match and achieve the objectives set out in the RFP?
- 3) Are the report/order form samples provided clear, concise, thorough, and appropriate?
- 4) Does the offeror indicate strong customer service, error resolution systems, and training support?
- 5) Does the offerors proposed infrastructure (website) effectively meet the State's needs?

Sec. 5.03 FRAMES LIST AND SAMPLES (15%)

Proposals will be evaluated against the questions set out below:

- 1) Is the frames list adequate to meet the minimums, and does it represent a diverse array of appropriate styles, sizes and colors?
- 2) Does the frames list represent sufficient quality to ensure value over time?
- 3) Do the samples provided sufficiently represent the items indicated in the frames list? Do the sample frames represent sufficient quality to ensure value over time?

Sec. 5.04 EXPERIENCE AND QUALIFICATIONS (15%)

Proposals will be evaluated against the questions set out below:

- 1) How successful is the general history of the firm regarding timely and successful completion of similar work?
- 2) Has the firm provided letters of reference and contact information from previous clients? Did calls to the references corroborate the letters?
- 3) Is the offeror's experience equivalent in nature to the work required for the State of Alaska?
- 4) If a subcontractor will perform work on the contract, how well do they measure up to the evaluation used for the offeror?

Sec. 5.05 CONTRACT COST (40%)

Overall, 40% of the total evaluation points will be assigned to cost.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 6.14.

Sec. 5.06 ALASKA OFFEROR PREFERENCE (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

Section 6. General Process Information

Sec. 6.01 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806, for information on these licenses. Website:

<https://www.commerce.alaska.gov/web/cbpl/BusinessLicensing.aspx>.

Acceptable evidence that the offeror possesses an Alaska business license may consist of any one of the following:

- copy of a valid Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Dept. of Revenue or Alaska Dept. of Fish and Game,
- liquor licenses issued by Alaska Dept. of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Dept. of Commerce, Community and Economic Development - Division of Insurance, or
- Mining licenses issued by Alaska Dept. of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

Sec. 6.02 SITE INSPECTION

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer, at the state's expense, will perform the site inspections.

Sec. 6.03 CLARIFICATION OF OFFERS

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal.

The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

Sec. 6.04 DISCUSSIONS WITH OFFERORS

The State may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the RFP and proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

Sec. 6.05 EVALUATION OF PROPOSALS

The procurement officer, or an evaluation committee made up of at least three state employees or public officials, will evaluate proposals. The evaluation will be based solely on the evaluation factors set out in Section 5: Evaluation Criteria and Contractor Selection.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

Sec. 6.06 CONTRACT NEGOTIATION

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, shall be within the scope of the request for proposals and limited to those items which would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the state may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal. If contract negotiations are commenced, they may be held telephonically or via video conference.

Sec. 6.07 FAILURE TO NEGOTIATE

If the selected offeror:

- fails to provide the information required to begin negotiations in a timely manner; or

- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

Sec. 6.08 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award (NOIA) and send copies to all offerors. The NOIA will set out the names of all offerors and identify the proposal selected for award.

Sec. 6.09 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the RFP.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of proposals.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If an offeror wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a proposal in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All offerors will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

Sec. 6.10 Application of Preferences

Certain preferences apply to all contracts for professional services, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the RFP process. Additional preferences that may apply to this procurement are listed below:

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)
- Alaska Veteran's Preference - AS 36.30.321(f)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.

Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the Department of Administration, Division of General Service's web site: <http://doa.alaska.gov/dgs/pdf/pref1.pdf>.

Sec. 6.11 Alaska Bidder Preference

An Alaska Bidder Preference of 5% will be applied to the price in the proposal. The preference will be given to an offeror who:

- 1) holds a current Alaska business license prior to the deadline for receipt of proposals;
- 2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;
- 3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;
- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Statement

In order to receive the Alaska Bidder Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Bidder Preference.

If the offeror is a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the offeror is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

Sec. 6.12 Alaska Veteran Preference

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

- A. sole proprietorship owned by an Alaska veteran;
- B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

Alaska Veteran Preference Statement

In order to receive the Alaska Veteran Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Veteran Preference.

Sec. 6.13 Alaska Offeror Preference

2 AAC 12.260(e) provides Alaska offerors a 10% overall evaluation point preference. Alaska bidders, as defined in AS 36.30.990(2), are eligible for the preference. An Alaska offeror will receive 10% of the total available points added to their overall evaluation score as a preference.

