

	<p align="center"><b>State of South Carolina South Carolina Public Employee Benefit Authority</b></p> <p align="center"><b>Request For Proposal Amendment 1</b></p>	<p>Solicitation Number: PEBA0472026 Date Issued: <b>02/17/2026</b> Procurement Officer: Georgia Gillens, CPPO, CPPB, NIGP-CPP Phone: 803.734.0010 Email Address: <a href="mailto:ggillens@peba.sc.gov">mailto:ggillens@peba.sc.gov</a></p>	
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DESCRIPTION: **Behavioral Health Management Services**

SUBMIT OFFER BY (Opening Date/Time): **04/03/2026 11:00 AM**

*The Term "Offer" Means Your "Proposal". Your offer must be submitted in a sealed package. The Solicitation Number & Opening Date should appear on the package exterior. See the clause entitled "Submitting Your Offer or Modification."*

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

<p>MAILING ADDRESS: S.C. Public Employee Benefit Authority P.O. Box 11960 Columbia, SC 29211-1960 Attention: Georgia Gillens</p>	<p>PHYSICAL ADDRESS: S.C. Public Employee Benefit Authority 202 Arbor Lake Drive Columbia, SC 29223 Attention: Georgia Gillens</p>
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<p align="center">AWARD &amp; AMENDMENTS</p>	<p>Award will be posted on <b>05/01/2026</b>. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <a href="http://www.procurement.sc.gov/doing-biz/bid-ops/peba">www.procurement.sc.gov/doing-biz/bid-ops/peba</a>.</p>
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You must submit a signed copy of this form with your Offer. By submitting a proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of one hundred twenty (120) calendar days after the Opening Date. See the clause entitled "Signing Your Offer."

<p>NAME OF OFFEROR</p> <p>(Full legal name of business submitting the offer)</p>	<p>Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity (i.e., a separate corporation, partnership, sole proprietorship, etc.).</p>	
<p>AUTHORIZED SIGNATURE</p> <p>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</p>		
<p>TITLE</p> <p>(Business title of person signing above)</p>	<p>STATE VENDOR NO.</p> <p>(Register to obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a>)</p>	
<p>PRINTED NAME</p> <p>(Printed name of person signing above)</p>	<p>DATE SIGNED</p>	<p>STATE OF INCORPORATION</p> <p>(If you are a corporation, identify the state of incorporation.)</p>

OFFEROR'S TYPE OF ENTITY: (Check one) (See "Signing Your Offer" provision)

Sole Proprietorship  Partnership  Other \_\_\_\_\_

Corporate entity (not tax-exempt)  Corporation (tax-exempt)  Government entity (federal, state or local)

**PAGE TWO**  
**(Return Page Two with your Offer)**

<p><b>HOME OFFICE ADDRESS</b> (Address for offeror's home office / principal place of business)</p>          	<p><b>NOTICE ADDRESS</b> (Address to which all procurement and contract related notices should be sent.)</p>          <hr/> <p>Area Code, Number, Extension Facsimile</p>          <hr/> <p>Email address</p>
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<p><b>PAYMENT ADDRESS</b> (Address to which payments will be sent.)</p>          <p><input type="checkbox"/> Payment Address same as Home Office Address <input type="checkbox"/> Payment Address same as Notice Address (<b>check only one</b>)</p>	<p><b>ORDER ADDRESS</b> (Address to which purchase orders will be sent)</p>          <p><input type="checkbox"/> Order Address same as Home Office Address <input type="checkbox"/> Order Address same as Notice Address (<b>check only one</b>)</p>
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<p><b>ACKNOWLEDGMENT OF AMENDMENTS</b> Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See the clause entitled "Amendments to Solicitation.")</p>							
Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

<p><b>DISCOUNT FOR PROMPT PAYMENT</b> (See the clause entitled "Discount for Prompt Payment")</p>	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	__ Calendar Days (%)
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**AMENDMENT #1**  
**REQUEST FOR PROPOSAL – PEBA0472026**  
**Behavioral Health Management Services**

**PLEASE NOTE:** The original Request for Proposal document is being superseded and is being replaced in its entirety by Amendment 1. It is recommended that Offerors discard all superseded documents as described above and refer and respond only to the solicitation as described in Amendment 1. Attachment 10 includes responses to questions submitted in writing by the deadline. Any changes agreed to as a result of Attachment 10, Q&A have been incorporated into Amendment 1. Changes are highlighted in yellow. However, Offerors are responsible for reading the entire document in the event the State inadvertently failed to highlight a change. The questions and answers submitted in writing by the deadline are included as an attachment for information only. Only the changes incorporated in Amendment 1 are relevant.

**Deadline for Follow-Up Questions: March 18, 2026 at 3:00 p.m. local time. Questions are limited to changes in the RFP Amendment or to Attachment 10: Q&A.**

REQUEST FOR PROPOSAL (RFP)  
SOLICITATION NUMBER PEBA0472026

**BEHAVIORAL HEALTH MANAGEMENT SERVICES**  
**SCHEDULE OF KEY DATES IN THE PROPOSAL PROCESS**  
**All dates subject to change**

1. Distribution of the Request for Proposal	02/13/2026
2. Deadline for Questions on the RFP (12 p.m.)	02/25/2026
3. (a) Pre-Proposal Conference (b) Final Deadline for Submission of All Questions (c) Final Deadline for submission of the NDA	03/06/2026
4. PEBA's Written Responses to Questions	03/13/2026
5. Submission and Opening of Proposals (11 a.m.)	04/03/2026
6. Notice of Intent to Award Posting Date	05/01/2026
7. Notice of Intent to Award Becomes Official	05/14/2026
8. Implementation Plan Due	05/28/2026
9. Contract Performance	01/01/2027

**PART 1**

**INSTRUCTIONS TO OFFERORS – A. GENERAL INSTRUCTIONS**

**1.1 DEFINITIONS, CAPITALIZATION, AND HEADINGS:** Clause headings used in this solicitation are for convenience only and will not be used to construe meaning or intent. Even if not capitalized, the following definitions apply to all parts of the solicitation, unless expressly provided otherwise.

Amendment means a document issued to supplement the original solicitation document.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity. [11-35-310(3)]

Change Order means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the Contract.

Contract See the clause entitled “Contract Documents & Order of Precedence.”

Contract Modification means a written order signed by the Procurement Officer directing the Contractor to make changes which the clause of the contract titled “Changes,” authorizes the Procurement Officer to order without the consent of the Contractor.

Contractor means the Offeror receiving an award as a result of this solicitation.

Cover Page means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

Member means an individual who participates in the Plan, including all (a) active employees; (b) employees on leave of absence; (c) retirees; (d) survivors of deceased employees; (e) survivors of deceased retirees; (f) COBRA participants; (g)

former spouse of employees or retirees; and (h) any enrolled dependents of the individuals identified in (a) through (f) herein. The term Participant is used interchangeably with the term Member.

Offer means the proposal submitted in response to this solicitation. The term Proposal is used interchangeably with the term Offer.

Offeror means the single legal entity submitting the offer. See the clause entitled "Signing Your Offer."

Parity means the equal treatment of mental health conditions and substance use disorders in insurance plans in compliance with all state and federal laws.. The term full parity is used interchangeably with the term parity.

Procurement Officer means the person, or their successor, identified as such on either the Cover Page, an amendment, or an award notice.

Solicitation means this document, including all its parts, attachments, and any Amendments.

State means the state of South Carolina and the South Carolina Public Employee Benefit Authority (PEBA).

Subcontractor means any person or entity having a contract to perform Work or render service to Contractor as a part of the Contractor's agreement arising from this solicitation and is not limited to only those entities retained by the Contractor exclusively to perform Work arising from this solicitation.

Subscriber means an active or retired employee, surviving child/surviving spouse, COBRA participant or former spouse who is enrolled in the Plan.

Work means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

You and Your means Offeror.

**1.2 AMENDMENTS TO SOLICITATION:** (a) The solicitation may be amended at any time prior to opening. All amendments to this solicitation shall be in writing from the State. The State shall not be legally bound by any amendment which is not in writing. All actual and prospective Offerors should monitor the following website for the issuance of amendments: <https://www.procurement.sc.gov/doing-biz/bid-ops/peba>.

(b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by acknowledging receipt in the Offeror's Executive Summary, (4) by letter, or (5) by submitting a proposal that indicates in some way that the Offeror received the amendment.

(c) If this solicitation is amended, then all terms and conditions which are not modified by the amendment(s) remain unchanged.

**1.3 AUTHORIZED AGENT (FEB 2015):** All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

**1.4 AWARD NOTIFICATION:** Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, the most recent notice of extension of award. Should the Contract resulting from this Solicitation have a total or potential value more than one hundred thousand dollars, such notice will be sent electronically to all Offerors responding to the Solicitation. Unless a written notice of intent to protest is timely filed pursuant to Section 11-35-4210(1)(b) or the award is otherwise suspended or canceled, the award will be effective on the calendar day (including weekends and holidays) immediately following the seventh business day after such notice is given.

**1.5 BID IN ENGLISH & DOLLARS:** Offers submitted in response to this solicitation shall be in the English language and in US dollars.

**1.6 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAR 2024):** Giving false, misleading, or incomplete information on this certification may render you subject to prosecution under Section 16-9-10 of the South Carolina Code of Laws and other applicable laws.

(a) By submitting an Offer, the Offeror certifies that (1) The prices in this Offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to (i) Those prices; (ii) The intention to submit an offer; or (iii) The methods or factors used to calculate the prices offered. (2) The prices in this Offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and (3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the Offer is considered to be a certification by the signatory that the signatory (1) is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or (2)(i) Has been authorized, in writing, to act as agent for the Offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the Offeror's organization responsible for determining the prices offered in this bid or proposal]; (ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and (iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification. (c) If the Offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-1]

**1.7 CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS:**

(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that:

(i) Offeror and/or any of its Principals:

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this Offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and

(D) Are not currently excluded from participation in any federal health care programs.

(ii) Offeror has not, within a three-year period preceding this Offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer, or their designee, if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer, or his designee, may render the Offeror non-responsible.

(d) 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 paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer, or their designee, may terminate the contract resulting from this Solicitation for default without cost to the South Carolina Public Employee Benefit Authority or the State and the Contractor will be charged for the cost of replacement goods and services.

**1.8 CODE OF LAWS AVAILABLE (JAN 2006):** The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at <http://www.scstatehouse.gov/code/statmast.php>. The South Carolina Regulations are available at <http://www.scstatehouse.gov/coderegs/statmast.php>.

**1.9 DEADLINE FOR SUBMISSION OF OFFER:** The South Carolina Public Employee Benefit Authority will receive sealed proposals until 3 p.m. local time on the opening date shown. To be timely filed, proposals and amendments thereto should be received by the time advertised for opening. It is the vendor's sole responsibility to ensure the South Carolina Public Employee Benefit Authority receives these documents. Offerors mailing proposals should allow a sufficient mail delivery period to ensure timely receipt of their proposal by the South Carolina Public Employee Benefit Authority. Any offer received after the Procurement Officer or their designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or South Carolina Public Employee Benefit Authority's mail room prior to the opening. [R. 19-445.2070(G)]

**1.10 DISCLOSURE OF YOUR BID / PROPOSAL & SUBMITTING CONFIDENTIAL DATA (FEB 2021)**

(a) According to Section 11-35-410, any person submitting a document in response or with regard to any solicitation or other request must "comply with instructions provided in the solicitation for marking information exempt from public disclosure. Information not marked as required by the applicable instructions may be disclosed to the public." IF YOU IDENTIFY YOUR ENTIRE RESPONSE AS EXEMPT FROM PUBLIC DISCLOSURE, OR IF YOU DO NOT SUBMIT A REDACTED COPY AS REQUIRED, THE STATE MAY, IN ITS SOLE DISCRETION, DETERMINE YOUR BID OR PROPOSAL NONRESPONSIVE AND INELIGIBLE FOR AWARD.