Sec. 6.14 FORMULA USED TO CONVERT COST TO POINTS

The distribution of points based on cost will be determined as set out in 2 AAC 12.260(c). The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined using the formula:

$$[(\text{Price of Lowest Cost Proposal}) \times (\text{Maximum Points for Cost})] \div (\text{Cost of Each Higher Priced Proposal})]$$

Sec. 6.15 EXAMPLES: CONVERTING COST TO POINTS

Formula Used to Convert Cost to Points

STEP 1

List all proposal prices, adjusted where appropriate by the application of applicable preferences.

Offeror #1	\$40,000
Offeror #2	\$42,750
Offeror #3	\$47,500

STEP 2

In this example, the RFP allotted 40% of the available 100 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 40 points.

The reason they receive that amount is because the lowest cost proposal, in this case \$40,000, receives the maximum number of points allocated to cost, 40 points.

Offeror #2 receives 37.4 points.

$\$40,000 \text{ lowest cost} \times 40 \text{ maximum points for cost} = 1,600,000 \div \$42,750 \text{ cost of proposal} = \mathbf{37.4}$

Offeror #3 receives 33.7 points.

$\$40,000 \text{ lowest cost} \times 40 \text{ maximum points for cost} = 1,600,000 \div \$47,500 \text{ cost of proposal} = \mathbf{33.7}$

Section 7. General Legal Information

Sec. 7.01 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign and submit the State's Standard Agreement Form for Professional Services Contracts (including all associated appendices). This form is attached in Section 8: Exhibits, for your review. The contractor must comply with all contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law. Objections to any of the provisions in the Standard Agreement Form for Professional Services must be set out in the offeror's proposal.

Sec. 7.02 PROPOSAL AS A PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

Sec. 7.03 ADDITIONAL TERMS AND CONDITIONS

The State reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

Sec. 7.04 HUMAN TRAFFICKING

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/j/tip/>.

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive, or cancel the contract.

Sec. 7.05 RIGHT OF REJECTION

Offerors must comply with all of the terms of the RFP, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities may be waived by the procurement officer. These may include informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;

- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended offeror shall be rejected.

Sec. 7.06 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The State will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

Sec. 7.07 DISCLOSURE OF PROPOSAL CONTENTS

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

Trade secrets and other proprietary data contained in proposals may be held confidential if the offeror requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The offeror's request must be included with the proposal, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

Sec. 7.08 ASSIGNMENT

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer.

Sec. 7.09 DISPUTES

A contract resulting from this RFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Sec. 7.10 SEVERABILITY

If any provision of the contract or agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

Sec. 7.11 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with Section 7.05: Right of Rejection. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this RFP or that diminish the state's rights under any contract resulting from the RFP, the term(s) or condition(s) will be considered null and void.

After award of contract:

- if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- if the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

Sec. 7.12 FEDERAL REQUIREMENTS

The US Department of Labor requires all state agencies that are expending federal funds to have a certification filed in the proposal (by the offeror) that they have not been debarred or suspended from doing business with the federal government. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions, included as Attachment 5, must be completed and submitted with your proposal.

Sec. 7.13 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

Sec. 7.14 SOLICITATION ADVERTISING

Public notice has been provided in accordance with 2 AAC 12.220.

Section 8. Attachments

Attachments Included within this document:

- 1) Frames List
- 2) Cost Proposal
- 3) RFP Checklist
- 4) Proposal Evaluation Form
- 5) Certification Regarding Debarment
- 6) Standard Agreement Form Template - Appendices A – E (includes HIPAA BAA)

Sec. 8.01 ATTACHMENT 1 – FRAMES LIST

Frames List

Offerors must complete the below frames list, indicating all products that will be available through this contract. Offerors may add more lines if needed.

Contractor Name: _____

Adult/Teen Male – Metal Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Adult/Teen Male – Plastic Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				

Adult/ Teen Female – Metal Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Adult/Teen Female – Plastic Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				

Kids Male – Metal Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				

6				
7				

Kids Male – Plastic Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				

Kids Female – Metal Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				
6				
7				

Kids Female – Plastic Frame

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				
3				
4				
5				

Toddler

Item #	Frame Name	Front Sizes	Temple Sizes	Color Choices
1				
2				

Sec. 8.02 ATTACHMENT 2 - COST PROPOSAL

Cost Proposal

The purpose of the cost proposal format below is to allow offerors to submit pricing in a consistent manner that the State can evaluate and score. The State has provided an estimated annual quantity for each item, to provide a mechanism to correlate per-item costs to an anticipated annual budget. These estimates are an estimate only, and not a guarantee of services or payment. The state does not guarantee any minimum purchase.

The offeror is to submit their proposed rates in the shaded column of the worksheet below, and use the multiplier provided to extend their proposed rates to an annualized estimated total. The sum total of this column is the number that will be evaluated. The offeror must submit a price for every item requested; if an item is left blank, the proposal will be rejected as non-responsive.

The amounts indicated by the offeror in the shaded column below will be used to establish the billing/payment plan in the resultant contract.

All rates proposed in each section below must include all anticipated expenses (shipping/handling, overhead, travel, supplies, etc). No additional costs may be billed to the contract.

Item	HCPCS Code	Item Description	Offerors Proposed Unit Price	Estimated Annual Quantities	Extended Price
Frames					
The offeror is to provide a selection of plastic and metal frames in each age/gender category. Regardless of the frame chosen by the Medicaid Recipient, there will be no price differential between the frames. The price provided below will be a flat rate for any frame purchased through the contract resultant of this RFP.					
1	V2020	Standard Frame, all sizes and styles.	\$	41,179	\$
2	V2025	Deluxe \ Specialty Frames	\$	607	
Spectacle Lenses					
All lenses will be glass, plastic or polycarbonate, as prescribed, without differentiation in price. Lenses other than glass will be scratch resistant coated, both sides of the lens, as a standard feature. This applies to all categories of lenses. All units are per lens.					
3	V2100 - V2121	Single Vision - Glass, Plastic, or Polycarbonate (one rate for all single vision codes)	\$	64,505	\$
4	V2200 - V2221	Bifocal - Glass, Plastic, or Polycarbonate (one rate for all bifocal vision codes)	\$	15,061	\$

5	V2300 - V2321	Trifocal - Glass, Plastic, or Polycarbonate (one rate for all trifocal vision codes)	\$	844	\$
6	V2410	Variable asphericity lens, single vision, full field - glass, plastic, or polycarbonate	\$	1	\$
7	V2430	Variable asphericity lens, bifocal, full field - glass, plastic, or polycarbonate	\$	1	\$
Miscellaneous Lenses					
All units are per lens.					
8	V2700	Balance lens	\$	1	\$
9	V2710	Slab off prism - glass, plastic, or polycarbonate	\$	1	\$
10	V2715	Prism	\$	50	\$
11	V2718	Press-on lens, fresnel prism	\$	1	\$
12	V2730	Special base curve - glass, plastic, or polycarbonate	\$	1	\$
13	V2745	Addition to lens; tint, any color, solid, gradient or equal, excludes photochromatic	\$	1	\$
14	V2755	U-V lens	\$	1	\$
15	V2770	Occluder lens	\$	1	\$
16	V2780	Oversize lens	\$	1	\$
Total of extended annualized prices (1-16) This is the amount that will be evaluated					\$

Frame Sample Kit	
The successful offeror will be required to provide Frame Sample Kits to dispensing providers for a charge (deliverable 3). As this cost will not be borne by the state, this amount will not be included for evaluation. However, this amount will appear in the resultant contract, and the successful offeror will be required to bill this amount accordingly.	
Sample Kit: Representative compilation of frames to be offered under this contract. Cost per kit:	\$

Sec. 8.03 ATTACHMENT 3 - RFP CHECKLIST

Important note to offerors: This checklist is provided to assist offerors and the Procurement Officer in addressing and/or locating specific requirements identified in this solicitation.

Offerors must complete and return this form.

Completion of this form does not guarantee a declaration of responsiveness.

Offeror's Name: _____

1. Contact Information

Proposals must include complete contact information (legal name, dba, address, telephone, email, and website) of the firm submitting the proposal.

Proposals must also include the name and full contact information of the person the State should contact regarding the proposal.

Evidence is provided on page #_____.

2. Offeror's Certification

All proposals must be signed by an individual authorized to bind the offeror to the provisions of this solicitation. Certification must include a statement of compliance with all of the following:

- i. the laws of the State of Alaska;
- j. the applicable portion of the Federal Civil Rights Act of 1964;
- k. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- l. all terms and conditions set out in this solicitation;
- m. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury;
- n. that the offers will remain open and valid for at least 90 days; and
- o. that programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any offeror fails to comply with a - h of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

Evidence is provided on page #_____.

3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

Each proposal must include a signed debarment certification form, included in Section 8: Attachments.

Evidence is provided on page #_____.

4. Minimum Qualifications

The offeror, and any subcontractors, must provide verifiable proof of meeting the minimum prior experience requirements described in Section 1.04. Dates/timelines must be included.

Evidence is provided on page #_____.

5. Vendor Tax ID

A valid Vendor Tax ID must be submitted with the proposal or within five days of the State's request.