(b) By submitting a response to this solicitation or request, Offeror agrees to the public disclosure of every page, or portion thereof, of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page, or portion thereof, was redacted and conspicuously marked "Trade Secret" or "Confidential" or "Protected," (2) agrees that any information not redacted and marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure.

(c) If your offer includes any information that you claim is exempt from public disclosure, you must submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). Except for the information removed or concealed, the redacted copy must be identical to your original offer.

(d) Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If only portions of a page are subject to some protection, do not redact the entire page. The redacted copy must reflect the same pagination as the original and show the empty space from which information was redacted. The Procurement Officer must be able to view, search, copy and print the redacted copy without a password. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive.

(e) On the redacted copy, you must identify the basis of your claim by marking each redaction as follows: You must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that you redacted and claim as exempt from public disclosure because it is either (1) a trade secret as defined in Section 30-4-40(a)(1) of the Freedom of Information Act, or (2) privileged and confidential, as that phrase is used in Section 11-35-410. You must separately mark with the words "TRADE SECRET" every page, or portion thereof, that you redacted and claim as exempt from public disclosure as a trade secret pursuant to Section 39-8-20 of the Trade Secrets Act. You must separately mark with the word "PROTECTED" every page, or portion thereof, that you redacted and claim as exempt from public disclosure pursuant to Section 11-35- 1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text.

(f) In determining whether to release documents, the State will detrimentally rely on your redaction and marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "Protected." By submitting a response, you agree to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that you have redacted or marked as "Confidential" or "Trade Secret" or "Protected." (All references to S.C. Code of Laws.)

**1.11 DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (JUL 2023):**

(“OCI FAQ for Contractors” is available at [www.procurement.sc.gov](http://www.procurement.sc.gov))

(a) You certify that, after reasonable inquiry, to the best of your knowledge and belief: (1) your offer identifies any services that relate to either this solicitation or the work and that have already been performed by you, a proposed subcontractor, or an affiliated business or consultant of either; and (2) there are no relevant facts or circumstances that may give rise to an actual or potential organizational conflict of interest, as defined in S.C. Code Ann. Reg. 19-445.2127, or that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award.

(b) If you, a proposed subcontractor, or an affiliated business or consultant of either, have an unfair competitive advantage or an actual or potential conflict of interest, the State may withhold award. Before withholding award on these grounds, the State will notify you of the concerns and provide a reasonable opportunity for you to respond. The State may consider efforts to avoid or mitigate such concerns, including restrictions on future activities.

(c) The certification in paragraph (a) of this provision is a material representation of fact upon which the State will rely when considering your offer for award.

**1.12 DRUG FREE WORKPLACE CERTIFICATION (JAN 2004):** By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

**1.13 DUTY TO INSPECT AND INQUIRE:** Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation and will be implemented on time and performed satisfactorily over the entire term of the contract. **Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation in accordance with clause 1.22 below. Failure to do so will be at the Offeror’s risk.** All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation, or assumption it makes concerning the Solicitation, which Offeror does not bring to the State’s attention pursuant to clause 1.22 below. By submission of a proposal, Offeror also certifies that its Offer has been reviewed by the appropriate individuals within the Offeror’s organization and that the goods and services herein, if an award is made to that Offeror, can and will be provided on time and for the compensation proposed, subject to any negotiations that may affect the amount of compensation.

**1.14 ETHICS CERTIFICATE (MAY 2008):** By submitting an offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment of a former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by Contractor to candidate who participated in awarding of contract. The State may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If Contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, Contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.

**1.15 OMIT TAXES FROM PRICE (JAN 2004):** Do not include any sales or use taxes in your price that the State may be required to pay.

**1.16 OPEN TRADE REPRESENTATION (JUN 2015):** By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

**1.17 PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015):** Violation of these restrictions may result in disqualification of your Offer, suspension or debarment, and may constitute a violation of law. (a) During the period between publication of the solicitation and final award, you must not communicate, directly or indirectly, with the South Carolina Public Employee Benefit Authority or its employees, agents or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010] (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. You represent that your Offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the South Carolina Public Employee Benefit Authority during the period beginning eighteen months prior to the Opening Date. [R. 19-445.2165]

**1.18 PROPOSAL AS OFFER TO CONTRACT:** By submitting Your proposal, You are offering to enter into a contract with the South Carolina Public Employee Benefit Authority. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An offer may be submitted by only one legal entity; “joint bids” are not allowed.

**1.19 PROPOSAL ACCEPTANCE PERIOD:** In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. Otherwise, Your Offer remains valid until final award including through any periods consumed by protests.

**1.20 PROTESTS (MAY 2024):** (a) If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest the solicitation or an amendment, your written protest must be received within fifteen days of the date the applicable solicitation document. To protest an award, (i) written notice of your intent to protest must be received within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date award notice is posted, and (ii) your actual written protest must be received within fifteen days of the date the award notice is posted. Time periods are computed in accordance with Section 11-35-310(13) and the definitions for day and business day. Both protests and notices of intent to protest must be received by the appropriate Chief Procurement Officer. See clause entitled "Protest-CPO" (b) Pursuant to Section 11-35-410, documents directly connected to a procurement activity may be available within five days after request. All document requests should be directed to [procurementfoia@peba.sc.gov](mailto:procurementfoia@peba.sc.gov). If a protest is pending, the protestant’s attorney may access otherwise unavailable information by applying to the CPO for the issuance of a protective order. Additional information is available at [www.procurement.sc.gov/legal](http://www.procurement.sc.gov/legal).

**1.21 PUBLIC OPENING (JAN 2004):** Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

**1.22 QUESTIONS FROM OFFERORS:** (a) Any prospective Offeror desiring an explanation or interpretation of the solicitation, specifications, etc. (see clause 1.13 above “Duty to Inspect and Inquire”), must request it in writing. Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a solicitation will be furnished promptly to all other prospective Offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective Offerors. We will not identify you in our response to your question. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer as soon as possible regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. Offerors should advise the South Carolina Public Employee Benefit Authority of any problems they perceive as a result of reviewing this solicitation document, which may bear upon their ability to comply, or submit any other questions, which might ultimately bear upon the State's ability to enter into the relationship described herein with a selected vendor.

**1.23 RECEIPT OF PROPOSALS:** PEBA will receive sealed proposals until **11:00 A.M.** local time on the opening date shown. The submitting proposer should have printed on the envelope or wrapping containing his offer the Proposal Titled specified on the Cover Page of the Request for Proposal (Page 1) and the proposal opening date/time. PEBA assumes no responsibility for unmarked or improperly marked envelopes. All envelopes received showing the Request for Proposal title and opening date/time will be placed directly under locked security until the date and time of opening. Proposals transmitted electronically or submitted via PEBA's facsimile machine will not be accepted.

**1.24 REJECTION/CANCELLATION (JAN 2004):** The State may cancel this Solicitation in whole or in part and may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065]

**1.25 RESPONSIVENESS (MAR 2024):** (a) Award will not be made on a nonresponsive offer. An offer is nonresponsive (i) if it does not constitute an unambiguous offer to enter into a contract with the State, or (ii) if it imposes conditions inconsistent with, or does not unambiguously agree to, the solicitation's material requirements. (b) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

**1.26 SCREENING FOR EXCLUSION FROM FEDERAL HEALTH CARE PROGRAMS:** Prior to the start date of the contract and routinely during the term of the contract, Contractor will screen its employees, contractors, providers, and other appropriate persons and entities for exclusion from health care programs under Section 1128 of the Social Security Act. Contractor will ensure its compliance with all requirements under Section 1128 of the Social Security Act.

**1.27 SIGNING YOUR OFFER (JAN 2004):** Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words "by its Partner," and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venture involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the joint venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

**1.28 STATE OFFICE CLOSINGS (JAN 2004):** If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the South Carolina Public Employee Benefit Authority office by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule the proposal opening. If state offices are closed at the time a pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at <https://www.scemd.org/closings>.

**1.29 SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35- 410. For every document Offeror submits in response to or regarding this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35- 1810. All markings must be conspicuous; use color, bold, underlining, or some other method to conspicuously distinguish the mark from the other text. Do not mark your entire response as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's

marking of documents, as required by these instructions, as being either “CONFIDENTIAL” or “TRADE SECRET” or “PROTECTED”. By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney’s fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as “CONFIDENTIAL” or “TRADE SECRET” or “PROTECTED”. (All references to S.C. Code of Laws.)

**1.30 SUBMITTING YOUR OFFER OR MODIFICATION:**

(a) All copies of the offer or modification, and any other documents required to be submitted with the offer should be enclosed in a sealed, opaque envelope or package – (1) Addressed to the office specified on the Cover Page; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the Offeror.

(b) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified on the Cover Page.

(c) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered.

**1.31 VENDOR REGISTRATION MANDATORY (MAY 2024):** You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit [www.procurement.sc.gov](http://www.procurement.sc.gov) and select Doing Business with Us. Then select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. **Note that your vendor registration submission may take up to 30 days to process due to high numbers of registrants.** Vendors must keep their vendor information current. If you are already registered and know your User ID and Password, you can update your information by selecting Update Vendor Registration. If you need to update information but do not have your User ID/Password, you must complete a new vendor registration and On Step 9 – Messages to Administration indicate “Update vendor number” with your existing 10-digit vendor number. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at South Carolina Business One Stop, <http://scbos.sc.gov>) [02-2A145-2]

**1.32 WITHDRAWAL OR CORRECTION OF OFFER:** Offers may be withdrawn by written notice received at any time before the exact time set for opening. A proposal may be withdrawn in person by an Offeror or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

## PART 1

### INSTRUCTIONS TO OFFERORS – B. SPECIAL INSTRUCTIONS

**1.33 PRE-PROPOSAL CONFERENCE/SUBMISSION OF QUESTIONS:** There will be a Pre-Proposal Conference at **10:00 a.m. ET on March 6, 2026**, at the South Carolina Public Employee Benefit Authority, 202 Arbor Lake Drive, Board Room, Columbia, South Carolina.

**NOTE:** Due to the importance of all Offerors having a clear understanding of the specifications and requirements of this RFP, attendance at the pre-proposal conference is strongly encouraged. Please bring a copy of the RFP with you. Any changes resulting from this conference will be noted in a written amendment to the solicitation. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State.

Any questions and requests for information or clarifications regarding the RFP must be submitted in writing prior to the adjournment of the pre-proposal conference. Do not wait to request deviations, exceptions, etc. to anything in this RFP until (or in) the submission of your proposal. Anything any Offeror would like PEBA to modify, seek clarifications on, or any other deviation, however modest, must be presented during the question-and-answer phase, and considered and determined by PEBA before the submission date for all proposals so that all prospective Offerors will have a common and uniform basis upon which to submit their proposals. Potential Offerors are strongly encouraged to email or mail their questions on the RFP prior to the pre-proposal conference. PEBA will attempt to provide answers to those questions submitted by the deadline by **February 25, 2026**. Any written questions, requests for information or request for clarifications received prior to the conference or during the conference will be responded to in the form of a written amendment to the RFP and emailed to all prospective Offerors. The amendment will also be posted at the following web address: <https://www.procurement.sc.gov/doing-biz/bid-ops/peba>. Once the pre-proposal conference is adjourned, no further questions will be accepted.

#### **SUBMISSION OF QUESTIONS**

All questions and requests for information or clarifications regarding this RFP must be submitted as indicated below. All questions and requests for information or clarifications should, to the highest degree possible, cite the specific RFP section and paragraph number(s) to which the question refers. All questions and requests for information or clarifications regarding this RFP should include the identity of the sender, firm name, mailing address, telephone number and email address. Email is the preferred method for submitting questions with **“Questions: 2026 Behavioral Health Management Services RFP”** as the subject of the email. Submit questions in an easily copied format such as Microsoft Word. **Do not use tables or PDFs to submit questions.**

#### **SEND QUESTIONS TO:**

**Email address:** [ggillens@peba.sc.gov](mailto:ggillens@peba.sc.gov)

#### **Mail to:**

S.C. Public Employee Benefit Authority  
Questions: **2026 Behavioral Health Management RFP**  
Attn: Georgia Gillens, CPPO, CPPB, NIGP-CPP  
P.O. Box 11960  
Columbia, SC 29211-1960

#### **Hand deliver/Express mail:**

S.C. Public Employee Benefit Authority  
Questions: **2026 Behavioral Health Management RFP**  
Attn: Georgia Gillens, CPPO, CPPB, NIGP-CPP  
202 Arbor Lake Drive  
Columbia, SC 29223

#### **1.34 CONTENTS OF OFFER (FEB 2015):**

- (a) Offers should be complete and carefully worded and should convey all of the information requested.
- (b) Offers should be prepared simply and economically, providing a straightforward, concise description of Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- (c) The contents of your offer should be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.

(d) If your offer includes any comment over and above the specific information requested in the solicitation, you should include this information as a separate appendix to your Offer. Offers which include either modifications to any of the solicitation's contractual requirements or an Offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

**1.35 DISCUSSIONS AND NEGOTIATIONS OPTIONAL (FEB 2015):** Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the South Carolina Public Employee Benefit Authority may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award [11-35-1530(6); R.19-445.2095(I)]. If improper revisions are submitted during discussions, the South Carolina Public Employee Benefit Authority may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [066058-1]

The South Carolina Public Employee Benefit Authority may also elect to conduct negotiations as provided in Section 11-35-1530.

**1.36 OPENING PROPOSALS – INFORMATION NOT DIVULGED (FEB 2015):** Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. In competitive sealed proposals, neither the number, identity of Offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)]

**1.37 PROTEST - CPO - MMO ADDRESS (MODIFIED):** Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to [protest-mmo@mmo.state.sc.us](mailto:protest-mmo@mmo.state.sc.us), (b) by post or delivery to 1333 Main Street, Suite 700, Columbia, SC 29201.

**1.38 UNSUCCESSFUL OFFERORS:** Offerors not awarded a contract under this solicitation may request return of their proposals within thirty (30) calendar days after the notice of intent to award becomes the final statement of award. All cost of returns will be paid by the Offeror. Thirty (30) calendar days after the notice of intent to award becomes the final statement of award all materials submitted by firms not awarded a contract may be destroyed.

**1.39 RELEASE OF CLAIMS:** With the submission of a proposal, each Offeror agrees that it will not bring any claim or have any cause of action against the South Carolina Public Employee Benefit Authority based on any misunderstanding, failure by the South Carolina Public Employee Benefit Authority to properly convey the information, or failure by the South Carolina Public Employee Benefit Authority to provide the Offeror with pertinent information as intended by the RFP. Additionally, the Offeror, its officers, agents, or representatives waive and release the South Carolina Public Employee Benefit Authority and each and any entity, person, or other source providing any information concerning the Offeror, of any and all claims of any sort or variety whether in tort, contract or otherwise, whether known or unknown, regarding the Offeror's or subcontractor's past performance, products, services, personnel, reputation or its Subcontractors or any other information sought or obtained by the South Carolina Public Employee Benefit Authority, whether or not the information is relied on by the South Carolina Public Employee Benefit Authority. The Offeror agrees that it will assert no claims for proposal preparation costs arising from a protest, action or claim arising from the solicitation or award.

## **PART 2**

### **SCOPE OF PROPOSAL**

It is the intent of the South Carolina Public Employee Benefit Authority (PEBA), in accordance with all requirements stated herein or attached hereto, to solicit proposals for Behavioral Health Management Services, to include tobacco cessation services, for both the State Health Plan and MUSC Health Plan. The Contract will be between PEBA and the behavioral health manager. In this document, “Plan” or “Plans” refers to both the State Health Plan and MUSC Health Plan, unless otherwise stated.

PEBA will make one (1) award to one (1) Offeror. The award will be made to the highest ranked, responsive and responsible Offeror whose offer is determined to be the most advantageous to PEBA. Selection will be at the sole discretion of PEBA.

#### **2.1 INTRODUCTION**

PEBA is the state agency responsible for the administration and management of the state’s employee insurance programs and retirement systems. Entities that participate in the employee insurance programs (all state agencies, public school districts, public higher education institutions and those eligible optional employers who have chosen to participate) must offer to all their eligible employees the entire package of available state insurance benefits and allow individual employees to refuse all or any part of the state insurance benefits package. The group health, Basic Dental, Basic Life insurance and Basic Long Term Disability plans are the core benefits that participating entities must provide for each employee by paying a minimum contribution for each plan. Employees may also participate in Dental Plus, the State Vision Plan, Optional Life and Dependent Life insurance and Supplemental Long Term Disability. Active employees may participate in the state’s cafeteria plan, called MoneyPlus, which includes flexible spending accounts and Health Savings Accounts. Health, dental and vision benefits are available to retirees, survivors, COBRA participants and former spouses.

PEBA offers the State Health Plan, a self-funded, fully compliant, grandfathered Affordable Care Act (ACA) health plan for active and retired employees of approximately 870 state agencies, school districts and participating local governments. The State Health Plan is composed of the Standard PPO Plan, with a carve-out option (Carve-out PPO Plan) for Medicare-primary retirees, the Savings Plan, which is a qualified High Deductible Health Plan, and the Medicare Supplement Plan for Medicare-primary retirees. As of January 2026, there are 292,230 Subscribers enrolled in the State Health Plan, with a total of 515,435 Members insured by the Plan, including subscribers, spouses, and children. PEBA also offers the MUSC Health Plan, that includes only active employees working at the Medical University of South Carolina and the Medical University Hospital Authority and its owned hospitals, and the active employees’ covered dependents. This plan is a self-funded, fully compliant, non-grandfathered ACA health plan. It also includes the federally defined Maximum Out-of-Pocket (MOOP) for Members, requiring coordination with the pharmacy benefits manager to accumulate the MOOP in real time. There are 19,059 Subscribers enrolled in the MUSC Health Plan, with a total of 36,444 Members insured by the Plan.

The Contractor shall prepare as if the other state-sponsored plans may be non-grandfathered effective at any time during the term of this contract.

Companion Benefit Alternatives (CBA) currently serves as the behavioral health manager for PEBA under a contract that commenced January 1, 2022, and that will expire on December 31, 2026. The current monthly administrative fee paid to CBA is \$1.25 per subscriber per month. The current Plan third-party medical claims processor and utilization manager is BlueCross BlueShield of South Carolina (BlueCross). CVS Caremark has been awarded a new contract as PEBA’s pharmacy benefits manager commencing January 1, 2026. PEBA contracts with an evidence-based medicine contractor, currently Active Health Management, that commenced on May 1, 2021, and will expire at 11:59 p.m. on April 30, 2026. The purpose of this contract is to apply evidence-based clinical rules to covered person’s claims data with the purpose of communicating specific and timely treatment improvement recommendations to health care providers. This contract was resolicited on November 7, 2025 and was awarded to Active Health Management in January 2026 with an effective date of May 1, 2026.

Claims for services to treat behavioral health conditions are subject to the same deductibles, coinsurance, coinsurance maximums and lifetime limits as medical claims. All services must be authorized by the behavioral health manager to be eligible for payment, but there are no limits on the number of provider visits so long as the care is authorized as medically

necessary by the behavioral health manager. The behavioral health manager must coordinate claims processing with the third-party medical claims processor to provide for the comprehensive deductibles and coinsurance maximums in the Plan. In addition, the behavioral health manager will be expected to collaborate with the third-party medical utilization manager and the pharmacy benefits manager on care management issues that will overlap between the respective functions.

**Prior authorization must be obtained for the following services:**

1. All inpatient services, which includes:
  - a. Inpatient psychiatric and substance use disorder requests.
  - b. Residential Treatment Centers (RTC) for psychiatric and substance use disorder requests.
2. Outpatient services:
  - a. Partial hospitalization (PHP).
  - b. Intensive outpatient program (IOP).
  - c. Outpatient electroconvulsive therapy (ECT) hospital and physician services.
  - d. Repetitive transcranial magnetic stimulation (RTMS).
3. Office setting:
  - a. Psychological/neuropsychological testing.
4. Applied behavior analysis (ABA Therapy).

Effective January 1, 2009, the State Health Plan added coverage of services for autism spectrum disorder (ASD) pursuant to Act 65 of 2007 (Ryan’s Law) as enacted by the South Carolina General Assembly. Age and dollar limits tied to Ryan’s Law for autism spectrum disorder services were removed from the Plans effective January 1, 2015. CBA provides these benefits in accordance with the behavioral health benefits section of the 2025 Plan documents and Section 38-71-280 of the S.C. Code of Laws, which require health insurance coverage for ASD. All services are subject to guidelines formulated by the behavioral health manager and must be approved by the behavioral health manager.

PEBA implemented a social determinants of health (SDoH) program for both Medicare and non-Medicare primary Members through its third-party medical claims administrator. The Contractor will be expected to actively collaborate with the third-party administrator to support and enhance this initiative. This includes aligning efforts to identify and address SDoH-related barriers to care for active and retired Subscribers, as well as their eligible covered dependents. Coordination should focus on integrating services, sharing relevant data where appropriate, and promoting access to resources to improve health outcomes.

PEBA expects the Offeror will address all issues in its proposal related to behavioral health benefits in a mental health parity environment in a first-class manner. These issues and services include providing effective cost containment and keeping the share of the benefits dollar consumed by behavioral health services under control; providing a network of providers that promotes access to services both geographically and by specialty; maintaining a strong clinical focus on the basis for service authorization decisions; taking a positive approach; and keeping good relations with service providers and advocacy groups. This or any other general description contained in this RFP (such as in the first paragraph in the Scope of Work section) in no way alters or reduces the specific requirements contained in this solicitation for both submission of proposals and contract scope of work and performance requirements.

In order to obtain the confidential data listed below, which is necessary to complete a Proposal in response to this RFP, each vendor must complete and return a Non-Disclosure Agreement to the Procurement Officer, Georgia Gillens, as soon as possible to meet the question deadline of **February 25, 2026**. A scanned copy with the appropriate signature, transmitted by email, is acceptable. Upon receipt and approval of an executed Non-Disclosure Agreement, vendors will receive credentials for the SFTP server. PEBA will supply the following datasets in a pipe-delimited (‘|’) text format for claims incurred from January 1, 2024 to December 31, 2025 and paid through January 31, 2026.

Only those vendors who intend to respond to this RFP should submit the Non-Disclosure Agreement. PEBA reserves the right, in its sole determination, to withhold the confidential data listed below from any vendor who cannot demonstrate its ability to meet the minimum requirements and/or is not in the business of providing the required services.