Evidence is provided on page #_____.

6. Alaska Business License

The offeror, and any subcontractors, hold a valid Alaska business license, or will obtain one. (Proof of business license is required prior to contract award if any of the services will take place in Alaska).

Evidence is provided on page #_____.

7. Cost Proposal Submitted Separately

The cost proposal must be submitted separately from the narrative proposal, either as a separate PDF if submitted via email, or in a separate, sealed envelope if submitted via mail/in person.

No portion of the cost proposal may be included within the body of the narrative proposal.

The Cost Proposal must be completed and submitted at the same time as the proposal, and both must be received by the State prior to the submission deadline.

Did the offeror submit the cost proposal separately? yes / no

8. Sample Submitted and Received Prior to Deadline

Samples must be submitted as described in Section 4.05 and Section 1.07.

The samples must be received by the State prior to the submission deadline.

Did the offeror submit samples timely? yes / no

Sec. 8.04 ATTACHMENT 4 - PROPOSAL EVALUATION FORM

All proposals will be reviewed for responsiveness and then evaluated using the criteria set out herein.

The total number of points used to score each proposal is 1,000.

Person or Firm Name: _____

Initials of Proposal Evaluation (PEC) Member: _____

Date of Review: _____

RFP Number: 190000080

5.01 Understanding of the Project – 5% (50 points)

1) How well has the offeror demonstrated an understanding of the purpose and scope of the project?

Evaluator's Notes: _____

2) How well has the offeror identified pertinent issues and potential problems related to the project?

Evaluator's Notes: _____

3) To what degree has the offeror demonstrated an understanding of the deliverables the state expects it to provide?

Evaluator's Notes: _____

4) Has the offeror demonstrated an understanding of the state's time schedule and can they meet it?

Evaluator's Notes: _____

Evaluator's Point Total for 5.01: _____

5.02 Methodology / Management Plan – 15% (150 points)

- 1) How comprehensive is the methodology and does it depict a logical and achievable approach to fulfilling the requirements of the RFP?

Evaluator's Notes: _____

- 2) How well does the methodology match and achieve the objectives set out in the RFP?

Evaluator's Notes: _____

- 3) Are the report/order form samples provided clear, concise, thorough, and appropriate?

Evaluator's Notes: _____

- 4) Does the offeror indicate strong customer service, error resolution systems, and training support?

Evaluator's Notes: _____

- 5) Does the offerors proposed infrastructure (website) effectively meet the State's needs?

Evaluator's Notes: _____

Evaluator's Point Total for 5.02: _____

5.03 Frames List & Samples – 15% (150 points)

- 1) Is the frames list adequate to meet the minimums, and does it represent a diverse array of appropriate styles, sizes and colors?

Evaluator's Notes: _____

- 2) Does the frames list represent sufficient quality to ensure value over time?

Evaluator's Notes: _____

- 3) Do the samples provided sufficiently represent the items indicated in the frames list?
Do the sample frames represent sufficient quality to ensure value over time?

Evaluator's Notes: _____

Evaluator's Point Total for 5.02: _____

5.04 Experience and Qualifications – 15% (150 points)

- 1) How successful is the general history of the firm regarding timely and successful completion of projects?

Evaluator's Notes: _____

- 2) Has the firm provided letters of reference and contact information from previous clients?
Did calls to the references corroborate the letters?

Evaluator's Notes: _____

3) Is the offeror's experience equivalent in nature to the work required for the State of Alaska?

Evaluator's Notes: _____

4) If a subcontractor will perform work on the contract, how well do they measure up to the evaluation used for the offeror?

Evaluator's Notes: _____

Evaluator's Point Total for 5.04: _____

Evaluator's Combined Point Total for Sections 5.01 - 5.04: _____

The total points possible for the combined sections 5.01 – 5.04 are 500.

The remaining 500 points are allocated to cost (400) and the Alaska Offeror's Preference (100)

Sec. 8.05 **ATTACHMENT 5 - CERTIFICATION REGARDING DEBARMENT**

**Certification Regarding Debarment, Suspension, Ineligibility
and Voluntary Exclusion Lower Tier Covered Transactions**

Expenditures from this contract may involve federal funds. The U.S. Department of Labor requires all state agencies that are expending federal funds to have a certification filed by the contractor that they have not been debarred or suspended from doing business with the federal government. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions must be signed along with the contract documents.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participant's responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**Before completing this certification, read the instructions on the following page,
which are an integral part of the certification.**

1. The prospective recipient of Federal assistance funds certifies, by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective recipient of Federal assistance funds is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this Proposal.