The following confidential data will be available for download after execution of the Non-Disclosure Agreement with PEBA:

A) Eligibility

- a. Person identifier
- b. Date of birth
- c. Gender
- d. Relationship to the insured
- e. Subscriber type
- f. ZIP code
- g. Enrolled plan
- h. Effective date of coverage
- i. Ending date of coverage

B) Medical claims

- a. Person identifier
- b. Date of service
- c. Discharge date (if applicable)
- d. Discharge status (if applicable)
- e. Paid date
- f. Provider identifier (NPI)
- g. Provider name
- h. Procedure code(s) (professional claims)
- i. Procedure modifier(s) (professional claims)
- j. UB04 revenue code (institutional claims)
- k. DRG code (institutional claims)
- l. Place of service
- m. Type of service
- n. ICD 10 diagnosis code(s)
- o. Units of service
- p. Submitted charges

C) Pharmacy claims

- a. Person identifier
- b. Dispense date
- c. Pharmacy ID
- d. Pharmacy type
- e. Prescriber ID (NPI)
- f. Metric quantity
- g. Days of therapy
- h. NDC code
- i. Drug type

Data Notes:

- 1) The claims data period will be incurred from 01/01/2024 to 12/31/2025, paid through 01/31/2026.
- 2) Patients will be consistently identified across datasets.
- 3) Offerors are to assume that the data are complete.
- 4) Claims supplied will be all original submissions.
- 5) Data will be provided for the following State Health Plan options:
  - a. Standard Plan
  - b. Savings Plan
  - c. Medicare Supplement
- 6) Data will be provided for the MUSC Health Plan.
- 7) All diagnosis codes are in seven-digit ICD10 format.
- 8) Lookup values for subscriber type, relationship to the insured, enrolled plan, place of service, and type of service will be supplied with the datasets.

## 2.2 OBJECTIVE

PEBA seeks to obtain behavioral health management Services for up to five (5) years. The initial term will be three (3) years (January 1, 2027, through December 31, 2029) with two (2) additional one-year (1-year) renewal terms.

## PART 3

### SCOPE OF WORK

The Contractor shall provide all personnel, goods and services necessary to administer and manage the behavioral health program in conformance with the Plans' documents, all applicable laws and regulations, and in accordance with all the requirements outlined in this Request for Proposal and the Offeror's response thereto. The Contractor shall also provide, as part of the behavioral health services contract, a comprehensive evidence-based tobacco cessation program as proposed to Plan Members. The Contractor's tobacco cessation program shall help Members stop using cigarettes, electronic nicotine delivery systems (e-cigarettes, vape pens, etc.), cigars, pipes and smokeless tobacco. The Contractor's quit program should encourage Members that quitting tobacco is a lifestyle decision and not just a health decision. PEBA desires to implement a comprehensive, scalable program that supports neurodivergent individuals and their families. The program should integrate one-on-one coaching, care navigation, training and digital tools to improve access, engagement and outcomes across a broad spectrum of neurodivergent needs for members with or without a formal diagnosis. Payment will be made as a claim on a fee-for-service basis to be invoiced in the same manner as other claims. The services provided as part of the behavioral health services contract shall include, at a minimum, claims processing, utilization management, disease management, receipt of eligibility data, cost containment, customer services and reporting. The Contractor agrees that in the event of any disagreement about PEBA's requirements that might occur at any time during the term of the contract, the Contractor will defer to and be governed by, without additional cost, PEBA's interpretation of its requirements so long as that interpretation is reasonable. This provision applies to all matters, including those arising from disputes concerning scope of work issues and whether particular items or efforts were included in the scope of work agreed to by the parties in this Request for Proposal.

The per subscriber per month fixed administrative fee will constitute full payment for all personnel, goods and services necessary to administer and manage the behavioral health program, including a tobacco cessation program, as described in this Request for Proposal and the Offeror's response thereto.

#### A. Account and Personnel Management

1. The Contractor shall maintain a service location staffed at a minimum by an account representative dedicated to PEBA's business who shall provide ready access to PEBA staff. The account representative shall be knowledgeable about all aspects of the behavioral health program, including all behavioral health support programs. The account representative shall be readily available by phone or email during regular working hours to address issues posed by PEBA.
2. The Contractor shall act as consultant to PEBA in the operation of all aspects of the behavioral health program by assisting PEBA in the ongoing review of the programs, and advising of new trends, techniques and programs.
3. The Contractor shall coordinate with the third-party medical claims administrator and the pharmacy benefits manager for the Plans to integrate customer services, care and utilization management, claims processing and data reporting.
4. The Contractor shall meet with PEBA as necessary, but not less than quarterly, to review financial performance and service issues and to take corrective action as directed and approved by PEBA. One of the scheduled meetings should consist of an annual review at PEBA's office in Columbia, South Carolina, to review and summarize financial and clinical issues regarding the claims experience and financial performance of the behavioral health program during the previous plan year. The Contractor shall also, during these meetings, assist PEBA in its ongoing review of the behavioral health program, and advise PEBA as to the following:
  - a. Follow-up on, and the provide status of, any agreed upon corrective action resulting from any preceding meetings.
  - b. Trends and innovations across the behavioral health field, including updates on relevant programs and initiatives.

- c. Legal developments including, but not limited to, regulatory, administrative, statutory and judicial developments relating to behavioral health management. However, between such meetings, the Contractor must promptly, and not later than ten (10) business days following the date of the applicable development, notify PEBA of any changes in the law or regulations affecting mental health and substance use disorder activities.

## **B. Claims Processing and Payment**

1. The Contractor shall process all behavioral health claims (claims includes requests for prior authorizations and continuing stay reviews, where applicable) incurred on and after January 1, 2027, and up to and including December 31, 2031, in accordance with this RFP and all applicable statutory and Plan provisions. Provided, however, that following termination of this agreement, the Contractor shall continue to process all claims and appeals for the Plans that were incurred during the term of the contract at no additional charge for a period of twelve (12) months.
2. The Contractor shall receive, date and control claims within twenty-four (24) hours of receipt.
3. The Contractor shall confirm the claimant's eligibility against the eligibility files supplied electronically by PEBA before authorizing benefits or processing the claim.
4. The Contractor shall determine whether a claim is payable as a medically necessary and covered service under the terms of the Plans.
5. The Contractor shall ensure the claims are reviewed thoroughly and appropriately. Clinical reviewers must spend an adequate amount of time on each review, cursory reviews and reviews that do not consider the patient's history are unacceptable. The Contractor's records must document who reviewed the request; provide the credentials for the reviewer; how much time was spent on the reviews (date stamps will suffice); and an analysis of the applicable review criteria, Plan terms and patient history. Denials must include a robust analysis of why the claim is denied, with reference to the applicable Plan language, standards and determinations of applicable federal and state agencies and regulatory bodies, and utilization review and management standards established by the Contractor for the Plan, and as applied to the patient's history and submitted records.
6. The Contractor shall apply all applicable Plan exclusions.
7. The Contractor shall check claims history and prevent duplicate payments or payments that exceed contract limits.
8. The Contractor shall identify any claim that is unusual in amount or service rendered and review the claim.
9. The Contractor shall identify any instance where coordination of benefits, including Medicare, workers' compensation or subrogation, applies and take appropriate action to recover claims payments or other costs.
10. The Contractor shall maintain the necessary data link with the Plans' third-party medical claims administrator or any successor, for application of deductible credit and out-of-pocket limits with the medical plan. Deductibles and out-of-pocket limits for behavioral health claims must be integrated with the medical plan.
11. The Contractor shall transmit in real time, or near-real time, the data necessary to coordinate application of Plan provisions, such as deductibles and out-of-pocket limits to the third-party medical claims administrator.
12. The Contractor shall maintain a history of all behavioral health claims paid. No less than thirty-six (36) months of claims history shall be maintained in the claims processing system used to process claims.
13. The Contractor shall generate and remit claims payments to providers and an explanation of benefits or denial notice to providers and enrolled Members when claims are processed. If any part of the claim is denied by the Contractor, the explanation of benefits or denial notice must sufficiently describe the appeal process.
14. The Contractor shall adjudicate and pay claims according to a variety of provider reimbursement methodologies including, but not limited to, those provider reimbursement methodologies outlined in Attachment 6.

15. Provide an internal appeal process for all claim denials in accordance with the Plan documents, specifically Article 12.
- a. If any part of a claim is denied by the Contractor and the Member requests a review within six (6) months after receiving notice of the decision from the Contractor, the Contractor must provide a review of the decision. If the Contractor continues to deny any part of the claim, the Member can appeal the Contractor’s decision to PEBA.
    - (i) The Contractor must also provide an expedited review process to providers and allow providers no less than 48 hours after the initial denial to initiate an expedited review. The Contractor will resolve expedited review requests within 72 hours of receipt.
    - (ii) All internal appeal decisions, including for expedited review requests, will be reviewed thoroughly and appropriately. Clinical reviewers must spend an adequate amount of time on each appeal review, cursory reviews and reviews that do not consider the patient’s history are unacceptable. The Contractor’s records must document who reviewed the appeal request; provide the credentials for the reviewer; how much time was spent on the reviews (date stamps will suffice); and an analysis of the applicable review criteria, Plan terms and patient history. Appeal denials must include a robust analysis of why the appeal is denied, with reference to the applicable Plan language, standards and determinations of applicable federal and state agencies and regulatory bodies, and utilization review and management standards established by the Contractor for the Plan, and as applied to the patient’s history and submitted records, including any submitted on appeal that were not considered during the initial denial.
  - b. The Contractor will cooperate with PEBA's appeals process for disputed claims, providing personnel to supply complete accurate, timely and legible documentation as necessary to support the Contractor’s decisions and assist PEBA in its review.
  - c. The documentation shall be transmitted to PEBA within 10 business days of PEBA’s request and must include at a minimum: (a) the determination, which should reflect sufficient understanding of the information relevant to the claim; reference to the information submitted by the Member; a robust analysis of why the claim was denied and reference to the applicable Plan language, standards and determinations of applicable federal and state agencies and regulatory bodies, and utilization review and management standards established by the Contractor for the Plans; (b) all documentation submitted on behalf of the Member regarding the claim; (c) a copy of the Plan language, standards and determinations of applicable federal and state agencies and regulatory bodies, utilization review and management standards, and any other standards relied upon by the Contractor; and (d) documentation of contacts with the Member or on behalf of the Member, whether via email, telephone or letter, regarding the claim.
  - d. At all times, the Contractor shall provide access to pharmacy and medical advisors for further review of disputed claims or appeals as needed by PEBA.
  - e. The Contractor shall provide access to independent medical reviewers as requested by PEBA to assist in its determination of behavior health claims and appeals.
16. If PEBA denies any part of a claim and the Member appeals to the courts, the Contractor will be responsible for providing legal representation to defend the denial. The legal representation is subject to PEBA’s approval, and PEBA may at any time during the course of the Contract, in its sole discretion, for any reason or no reason at all, reject the offered counsel and require new counsel be retained on its behalf. The legal representation must include attorneys experienced in employee benefits defense or appearance before the South Carolina Administrative Law Court.

Following are appeal counts for **2024** and **2025** appeals. These do not include Level III appeals referred to PEBA. There were **three (3)** PEBA-level **appeal requests** in **2024** and **four (4)** PEBA-level **appeal requests** in **2025**.