Name and Title of Authorized Representative

Signature

Date

Instructions for Certification

1. By signing and submitting this Proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this class is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom this Proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "Proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this Proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

Sec. 8.06 ATTACHMENT 6 - STANDARD AGREEMENT FORM TEMPLATE (WITH APPENDICES)

1. Agency Contract Number	2. Solicitation Number	3. Financial Coding	4. Agency Assigned Encumbrance Number
5. Vendor Number	6. Project/Case Number		7. Alaska Business License Number
This contract is between the State of Alaska,			
8. Department of Health and Social Services		Division	hereafter the State, and
9. Contractor			hereafter the Contractor
Mailing Address	Street or P.O. Box	City	State ZIP+4
<p>10.</p> <p>ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.</p> <p>ARTICLE 2. Performance of Service:</p> <p>2.1 Appendix A (General Provisions), Articles 1 through 16, governs the performance of services under this contract</p> <p>2.2 Appendix B (Indemnity and Insurance) sets forth the liability and insurance provisions of this contract</p> <p>2.3 Appendix C (Description of Services) sets forth the services to be performed by the Contractor</p> <p>2.4 Appendix D (Payment for Services) sets forth the provision for payment</p> <p>2.5 Appendix E (Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Business Associate Agreement) governs the use of Protected Health Information under this contract</p> <p>ARTICLE 3. Period of Performance: The period of performance for this contract begins _____, and ends on _____</p> <p>ARTICLE 4. Considerations:</p> <p>4.1 In full consideration of the Contractor's performance under this contract, the State shall pay the Contractor a sum not to exceed <u>\$0,000.00</u> in accordance with the provisions of Appendix D.</p>			
11. Department of Health and Social Services		Attention: Contracts Support Team	
Mailing Address P.O. Box 110650, Juneau, Alaska 99811-0650		Attention: Contracts Section	
12. CONTRACTOR		14. CERTIFICATION	
Name of Firm		I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alterations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.	
Signature of Authorized Representative	Date		
Typed or Printed Name of Authorized Representative			
Title			
13. CONTRACTING AGENCY		Signature of Head of Contracting Agency or Designee	
Department/Division Health & Social Services /		Date	
Signature of Project Director	Date	Typed or Printed Name	
Typed or Printed Name of Project Director		Title	
Title			

Appendix A General Provisions

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of a breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure:

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

Appendix B² Indemnity and Insurance

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. “Contractor” and “Contracting agency”, as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in the Contracting agency’s selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor’s work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor will provide a letter stating that they work independently; therefore have no need to carry Workers Compensation coverage.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.4 Professional Liability Insurance: covering all errors, omissions or negligent acts in the performance of professional services under this agreement.
Limits required per the following schedule:

Contract Amount	Minimum Required Limits
Under \$100,000	\$ 300,000 per Claim / Annual Aggregate
\$ 100,000 - \$499,999	\$ 500,000 per Claim / Annual Aggregate
\$ 500,000 - \$999,999	\$1,000,000 per Claim / Annual Aggregate
\$ 1,000,000 or over	Refer to Risk Management

Appendix C

Description of Services

Should there be a conflict among documents. The following order of precedence shall govern the resolution of conflicts:

First, this contract document,

Second, the RFP,

Third, the proposal.

Appendix D

Payment for Services

Payment for services provided under this contract shall not exceed **\$0,000.00** for the period of performance of this contract.

The Contractor will submit detailed invoice(s) for services performed in accordance with Appendix C.
The State will pay all invoices within thirty (30) days of invoice approval by the Project Director.

Each invoice must:

- reference the Contractor's name, address and phone number;
- reference the contract number;
- include an invoice number;
- itemize the contractual services provided during the period invoiced as described in Appendix C.

The Contractor shall submit invoices to the email address specified below no later than 30 days after the end of each month for which services were performed. Failure to include the required information on the invoice may cause an unavoidable delay to the payment process.

Email invoices to:

hss.fms.contracts.invoicing@alaska.gov

(please reference the contract number in the subject line)

Notwithstanding any other provision of this contract, it is understood and agreed that the State shall withhold payment at any time the Contractor fails to perform work as required under Appendix C and/or D of this contract.

Appendix E
State of Alaska, Department of Health & Social Services
Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Business Associate Agreement

This HIPAA Business Associate Agreement is between the State of Alaska, Department of Health and Social Services (“Covered Entity” or “CE”) and Insert Vendor Name here (“Business Associate” or “BA”).

RECITALS

Whereas,

- A. CE wishes to disclose certain information to BA, some of which may constitute Protected Health Information ("PHI");
- B. It is the goal of CE and BA to protect the privacy and provide for the security of PHI owned by CE that is disclosed to BA or accessed, received, stored, maintained, modified or retained by BA in compliance with HIPAA (42 U.S.C. 1320d – 3120d-8) and its implementing regulations at 45 C.F.R. 160 and 45 C.F.R. 164 (the “Privacy and Security Rule”), the Health Information Technology for Economic and Clinical Health Act of 2009 (P.L. 111-5) (the “HITECH Act”), and with other applicable laws;
- C. The purpose and goal of the HIPAA Business Associate Agreement ("BAA") is to satisfy certain standards and requirements of HIPAA, HITECH Act, and the Privacy and Security Rule, including but not limited to 45 C.F.R. 164.502(e) and 45 C.F.R. 164.504(e), as may be amended from time to time;
- D. CE may operate a drug and alcohol treatment program that must comply with the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 U.S.C. 290dd-2 and 42 C.F.R. Part 2 (collectively “Part 2”); and
- E. BA may be a Qualified Service Organization (“QSO”) under Part 2 and therefore must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information.

Therefore, in consideration of mutual promises below and the exchange of information pursuant to the BAA, CE and BA agree as follows:

- 1. Definitions.
 - a. General: As used in this BAA, the terms "Protected Health Information," "Health Care Operations," and other capitalized terms have the same meaning given to those terms by HIPAA, the HITECH Act and the Privacy and Security Rule. In the event of any conflict between the mandatory provisions of HIPAA, the HITECH Act or the Privacy and Security Rule, and the provisions of this BAA, HIPAA, the HITECH Act or the Privacy and Security Rule shall control. Where the provisions of this BAA differ from those mandated by HIPAA, the HITECH Act or the Privacy and Security Rule but are nonetheless permitted by HIPAA, the HITECH Act or the Privacy and Security Rule, the provisions of the BAA shall control.
 - b. Specific:
 - 1) Business Associate: “Business Associate” or “BA” shall generally have the same meaning as the term “business associate” at 45 C.F.R. 160.103.
 - 2) Covered Entity: “Covered Entity” or “CE” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103.
 - 3) Privacy and Security Rule: “Privacy and Security Rule” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.
- 2. Permitted Uses and Disclosures by Business Associate.
 - a. BA may only use or disclose PHI for the following purposes:
 - b. BA may use or disclose PHI as required by law.
 - c. BA agrees to make uses and disclosures and requests for PHI consistent with CE’s minimum necessary policies and procedures.
 - d. BA may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by CE, except for the specific uses and disclosures set out below.

- e. BA may disclose PHI for the proper management and administration of BA or to carry out the legal responsibilities of BA, provided the disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified BA of any instances of which it is aware in which the confidentiality of the information has been breached.

- f. BA may provide data aggregation services related to the health care operations of CE.

3. Obligations of Business Associate.

- a. Permitted uses and disclosures: BA may only use and disclose PHI owned by the CE that it creates, receives, maintains, or transmits if the use or disclosure is in compliance with each applicable requirement of 45 C.F.R. 164.504(e) of the Privacy Rule or this BAA. The additional requirements of Subtitle D of the HITECH Act contained in Public Law 111-5 that relate to privacy and that are made applicable with respect to Covered Entities shall also be applicable to BA and are incorporated into this BAA.

To the extent that BA discloses CE's PHI to a subcontractor, BA must obtain, prior to making any such disclosure: (1) reasonable assurances from the subcontractor that it will agree to the same restrictions, conditions, and requirements that apply to the BA with respect to such information; and (2) an agreement from the subcontractor to notify BA of any Breach of confidentiality, or security incident, within two business days of when it becomes aware of such Breach or incident.

- b. Safeguards: 45 C.F.R. 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), and 164.316 (policies, procedures and documentation requirements) shall apply to BA in the same manner that such sections apply to CE, and shall be implemented in accordance with HIPAA, the HITECH Act, and the Privacy and Security Rule. The additional requirements of Title XIII of the HITECH Act contained in Public Law 111-5 that relate to security and that are made applicable to Covered Entities shall also apply to BA and are incorporated into this BAA.

Unless CE agrees in writing that this requirement is infeasible with respect to certain data, BA shall secure all paper and electronic PHI by encryption or destruction such that the PHI is rendered unusable, unreadable or indecipherable to unauthorized individuals; or secure paper, film and electronic PHI in a manner that is consistent with guidance issued by the Secretary of the United States Department of Health and Human Services specifying the technologies and methodologies that render PHI unusable, unreadable or indecipherable to unauthorized individuals, including the use of standards developed under Section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by Section 13101 of the HITECH Act contained in Public Law 111-5.