	<b>2024</b>	<b>2025</b>
<b>Clinical</b>	71	54
<b>Administrative</b>	16	7
<b>Total</b>	87	61

### **C. Behavioral Healthcare Provider Networks**

1. The Contractor shall operate and maintain a network of participating behavioral health providers that treat both adult and pediatric Members to include psychiatrists, clinical psychologists, masters-level therapists and nurse practitioners. PEBA desires the maximum participation by all willing behavioral health providers and the greatest geographical coverage for the network within South Carolina, including rural areas. This network of providers should also include providers that deliver measurement-informed care, utilizing ongoing patient progress data to guide clinical decisions and improve outcomes.
2. The Contractor shall provide a continuum of treatment services and settings for delivery of medically necessary covered inpatient and outpatient behavioral health services at contracted fee-for-service rates.
3. The Contractor shall, in addition to developing and maintaining guidelines for coverage of Autism Spectrum Disorder in accordance with the Plans' provisions and Section 38-71-280 of the S.C. Code of Laws, develop and maintain a network of applied behavioral analysis (ABA) providers certified by the Behavior Analyst Certification Board for the delivery of ABA therapy covered services. Board certified behavior analysts who are contracted with the Contractor must provide direct supervision to their staff, including board certified associate behavior analysts and/or any non-certified ABA therapists. Direct supervision includes the observation and oversight of the delivery of hands-on ABA therapy by behavioral therapy staff.
4. The Contractor shall demonstrate on or before October 1, 2026, and to the satisfaction of PEBA at its sole discretion, that the networks can commence operation on January 1, 2027. The Contractor agrees to implement promptly any instructions from PEBA designed to accomplish full and successful implementation and ongoing performance in a timely manner as may be made from time to time without additional cost.
5. The Contractor shall work collaboratively with PEBA in a transparent and communicative manner regarding its network contracting, pricing and strategies. The Contractor shall communicate with PEBA any issues regarding network participation including resolutions to the effect that network participation impacts PEBA Members. The Contractor shall make available any proprietary networks owned and operated by the Contractor and notify PEBA of any contracts, agreements or other arrangements that provide comparable goods and services to other behavioral health payors for a lower price or a discounted price and make all such networks available to PEBA. The Contractor shall be transparent with their fee schedules and other network pricing agreements for covered services, including any updates or recommendations in reimbursement methodologies.
6. The Contractor shall provide PEBA with copies of provider level fee schedules and other network pricing agreements for covered services, including updates. The Contractor shall collaborate with PEBA in setting rates for fee schedules and other network pricing agreements. Historical data on network pricing should be retained in a manner that supports retrospective analysis of claims.

PEBA fully expects to use the Contractor's network of participating mental health and substance use disorder providers. However, in the event that PEBA decides to enter into direct contract with such providers, the Contractor shall administer and manage the Plans' provider networks, including administration of existing contracts, investigation and resolution of reimbursement disputes between PEBA and the providers in the network, and the renewal of existing provider network contracts. PEBA would provide the Contractor with at least one-hundred eighty (180) days' notice to transition to a direct contract arrangement. In this event, PEBA would maintain direct contracts with providers for mental health and substance use disorders in the provider networks and generally determine reimbursement rates with input from the Contractor. In this event, PEBA would make all decisions concerning the design and operation of the provider networks and has the sole right to enter into any contracts with providers.

The Contractor shall:

1. Review all applicants for membership in the provider networks, including a review of provider documentation/credentialing information provided by providers and available disciplinary information, including those current members of the Contractor's provider networks, to identify providers who do not meet generally accepted standards.

2. Advise PEBA regarding acceptance, rejection or termination of membership and report the results to PEBA.
3. Conduct an appeal process for any provider rejected for or terminated from membership and indemnify and hold harmless PEBA from all claims and damages arising from, asserted, or brought against the Contractor or PEBA hereunder.

#### **D. Utilization Management**

1. The Contractor shall provide utilization management services to review and evaluate proposed treatment and length of stay determinations for:
  - a. Determination of medical necessity.
  - b. Appropriate type and setting of care.
  - c. Continuing review of care.
  - d. Case management.
  - e. Discharge coordination and planning.
  - f. Out-of-area and emergency care.
  - g. Provider profiling on cost and utilization patterns.
  - h. Retrospective review of claims.
2. The Contractor shall establish criteria and utilization review procedures that are consistent with the Plan and generally recognized behavioral health management standards and procedures.
3. The Contractor shall coordinate behavioral health benefits for Members with co-occurring disorders, and coordinate between behavioral health care providers and other providers.
4. The Contractor shall identify service utilization problems and undertake corrective actions.
5. The Contractor shall collaborate with PEBA's pharmacy benefits manager on any utilization review programs in place with the objective of minimizing the risks of adverse medical outcomes and promotes safety by ensuring appropriate care is provided and medications are prescribed.
6. PEBA contracts with an evidence-based medicine contractor to apply evidence-based clinical rules to a Member's claims data with the purpose of communicating specific and timely treatment improvement recommendations to health care providers. The Contractor shall cooperate with PEBA and the evidence-based medicine contractor by making claims data available to the evidence-based medicine contractor in mutually agreeable electronic formats. At present, PEBA desires to continue its current practice of having the Plan's third-party medical claims administrator provide behavioral health claims data to the evidence-based medicine contractor from the claims information provided by the behavioral health contractor. In the event PEBA decides to change its current practice, the Contractor shall establish the necessary data links with PEBA's evidence-based medicine contractor to allow for the exchange of both eligibility and claims data for the Plan. The Contractor shall transmit data no less frequently than weekly. A file layout with the required standard data elements will be provided.

#### **E. Disease Management**

1. The Contractor shall provide a disease management program for non-Medicare primary Members and advise and support PEBA in its health and disease management efforts. Programming offered should include at a minimum care management and interventions for both adult and children/adolescents, when applicable, around:
  - a. Anxiety, stress and depression.
  - b. Addictive behavior recovery support.
  - c. Substance use disorder peer recovery support.
  - d. Attention Deficit Hyperactivity Disorder (ADHD).
  - e. Bipolar disorder.
  - f. Assistance for moms across the child-bearing spectrum.
  - g. Medication assistance treatment program.
  - h. Eating disorders.

2. The Contractor shall provide PEBA and/or its designated representative, in a secure manner by the 20<sup>th</sup> of each month, a detailed monthly disease management participation file. The monthly file should include at a minimum disease management programming Member, program participation (opt-in/opt-out), components of the program the Member is participating in and the effective dates of participation.
3. In addition to standard disease management programs, the Contractor shall provide programming for specialized behavioral health programs that complements core benefits by offering condition-focused support, including access to expert care teams and specialists. These programs should use evidence-based therapies to target high-need areas with tailored interventions, improve clinical outcomes, enhance member engagement, and close gaps in traditional care models. These programs should be accessible through multiple channels including virtual or digital-based platforms and delivered in ways that align with Member's preferences and needs for engaging in care.

#### **F. Tobacco Cessation Program**

PEBA seeks to collaborate with a Contractor to deliver a comprehensive and impactful tobacco cessation program that empowers Plan Subscribers, their covered spouses and dependent children aged 18 and older to successfully quit tobacco. The Contractor should aim to leverage the latest evidence-based strategies, innovative tools, and personalized support approaches to address all forms of tobacco use. By combining clinical expertise with accessible, user-friendly resources, the program should help Participants build sustainable habits and improve long-term health outcomes. The Contractor should be committed to ensuring the program meets high standards of effectiveness and engagement.

1. The tobacco cessation program shall be evidence-based, ACA-compliant, and offered at no cost to Participants. It should be designed to support Members in quitting all forms of tobacco products including electronic nicotine delivery systems. It should include multiple access points for engagement, personalized support, professional counseling, timely access to FDA-approved NRTs, and promotional materials to support awareness and referrals.
2. The Contractor shall collaborate with PEBA's third-party medical claims administrator, currently BlueCross, to encourage Member enrollment in a tobacco cessation program through BlueCross' health coaching programs, digital health and wellbeing platform, or other forms of Member engagement and contact such as PEBA's specific Plan website, [statesc.southcarolinablues.com](http://statesc.southcarolinablues.com), which is maintained by BlueCross.
3. The Contractor shall collaborate with PEBA to establish program goals including, but not limited to, successful quit rates and Member engagement. The Contractor shall report annually on program goals and identify any areas of opportunity to improve on program performance.
4. The Contractor shall provide semi-annual standardized reports including dashboards with key performance indicators, participant demographics, program entry methods, awareness sources, utilization metrics, participation by contact method, and estimated cost savings based on quit rates.
5. The Contractor shall have the ability to provide monthly a program participation file to PEBA and/or its third-party medical claims administrator that includes, but is not limited to, the following:
  - a. Subscriber identifier (BIN).
  - b. Participant identifier (PEBA relationship code).
  - c. Participant first name.
  - d. Participant last name.
  - e. Participant date of birth.
  - f. Type of coaching (phone, online).
  - g. Date of coaching session(s).
  - h. Indicator for completed coaching sessions.
  - i. Goals assigned.
  - j. Goals accomplished.
  - k. Date goals accomplished.
  - l. Pharmacotherapy recommended.

6. The Contractor shall provide a monthly program completion file within fifteen (15) business days following the end of the month, to PEBA's Insurance Finance area for removal of the tobacco surcharge in the month following program completion that includes the following:
  - a. Report start date.
  - b. Report end date.
  - c. Participant first name.
  - d. Participant last name.
  - e. Subscriber identifier (BIN).
  - f. Program completion date.

#### **G. Eligibility of Subscribers**

1. PEBA shall determine and maintain eligibility and enrollment information. PEBA shall provide the Contractor, on a daily basis, an electronic file of eligibility updates including adds, terminations and changes since the last file transmission. The Contractor shall accept, process, maintain and update eligibility information from the files provided by PEBA on a daily basis. The Contractor shall verify eligibility from eligibility data provided by PEBA and certify eligibility to hospitals and other providers of service in a timely manner. The Contractor shall refer to PEBA, for consideration and PEBA's final decision, any questions with respect to Member eligibility for benefits.
2. PEBA's eligibility database shall be considered the system of record and eligibility data stored on the Contractor's systems must mirror the eligibility data maintained by PEBA. Any modifications needed to accommodate PEBA eligibility data shall be done at the Contractor's expense. Any updates to PEBA's eligibility data will be made by PEBA, including information received from CMS pursuant to PEBA's voluntary data sharing agreement.
3. PEBA shall provide the Contractor, on a schedule determined by PEBA, a full positive enrollment file. It is anticipated that this type of file shall be provided by PEBA to the Contractor on an annual basis.
4. PEBA conforms to the Commercial X12 834 data transmission through electronic data interchange. The Contractor must support key based SFTP data transfers, unless otherwise pre-approved by PEBA.
5. The Contractor shall support forced transport layer security (TLS) for all email communications with PEBA.
6. The Contractor shall provide PEBA with a daily acknowledgement of files received and entered in Contractor's system.
7. The Contractor shall provide PEBA, upon request, with a processing report, in a format acceptable to PEBA, of any transactions that did not update when eligibility data sent from PEBA to the Contractor was entered into the Contractor's system.
8. The Contractor shall reconcile their enrollment records periodically with those provided by PEBA in accordance with procedures agreed upon by the Contractor and PEBA.
9. The Contractor shall maintain in its database occurrences of subscriber history, including status changes (active, retired, COBRA, survivor) or a change in coverage level (subscriber only, subscriber/spouse, subscriber/child, full family, child only for COBRA and survivor enrollees) sufficient to adjudicate claims and reconcile eligibility data with PEBA.
10. The Contractor shall provide PEBA with a monthly membership file, containing only Covered Persons in an active status, for comparison to PEBA's database. PEBA will accept the file by FTP using VPN tunnel.
11. The Contractor shall provide on a monthly basis a set of claims data in electronic format to PEBA and/or its designated representative.
12. The Contractor shall provide a secure online connection for the purposes of permitting selected PEBA personnel access to make online inquiries of the Contractor's database and the ability to make real-time changes to the Contractor's records regarding a Member's eligibility. The Contractor shall provide different levels of access to the database for employees based on PEBA's specifications. Regardless of the level of access, the data for all Plan Members shall be

accessible to the employee through a single sign-on. All changes by PEBA are subject to strict controls including a limited number of persons with access and use of passwords. The Contractor shall provide PEBA documentation of all direct updates by PEBA to the Contractor's databases. Data integrity, security requirements and HIPAA regulations require an encrypted connection for transfer of data. Secure online connections must support the most current best practice version of TLS for encryption unless otherwise pre-approved by PEBA. Connections other than web connections must use other best practice encryption, such as VPN, as approved by PEBA.