BA shall not use personally owned devices to create, receive, maintain or transmit PHI. Devices the BA uses to create, receive, maintain or transmit CE's electronic PHI shall be owned and managed by BA or CE.

BA shall patch its operating system and all applications within two weeks of the release of any patch.

BA shall keep its antivirus and antimalware installed and active. BA shall limit its use of administrative accounts for IT operations only.

- c. Reporting Unauthorized Disclosures and Breaches: During the term of this BAA, BA shall notify CE within 24 hours of discovering a Breach of security; intrusion; or unauthorized acquisition, access, use or disclosure of CE's PHI in violation of any applicable federal or state law, including security incidents.

BA shall identify for the CE the individuals whose unsecured PHI has been, or is reasonably believed to have been, Breached so that CE can comply with any notification requirements if necessary. BA shall also indicate whether the PHI subject to the Breach; intrusion; or unauthorized acquisition, access, use or disclosure was encrypted or destroyed at the time. BA shall take prompt corrective action to cure any deficiencies that result in Breaches of security; intrusion; or unauthorized acquisition, access, use, and disclosure. BA shall fulfill all breach notice requirements unless CE notifies BA that CE will take over the notice requirements. BA shall reimburse CE for all costs incurred by CE that are associated with any mitigation, investigation and notice of Breach CE undertakes or provides under HIPAA, HITECH Act, and the Privacy and Security Rule as a result of a Breach of CE's PHI caused by BA or BA's subcontractor or agent.

If the unauthorized acquisition, access, use or disclosure of CE's PHI involves only Secured PHI, BA shall notify CE within 10 days of discovering the Breach but is not required to notify CE of the names of the individuals affected.

- d. BA is not an agent of CE.
- e. BA's Agents: If BA uses a subcontractor or agent to provide services under this BAA, and the subcontractor or agent creates, receives, maintains, or transmits CE's PHI, the subcontractor or agent shall sign an agreement with BA containing substantially the same provisions as this BAA and further identifying CE as a third-party beneficiary with rights of enforcement and indemnification from the subcontractor or agent in the event of any violation of the subcontractor or agent agreement. BA shall mitigate the effects of any violation of that agreement.
- f. Availability of Information to CE: Within 15 days after the date of a written request by CE, BA shall provide any information necessary to fulfill CE's obligations to provide access to PHI under HIPAA, the HITECH Act, or the Privacy and Security Rule.
- g. Accountability of Disclosures: If BA is required by HIPAA, the HITECH Act, or the Privacy or Security Rule to document a disclosure of PHI, BA shall make that documentation. If CE is required to document a disclosure of PHI made by BA, BA shall assist CE in documenting disclosures of PHI made by BA so that CE may respond to a request for an accounting in accordance with HIPAA, the HITECH Act, and the Privacy and Security Rule. Accounting records shall include the date of the disclosure, the name and if known, the address of the recipient of the PHI, the name of the individual who is subject of the PHI, a brief description of the PHI disclosed and the purpose of the disclosure. Within 15 days of a written request by CE, BA shall make the accounting record available to CE.
- h. Amendment of PHI: Within 30 days of a written request by CE or an individual, BA shall amend PHI maintained, transmitted, created or received by BA on behalf of CE as directed by CE or the individual when required by HIPAA, the HITECH Act or the Privacy and Security Rule, or take other measures as necessary to satisfy CE's obligations under 45 C.F.R. 164.526.
- i. Internal Practices: BA shall make its internal practices, books and records relating to the use and disclosure of CE's PHI available to CE and all appropriate federal agencies to determine CE's and BA's compliance with HIPAA, the HITECH Act and the Privacy and Security Rule.
- j. Risk Assessment: BA shall biennially conduct a thorough assessment of the potential risks to and vulnerabilities of the confidentiality, integrity, and availability of CE's PHI that BA receives, stores, transmits, or has access to. BA shall provide CE, upon request, with a written report detailing the results of the risk assessment within 5 days.
- k. To the extent BA is to carry out one or more of CE's obligations under Subpart E of 45 C.F.R. Part 164, BA must comply with the requirements of that Subpart that apply to CE in the performance of such obligations.
- l. Audits, Inspection and Enforcement: CE may, after providing reasonable notice to the BA, conduct an inspection of the facilities, systems, books, logs and records of BA that relate to BA's use of CE's PHI, including inspecting logs showing the creation, modification, viewing, and deleting of PHI at BA's level. Failure by CE to inspect does not waive any rights of the CE or relieve BA of its responsibility to comply with this BAA. CE's failure to detect or failure to require remediation does not constitute acceptance of any practice or waive any rights of CE to enforce this BAA.