13. The Contractor's system shall be accessible by PEBA during all business days from 7:30 a.m. to 6 p.m. Eastern Time, Monday through Friday. PEBA equipment may require system accessibility outside the normal time frame mentioned above (i.e., enrollment periods or other unusual circumstances outside the normal scope of everyday operations) and other times required by PEBA.
14. PEBA shall provide the Contractor the ability to inquire into PEBA's online enrollment eligibility system. The Contractor shall use the system to respond to any enrollment questions from subscribers or providers. The Contractor shall notify PEBA's Insurance Operations Manager when one of its employees who previously has been granted access to the system leaves employment so that the employee's access can be removed.
15. The Contractor shall provide its personnel to train PEBA staff on the Contractor's system. Training shall be conducted initially during the implementation phase of the contract, and at least annually thereafter and shall include all updates and changes. The training shall take place in an environment agreeable to PEBA, which might include in-person training at PEBA's office in Columbia, South Carolina.
16. The Contractor shall be responsible for transmitting and maintaining data security and confidentiality as required by state and federal law, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
17. The Contractor shall maintain encrypted database backups with such redundancy and in a manner that will eliminate disruption of service or loss of data due to system or program failures.
18. The Contractor shall maintain a disaster preparedness plan that will limit service interruption in case of emergency (force majeure) and will ensure compliance with all requirements under the Contract. The disaster recovery plan shall include instantaneous failover and recovery without loss of data, information or transactions. The disaster recovery plan must include a disaster recovery site or sites located outside the effects of common disaster that would otherwise impact the primary site.
19. The Contractor shall maintain a business continuity plan including provisions for the periodic testing of system failover, disaster recovery and redundant communication cutover.
20. To comply with confidentiality policies and applicable laws, the Contractor shall ensure it has the ability to restrict certain Subscribers from accessing contact or claim information for dependents with such an indicator on their profile. In addition, the Contractor will ensure that any mailings or communications for restricted dependents are sent to the separate address provided by PEBA. The Contractor will also ensure a separate authorized representative be documented on restricted dependent profiles and provide that authorized representative with the necessary access to handle the affairs of restricted dependents.

## **H. Financial Arrangements**

### **1. Administrative fees payable to the Contractor**

The administrative fees payable to the Contractor shall be considered full and complete compensation for all goods, services and requirements to provide third-party administrator behavioral health benefits to PEBA.

The total administrative fee remittance shall be determined exclusively by PEBA based upon the PEBA enrollment files. Administrative fees shall be based upon a snapshot enrollment count as of a specific calendar date prior to the upcoming month due. Administrative fees shall be paid on a per subscriber per month basis and remitted to the

Contractor monthly by the 15<sup>th</sup> working day of the current month per PEBA's working schedule. All disbursements of administrative fees shall be processed via ACH (Automated Clearing House) transaction to the financial institution provided by the Contractor. ACH transactions will be initiated by the S.C. State Treasurer.

The Contractor should not provide invoices for administrative fees to PEBA. PEBA shall provide documentation to the Contractor validating the administrative fee remittance.

## 2. Claims reimbursements to the Contractor

The Contractor shall accept claims reimbursements weekly for claims payments. Reimbursements from PEBA should not be held in an account resulting in accrual of earnings to the Contractor. For the tobacco cessation program, the Contractor shall receive as a claim, reimbursement based on enrolled participants who complete the program based on the core components of the program. The Contractor shall receive as a claim, reimbursement for nicotine replacement therapies (e.g., gum, lozenges and patches) on a fee-for-service basis.

The Contractor shall provide viable claims invoices to PEBA via secured web-based access to assigned PEBA personnel and/or to a unique email address as specified by PEBA. Claims invoices must clearly identify the claims period and provide itemization of claims, credits, refunds and offsets for each behavioral health plan identified by PEBA as available to Members. Separate and distinct claims invoices and/or clearly defined itemization shall be provided by the Contractor for each behavioral health plan identified by PEBA. The layout of claims invoices must be in an acceptable format approved by PEBA.

PEBA shall remit reimbursement to the Contractor within three to five (3-5) business days following receipt of viable claims invoices subject to completion of the payment process by the S.C. State Treasurer (typical processing is completed in two to three business days). All claims reimbursements shall be processed via ACH transaction to the financial institution provided by the Contractor. ACH transactions will be initiated by the S.C. State Treasurer.

3. All disbursements and remittances to the Contractor for administrative fees and claims reimbursements, as well as any additional disbursements occurring during the contract period, shall be forwarded to one financial institution account held in the Contractor's name as provided by the Contractor. PEBA will not issue payments related to the contract to third parties or subcontractors. The Contractor shall process all PEBA transactions with a financial institution and accounts identifiable as separate from all other of the Contractor's business processes. PEBA shall require a minimum of 60 days' notification of a change in the financial institution provided by the Contractor for receipt of PEBA remittances.
4. The Contractor shall assist PEBA in meeting any federal compliance requirements occurring during the contract period that are associated with self-insured behavioral health plans. Federal compliance requirements shall be defined and resolved upon each occurrence during the contract period.
5. The Contractor shall provide monthly reconciled bank statements from the financial institution used by the Contractor for PEBA business and related reports to PEBA which identify receipt of PEBA claims reimbursements, refunds, overpayments, collections and write off activity related to all behavioral health plans offered by PEBA. PEBA shall have input with the Contractor in approving the reports. Reports should be forwarded to PEBA via the same secure web-based portal or unique email address as used for transmission of claims invoices. Reports should be forwarded to PEBA in 45 days or less following the end of each month.
6. The Contractor shall provide a Statement on Standards for Attestation Engagement #18 (SSAE 18) report to PEBA by August 15 each year (both SOC1 Type 2 report and a SOC2 report should be provided). The report should cover no less than 50% of the period in which the Contractor provided services to PEBA through June 30 of the same year.

## I. Customer Service

1. The Contractor shall provide customer service representatives, who have training on the specific features of the behavioral health benefits of the Plans, to respond to written and telephone inquiries from Members, providers and employers; to answer general questions and provide assistance with accessing benefits; and to resolve claims payments problems. Customer service representatives must be knowledgeable about all Plans offered by PEBA and able to assist Members with questions regardless of the Plan in which they are enrolled.
2. The Contractor shall assist Members, providers and employers via dedicated toll-free customer service telephone line(s). The telephone line should be fully staffed with knowledgeable customer service representatives (not a recording), and open for at least ten (10) hours daily during normal business hours and on the same business days as PEBA. The Contractor will be required to demonstrate that it has established and staffed telephone lines by December 1, 2026.
3. The Contractor shall provide representatives with a manager readily available during the hours of 8 a.m. to 5:30 p.m. EST and on the same business days as PEBA to take calls from PEBA's customer service representatives and managers. The Contractor's representative shall be capable of responding to all inquiries and be able to resolve issues of eligibility, enrollment, claims and any other administrative matter presented to them. The Contractor shall provide an escalation process of problem resolution to PEBA customer service managers. This process shall involve Contractor management representatives who have authority to resolve more complex issues. The Contractor will be required to demonstrate it has established and staffed telephone lines by December 1, 2026.
4. The Contractor shall provide Members with a direct toll-free telephone line maintained by a live person, available during the **hours of 8 a.m. to 6 p.m.** EST in search of services related to behavioral health and to assist in finding the appropriate provider for such services. This telephone line should not be a part of the toll-free customer service line(s) as described in Part 3.I.2.
5. The Contractor shall assist Members via a dedicated toll-free telephone crisis line staffed at all times, twenty-four (24) hours per day, including weekends and holidays, by qualified personnel who can provide referrals and assistance for emergencies to Members, if necessary.
6. The Contractor shall provide or collaborate with PEBA's third-party medical claims administrator to use their digital navigation platform, currently BlueCross' My Health Toolkit, transparency tools and any other digital applications used by PEBA's Members that enhance the user experience.
7. The Contractor shall provide callers with a PEBA specific survey instrument at the end of each call or online inquiry to gauge customer satisfaction (e.g., wait time, courtesy of staff, knowledge of product, willingness to assist, problem resolved/question answered) with the Contractor's call center.
8. The Contractor shall conduct an annual Customer Satisfaction Survey for participants to gauge satisfaction with the Contractor. The Customer Satisfaction Survey must be approved by PEBA prior to distribution. Results must be submitted to PEBA.
9. The Contractor shall ensure the confidentiality of Member information in responding to inquiries.

Following are counts of customer service web inquiries from the current contractor for 2024 and 2025

	2024	2025
<b>Web inquiries</b>	4,197	3,559

## **J. Communications and Training**

1. The Contractor shall furnish communication information on covered behavioral health benefits to subscribers, benefits administrators and behavioral health care providers. Communications should describe the features, operations and any changes of the behavioral health benefit and increase awareness of the benefits and changes. Communications with PEBA, subscribers, benefits administrators and providers will be undertaken to ensure that electronic data transfer, fax, telephone and hard copy transfer of information are accurate as determined by PEBA.
2. The Contractor shall work collaboratively with PEBA's Communications Department and Insurance Policy staff to develop an annual marketing plan to promote the behavioral health benefits. The Contractor shall provide recommendations to meet the long-term and short-term goals. PEBA will produce the final marketing plans with input from the Contractor. All collateral are subject to approval by PEBA's Communications Department prior to actual use.
3. The Contractor shall provide at least one staff member with experience in marketing and communications for a quarterly communications conference call in which initiatives, campaigns and progress will be discussed. Recommend specific communications plans and goals in accordance with the overall management of the behavioral health benefits during these calls. Reporting of general and targeted metrics and status updates, as well as operational updates, will be required as well. Other calls may be scheduled in addition to quarterly calls to meet deadlines for campaigns.
4. The Contractor shall ensure that all informational materials, letters and marketing collateral are cobranded with PEBA's logo and the Contractor's logo according to PEBA's identity guidelines for vendors. The Contractor's logo should be labeled as "Administered by:" to reflect the relationship between PEBA and the Contractor. The Contractor should follow other guidelines including size of logo, colors, typography and other styles as identified in the identity guidelines and will also adhere to Associated Press style guidelines. All materials must be reviewed and approved by PEBA's Communications Department prior to use.
5. The Contractor shall develop and distribute (including processing of returned mail), at its own expense, all approved communications materials and items. Distribution to active employees is through the employee's benefits administrator and by mail to addresses of eligible retirees, COBRA participants and survivors. Materials must be reviewed and approved by PEBA's Communications Department prior to use.
6. The Contractor shall provide a customized microsite that is accessible without entering a password that includes information specific to the behavioral health benefits and features available through PEBA. The microsite shall explain the benefits and value of the Plan's features, and provide helpful resources, including how to find a network provider. Microsite content must be reviewed and approved by PEBA's Communications Department prior to use.
7. The Contractor shall not conduct any mass mailings to enrolled eligible Members or employers without the prior express permission of PEBA.
8. The Contractor shall provide materials and personnel, upon PEBA or employers' request, to attend events to promote the behavioral health benefits to Members and provide rules, updates, changes and other features of the behavioral health benefits, especially during the October open enrollment period. All materials distributed by the Contractor are subject to prior approval by PEBA's Communications Department.
9. The Contractor shall provide personnel at PEBA's Benefits at Work Conference, if requested, should the agency host a conference.

## **K. Reporting**

1. The Contractor shall provide standardized reports utilizing an online reporting system capable of generating such reports in a format acceptable to PEBA.  
Functionality includes utilization and financial measures summary and detail reporting filterable by date (incurred and paid) and month (incurred and paid) that includes at a minimum:
  - a. Inpatient admits, days and covered charges by reimbursement methodology.
  - b. Transitional setting services and covered charges by diagnosis.
  - c. Other ambulatory setting services and covered charges by place of treatment and diagnosis.
  - d. Utilization and covered charges by provider type.
  - e. Utilization and covered charges by provider location.
  - f. Utilization and covered charges by network participation (in-network and out-of-network).
  - g. Member type (subscriber/dependent/active/retiree/etc.).
  - h. Plan (State Health Plan/MUSC Health Plan).
    - i. Patient-origin of access to care (self or provider referral, emergency room, inpatient discharge, etc.).
2. The Contractor shall provide quarterly review reporting as referenced in Part 3.A.4. Summary level by quarter and year-to-date.
  - a. Key financial and utilization metrics that evaluate Plan performance.
  - b. Care management engagement, participation and clinical outcomes by program.
  - c. Specialized behavioral health support program outcomes as described in Part 3.E.3 to include but not limited to:
    - (i) Patient engagement/utilization trends.
    - (ii) Patient completion rates.
    - (iii) Patient progress metrics.
    - (iv) Financial performance.
    - (v) Clinical outcomes/assessment/screening score trends.
    - (vi) Program impact on broader health outcomes and spend.
3. The Contractor shall provide to PEBA and/or its designated representative a detailed paid claims transaction file that is transmitted weekly in a secure manner to PEBA and PEBA's data warehouse contractor within seventy-two (72) hours following request for payment to PEBA. The Contractor may be required to modify the contents of this paid claims file to reflect any changes made by PEBA to the Plan. The Contractor shall provide all ICD-10 diagnosis and procedure codes captured during adjudication (maximum of twenty-four ICD codes per claim), including Present on Admission (POA) indicators where available. The Contractor shall supply all digits of any ICD classification captured during the claim adjudication process. The file shall include, at a minimum, the information detailed in Attachment 7 – Detailed Claims File.
4. The Contractor shall supply a complete provider file in electronic format to PEBA and PEBA's warehouse Consultant no later than the tenth (10<sup>th</sup>) business day of the month following the end of each calendar quarter. The Contractor shall modify or expand the contents of this file as required to reflect any Plan changes requested by PEBA. The file shall include, at a minimum, the information detailed in Attachment 8 – Detailed Provider File.
5. The Contractor shall supply a complete practitioner file in electronic format to PEBA and PEBA's Data Warehouse Contractor no later than the tenth (10<sup>th</sup>) business day of the month following the end of each calendar quarter. The Contractor shall modify or expand the contents of this file as required to reflect any Plan changes requested by PEBA. The file shall include, at a minimum, the information detailed in Attachment 9 – Detailed Practitioner File.
6. The Contractor shall provide, within 50 days of the end each quarter, reports that will confirm compliance or non-compliance with each of the proposed performance standards. The Contractor agrees to modify these reports both as to form and contents as may be requested from time to time by PEBA at no additional cost to PEBA.
7. The Contractor shall provide a limited number of ad-hoc or customized reports as are reasonably necessary to estimate cost impact of benefit modifications and to monitor performance of the contract at no additional cost to PEBA.

8. The Contractor shall provide any other reports necessary to satisfy local, state or federal laws and/or regulations at no additional cost to PEBA.

#### **L. Information Security.**

1. PEBA is subject to the information security requirements defined by both state and federal statutes. All systems maintained by Contractor that transport, maintain, and/or store data owned and/or managed by PEBA are also subject to some or all these information security requirements, as determined by the scope of the contracted services.

These include but are not limited to:

Health Insurance Portability and Accountability Act, (HIPAA), as amended  
South Carolina Department of Information Security and Privacy Standards (SCDIS-200), as amended, at [https://www.admin.sc.gov/sites/admin/files/Documents/PMOOTIS/SCDIS-200\\_v2.0\\_Final.xlsx](https://www.admin.sc.gov/sites/admin/files/Documents/PMOOTIS/SCDIS-200_v2.0_Final.xlsx)  
NIST SP 800-53 Rev. 5 as amended  
NIST FIPS 140-2, as amended.

2. The Contractor shall have a criminal background check completed for staff prior to accessing systems and/or applications that contain PEBA data. The background check shall be nationwide and, at a minimum, include federal, state and county records where the Contractor's staff member has resided for the past seven years. PEBA maintains the right to request a third-party vendor or an individual who is involved with PEBA data and/or systems be removed from the further interaction with PEBA's data and/or systems.
3. The Contractor shall notify PEBA of data breaches in accordance with HIPAA requirements and in accordance with the S.C. Financial Identity Fraud and Identity Theft Protection Act.
4. The Contractor shall provide security and privacy training, at least annually, for all staff members who have access to systems and/or applications that contain PEBA data.
5. The Contractor shall not use PEBA production data in test or development environments without the prior written approval of PEBA.
6. The Contractor shall maintain database backups in a manner that will eliminate disruption of service or loss of data due to system or program failures, maintain a disaster preparedness plan that will limit service interruption in case of emergency (force majeure) and will ensure compliance with all requirements under the Contract.

#### **M. Performance Standards and Guarantees (Liquidated Damages)**

1. Performance shall be provided in a first-class manner. The Contractor shall be responsible to PEBA and liable for any delay, breach or non-performance of any portion of the contract including but not limited to overpayment, underpayment or nonpayment. The Contractor shall strictly adhere to their proposed performance standards and guarantees (liquidated damages) for deviation from those standards as finally agreed to between PEBA and Contractor. All Offerors are required to submit both proposed standards (guarantees) for performance and penalties for deviation from those standards. Proposed penalties might vary depending on such factors as severity (e.g., number of persons impacted), frequency of failure to meet the performance standards both as to the same or different failure(s), and financial impact to PEBA.
2. After-call satisfaction survey results shall be submitted to PEBA within forty-five (45) days after the end of each quarter with a minimum target of 95% overall satisfaction rate on the key components identified. An assessment of \$5,000 per month, which may be paid quarterly, shall be levied against the Contractor for each month the Contractor fails to obtain a 95% overall satisfaction rate as liquidated damages for the Contractor's failure to meet this performance standard.

3. In addition to the proposed guarantees in Part 3.L.1., Offerors must provide the following guarantees that are separate and distinct from the items proposed by the Offerors. Item 3.a. will NOT be included in the total of those guarantees.
  - a. A communication sent in violation of Part 3.J.7. Amount at risk is \$1,000 per person up to a maximum of \$50,000.
  - b. Final implementation plan as described in Part 3.N.5.

#### **N. Implementation Plan**

1. The Contractor shall prepare, implement and execute a Final Implementation Plan. The Final Implementation Plan shall be based upon the proposed implementation plan and shall outline in detail all the tasks necessary to begin full operations on January 1, 2027. The Final Implementation Plan shall specify expected dates of completion of all necessary tasks, how the tasks will be accomplished and the identity of the person(s) responsible for each task. The Contractor agrees to implement promptly any instructions from PEBA designed to accomplish full and successful implementation in a timely manner and ongoing performance as may be made from time to time without additional cost.
2. The Contractor shall submit the Final Implementation Plan to PEBA for review within ten (10) business days after the notice of intent to award becomes the final statement of award (tentatively May 28, 2026). Implementation activities shall not commence prior to PEBA approval of the Final Implementation Plan.
3. The Contractor shall submit a written report of progress to PEBA every week during the Implementation phase. The progress report shall specify accomplishments during the report period in a task-by-task format, whether the implementation tasks are being performed on schedule and any administrative problems encountered. The report shall be due by the close of business each Friday.
4. The Contractor's Final Implementation Plan shall be accomplished in a manner to minimize interference with normal operations and services for both PEBA and the current contractor.
5. In the event of any failure by the Contractor to strictly adhere to the Final Implementation Plan, as agreed upon between the Contractor and PEBA (and without the express written waiver of PEBA before the date of the agreed upon time for completion), the Contractor shall pay PEBA the amount of \$1,000 per day, up to a maximum of 5% of the annual administrative fee under the Contract, (Contractor's quoted per subscriber per month administrative fee times 311,289 Subscribers) which shall be paid directly to PEBA. If, after fifteen (15) days' notice, the Contractor has failed to pay any amount due hereunder, the amount shall be withdrawn from the security.

#### **PART 4**

#### **QUALIFICATIONS**

**4.1 QUALIFICATIONS OF OFFEROR:** (1) To be eligible for award, you must have the capability in all respects to perform fully the Contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security (e.g., letter of credit, performance bond, parent-company corporate guaranty) that you offer to provide. Instructions and forms to help assure acceptability are posted at [www.procurement.sc.gov](http://www.procurement.sc.gov) under "Standard Clauses & Provisions."

Provide the following information or documentation for the Offeror. This information, and other information in PEBA's discretion, will be used to determine your responsibility:

1. Your most current financial statement, financial statements for your last two fiscal years, and information reflecting your current financial position. If you have audited financial statements meeting these requirements, you must provide those statements.
2. A list of failed projects, suspensions, debarments, and significant litigation.

#### **4.2 MANDATORY MINIMUM QUALIFICATIONS**

**In order for an Offeror to be considered for an award it must demonstrate that it possesses, as of the date of proposal submission, all of the following minimum qualification:**

1. Offerors must currently adjudicate behavioral health claims at full parity, fully coordinated with a comprehensive medical plan it does not administer, for at least 250,000 covered lives. Offerors should provide detailed information to establish they currently adjudicate behavioral health claims at full parity, fully coordinated with a comprehensive medical plan it does not administer, for at least 250,000 covered lives.
2. Offerors must currently process behavioral health claims for at least 1,000,000 covered lives. Offerors should provide detailed information to establish they currently process behavioral health claims for at least 1,000,000 covered lives.
3. Offerors must currently process a behavioral health claims volume of at least \$40 million annually. Offerors should provide detailed information to establish that they currently process a behavioral health claims volume of at least \$40 million annually.
4. Offerors must have successfully administered and managed a plan under mental health parity with the essential features described in this RFP for at least three (3) groups of 25,000 members. Offerors should provide detailed information to establish they have successfully administered and managed a plan under mental health parity with the essential features described in this RFP for at least three (3) groups of 25,000 members.
5. Offerors must demonstrate a minimum of five (5) years of experience delivering behavioral health management services to large employers, including public sector employers with self-insured plans. Offerors should provide comprehensive documentation confirming their history of operating provider networks and delivering behavioral health management services to those employers over the required time.

While PEBA believes an Offeror who does not meet these minimum requirements cannot successfully and fully perform the Contract, Offerors are cautioned that the existence of these factors does not constitute a finding that an Offeror is responsible. In evaluating an Offeror's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source might be considered. An Offeror must, upon request of PEBA, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry might be grounds for determining you are ineligible to receive an award. S.C. Procurement Code Section 11-35-1810.