Notwithstanding BA's obligation to report under paragraph 3.c of this BAA, BA shall provide a monthly report to CE detailing the unauthorized, or reasonable belief of unauthorized, acquisition, access, use, or disclosure of CE's PHI, including any unauthorized creation, modification, or destruction of PHI and unauthorized login attempts. BA shall include privileged and nonprivileged accounts in its audit and report, indicating the unique individual using the privileged account. BA shall also indicate whether CE's PHI subject to unauthorized activity was encrypted or destroyed at the time of the unauthorized activity.

BA shall provide a yearly report to CE that lists the names of all individuals with technical or physical access to CE's PHI and the scope of that access.

- m. Restrictions and Confidential Communications: Within 10 business days of notice by CE of a restriction upon use or disclosure or request for confidential communications pursuant to 45 C.F.R.164.522, BA shall restrict the use or disclosure of an individual's PHI. BA may not respond directly to an individual's request to restrict the use or disclosure

of PHI or to send all communication of PHI to an alternate address. BA shall refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to the BA.

- n. Indemnification: BA shall indemnify and hold harmless CE for any civil or criminal monetary penalty or fine imposed on CE for acts or omissions in violation of HIPAA, the HITECH Act, or the Privacy or Security Rule that are committed by BA, a member of its workforce, its agent, or its subcontractor.
4. Obligations of CE. CE will be responsible for using legally appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to BA under the BAA until the PHI is received by BA. CE will not request BA to use or disclose PHI in any manner that would not be permissible under HIPAA, the HITECH Act or the Privacy and Security Rule if done by CE.
5. Termination.
 - a. Breach: A breach of a material term of the BAA by BA that is not cured within a reasonable period of time will provide grounds for the immediate termination of the contract.
 - b. Reasonable Steps to Cure: In accordance with 45 C.F.R. 164.504(e)(1)(ii), CE and BA agree that, if it knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligation under the BAA, the nonbreaching party will take reasonable steps to get the breaching party to cure the breach or end the violation and, if the steps taken are unsuccessful, terminate the BAA if feasible, and if not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services.
 - c. Effect of Termination: Upon termination of the contract, BA will, at the direction of the CE, either return or destroy all PHI received from CE or created, maintained, or transmitted on CE's behalf by BA in any form. Unless otherwise directed, BA is prohibited from retaining any copies of PHI received from CE or created, maintained, or transmitted by BA on behalf of CE. If destruction or return of PHI is not feasible, BA must continue to extend the protections of this BAA to PHI and limit the further use and disclosure of the PHI. The obligations in this BAA shall continue until all of the PHI provided by CE to BA is either destroyed or returned to CE.
6. Amendment. The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving, and that the parties may be required to further amend this BAA to ensure compliance with applicable changes in law. Upon receipt of a notification from CE that an applicable change in law affecting this BAA has occurred, BA will promptly agree to enter into negotiations with CE to amend this BAA to ensure compliance with changes in law.
7. Ownership of PHI. For purposes of this BAA, CE owns the data that contains the PHI it transmits to BA or that BA receives, creates, maintains or transmits on behalf of CE.
8. Litigation Assistance. Except when it would constitute a direct conflict of interest for BA, BA will make itself available to assist CE in any administrative or judicial proceeding by testifying as witness as to an alleged violation of HIPAA, the HITECH Act, the Privacy or Security Rule, or other law relating to security or privacy.
9. Regulatory References. Any reference in this BAA to federal or state law means the section that is in effect or as amended.
10. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy and Security Rule and applicable state and federal laws. The parties agree that any ambiguity in BAA will be resolved in favor of a meaning that permits the CE to comply with and be consistent with HIPAA, the HITECH Act, and the Privacy and Security Rule. The parties further agree that where this BAA conflicts with a contemporaneously executed confidentiality agreement between the parties, this BAA controls.
10. No Private Right of Action Created. This BAA does not create any right of action or benefits for individuals whose PHI is disclosed in violation of HIPAA, the HITECH Act, the Privacy and Security Rule or other law relating to security or privacy.
12. Privacy and Security Point of Contact. All communications occurring because of this BAA shall be sent to HSS-Security@alaska.gov in addition to the CE.

In witness thereof, the parties hereto have duly executed this BAA as of the effective date.