**Any Offeror not meeting these requirements will not be considered for award and therefore will not be evaluated. In its proposal, each Offeror shall respond to this section and declare whether it meets the requirement and, if so, provide detailed specifics that satisfy that requirement.**

## PART 5

### **INFORMATION FOR OFFERORS TO SUBMIT**

Proposals will be accepted from the entity that will be providing the services hereunder only. **Offerors shall submit a signed transmittal sheet indicating it has submitted the following:**

- a. Include Offeror's name, the solicitation number and the appropriate title on the label for hard copies and on the label for USBs submitted in response to this RFP (i.e., Acme Corp., PEBA0402023, Technical Proposal Original; Acme Corporation, PEBA0432024, Business Proposal Original; Acme Corporation, PEBA0432024, Copy 1 of 5, etc.). **Each USB should be labeled as above with the Offeror's name on each label. The actual file names on the USB should be short and distinct to the information being shared. Long files can be problematic to open.**
- b. One (1) original and five (5) identical spiral bound paper copies of the Offeror's Technical Proposal. Label copies, 1 of 5, 2 of 5, etc. **No GBC coil binding and no three ring binders.**
- c. One (1) original marked and five (5) labeled USB flash drives containing a copy of the Offeror's Technical Proposal Response (in Microsoft Word, Microsoft Excel and/or PDF format where appropriate). Label copies, 1 of 5, 2 of 5, etc.
- d. One (1) original and one (1) spiral bound paper copy of the Offeror's Business Proposal. **No GBC coil binding and no three ring binders.**
- e. One (1) labeled USB flash drive containing a copy of the Offeror's Business Proposal.
- f. One (1) USB flash drive containing a redacted version of the Offeror's original Technical Proposal.
- g. One (1) USB flash drive containing a redacted version of the Offeror's original Business Proposal.
- h. Offerors should make every effort to submit electronic copies (USBs) as one PDF rather than individual files.

**Do not password protect any USB.**

**Both the Technical Proposal and Business Proposal should be submitted separately, and each marked respectively with "Part 5.1: Technical Proposal" and "Part 5.2: Business Proposal." No information from the Business Proposal should be included in the Technical Proposal.**

Offerors are required to mark the original copy of their offer to identify any information that is exempt from public disclosure. Offerors must do so in accordance with the clause entitled "Submitting Confidential Information." In addition, Offerors should also submit one USB flash drive of their offer from which they have removed any information they marked as exempt (i.e., a redacted copy). The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on a USB flash drive. File format shall be Microsoft Word 2007 or later **or PDF**. Except for the redacted information, the USB flash drive must be identical to the original hard copy and accessible for reproduction by PEBA. **To facilitate this process, please ensure your technical proposal is one seamless document, not individual files that comprise the document. Also, your Business Proposal must be one seamless document, not individual files that comprise the document. Attachments may be submitted separately from the Technical Proposal, if needed, but also needs to be one seamless document.**

Offerors should submit the following information for purposes of evaluation. PEBA desires a detailed written submission so it can make an accurate comparison of all proposals received. Be specific in your answers. The Proposal shall include the following sections and shall be presented in the listed order.

#### **5.1 TECHNICAL PROPOSAL**

The Technical Proposal shall include the following sections and shall be presented in the listed order.

##### **5.1.1 COVER PAGE**

Offerors must submit a signed copy of the cover page (Pages 1 and 2) with their offer. By submitting a Proposal, Offeror agrees to be bound by all the terms of the RFP. Offerors agree to hold their offer open for a minimum of one-hundred twenty (120) calendar days after the Opening Date.

### 5.1.2 EXECUTIVE SUMMARY

An Executive Summary shall be provided with the Offeror's Proposal. The Executive Summary should include a brief description of the Offeror's understanding of the scope of services and their ability to provide the required services. The Executive Summary should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Executive Summary should bear the name and address of the Offeror, the title of this RFP, and acknowledgement of the receipt of any amendments.

**Statement of Acceptance:** Offerors shall reply to Part 1 Instructions to Offerors-A. General Instruction; Part 1 Instructions to Offerors-B. Special Instructions; Part 2 Scope of Proposal; Part 3 Scope of Work; Part 4 Mandatory Minimum Qualifications; Part 7 Terms and Conditions-A. General; and Part 7 Terms and Conditions-B. Special; and Part 8 Attachments to Solicitation by declaring the Offeror fully understands, agrees to and will comply with all the provisions/requirements/terms in each of these Parts. Offerors shall include this Statement of Acceptance in their Executive Summary. Please note PEBA considers unacceptable any proposal containing deviations, exceptions or caveats to the RFP that have not been submitted for consideration during the question-and-answer phase and adopted by PEBA.

**Mandatory Minimum Qualification:** Offerors shall certify in writing that they meet all the Mandatory Minimum Qualifications outlined in Part 4, Mandatory Minimum Qualifications. Any Offeror not meeting the Mandatory Minimum Qualifications will not be considered for award and therefore will not be evaluated.

**Subcontracting:** Offerors shall identify any subcontractor(s) by name, define the relationship, the services to be performed by the subcontractor and the years of experience. The Offeror's contract with the subcontractor(s) should require the subcontractor(s) to comply with all the requirements contained in this RFP.

**References:** Offerors shall provide not less than three (3) reference accounts from the list of five under Part 5.1.5 Background and Qualifications, Item 6 (excluding the state of South Carolina). Include the name of person to contact, title, telephone number and email address.

Provide the following information for a minimum of three companies/entities of similar size and scope that are familiar with your work.

1. Company/entity name.
2. Date that your company worked for the above named business/entity.
3. The type of services provided to the business/entity.
4. Name and position of the person familiar with your work.
5. Mailing address, phone number and email address for the above named person.

### 5.1.3 TABLE OF CONTENTS

The Proposal should include a Table of Contents that lists page number references. The Table of Contents should be in sufficient detail to facilitate easy reference to the sections of the Proposal and separate attachments, which shall be included in the main Table of Contents. If supplemental materials are included with the Proposal, each copy of the Proposal should include such supplemental materials. Supplemental information (i.e., information not required) and attachments included by the Offeror should be clearly identified in the Table of Contents and provided as a separate section.

#### 5.1.4 APPROACH

Offerors should describe in detail their approach to providing behavioral health management services under this contract for their employer-based book of business (non-Medicare and non-Medicaid). Offerors, in describing their detailed approach, should at a minimum restate each of the items below and provide their response (approach) to that item immediately thereafter.

##### **A. Account and Personnel Management**

1. Offerors should describe in detail their approach to managing PEBA's account. In describing their approach, Offerors should describe how they would assign personnel to perform all the obligations and requirements of the contract.
2. Offerors should provide the name, background, qualifications and location of the account representative who will be assigned to PEBA.
3. Offerors should describe the location(s) from which services will be delivered under this contract.

##### **B. Claims Processing and Payment**

1. Offerors should describe in detail their approach to claims processing and adjudication. Provide a detailed description of the procedures used to review, verify and pay a claim. State the average turn-around time for a:
  - a. Clean claim.
  - b. Request for prior authorization of health services.
  - c. Response to subscriber inquiry.
  - d. Response to provider inquiry.

State the percentage of all claims processed without error. Describe error prevention procedures used as well as procedures used to classify and correct claims processing errors. Describe the procedures you will use to resolve Medicare secondary payer claims. State the location of the facility that will process the claims submitted by Plan subscribers.

2. Offerors should describe their paid claims history capabilities including what data elements are provided.
3. Offerors should provide a detailed description of the Offeror's understanding and approach to identifying any instance where coordination of benefits, workers' compensation or subrogation applies, and what actions are taken to recover claims payments or other costs. Offerors should provide information on cost containment procedures used including, but not limited to:
  - a. Coordination of benefits, including Medicare.
  - b. Workers' compensation or subrogation.
  - c. Pre- and post-claim review.
  - d. Identification of duplicate claims and high-cost procedures or providers.
4. Does the Offeror own the adjudication platforms (e.g., hardware, software and communications) used to perform claim processing?
5. Does the Offeror own the code used to build all system platforms that govern the claim adjudication function? These platforms include, but are not limited to, adjudication, eligibility systems, plan design systems and reporting systems.
6. Offerors should describe their internal appeals process for claims denials, including requests for peer-to-peer reviews, expedited appeal requests, denials of prior authorizations and denials of services already received. Offerors should describe how they communicate the appeals process to providers and communicate with providers and patients throughout the appeals process. Offerors should describe how it would cooperate with the operation of PEBA's appeals process for disputed claims. Offeror should also provide samples of approval and denial letters.

### **C. Behavioral Healthcare Provider Networks**

1. Offerors shall complete the Microsoft Excel exhibit, “Network Roster.xlsx” to provide a comprehensive listing of providers for the network being proposed to service PEBA’s membership. The variables shall include:
  - a. Provider tax identification number (TIN or FEIN).
  - b. Provider National Provider ID (NPI).
  - c. Provider name.
  - d. Provider service location (separate records if the provider has multiple locations).
  - e. Provider type – inpatient hospital, outpatient hospital, intensive outpatient program, partial hospitalization provider, residential treatment and managed care professional (non-institutional providers).
  - f. Provider degree – for managed care professionals, indicate the type of degree (e.g. MD, Ph.D., MS, etc. associated with the provider).
  - g. Effective date of network participation.
  - h. Applied behavioral analysis (ABA) provider indicator (Y or N).
  - i. Board certification indicator (Y or N).
2. Offerors shall complete the Microsoft Excel exhibit labeled Tab 1 (“Pricing and Network Data.xlsx”) assuming the inpatient hospital provider network being proposed to service PEBA’s membership. Offerors shall populate the tables based upon their total commercial membership that resided in South Carolina during the applicable date (based on date of service) range and the service location of the provider (three-digit ZIP in South Carolina and state abbreviation of the states in the exhibit).
3. Offerors shall complete the Microsoft Excel exhibit labeled Tab 2 (“Pricing and Network Data.xlsx”) assuming the outpatient hospital provider network being proposed to service PEBA’s membership. Offerors shall populate the tables based upon their total commercial membership that resided in South Carolina during the applicable date (based on date of service) range and the service location of the provider (three-digit ZIP in South Carolina and state abbreviation of the states in the exhibit).
4. Offerors shall complete the Microsoft Excel exhibit labeled Tab 3 (“Pricing and Network Data.xlsx”) assuming the managed care professional provider network being proposed to service PEBA’s membership. Offerors shall populate the tables based upon their total commercial membership that resided in South Carolina during the applicable date (based on date of service) range and the service location of the provider (three-digit ZIP in South Carolina and state abbreviation of the states in the exhibit).
5. Offerors shall indicate network participation status (Yes or No) of the providers labeled Tab 4 (“Pricing and Network Data.xlsx”). Offerors are to populate the grid based upon the network being proposed for PEBA’s membership.
6. Offerors shall calculate the allowance (contractual rate) that would have been reimbursed for each case listed in Tab 5 (“Pricing and Network Data.xlsx”) for each inpatient provider indicated as participating in Question 5. Describe the pricing methodology (e.g., DRG, case rate, per diem, percent of charges, etc.) that was applied to calculate the allowance for the case.
7. Offerors shall calculate the allowance (contractual rate) that would have been reimbursed for each service listed in Tab 6 (“Pricing and Network Data.xlsx”) for each outpatient provider indicated as participating in Question 5. Describe the pricing methodology (e.g., APC, case rate, percent of charges, etc.) that was applied to calculate the allowance for the service.
8. Offerors shall complete the grid listed in Tab 7 (“Pricing and Network Data.xlsx”) for all managed care professional providers indicated as participating in Question 5. Base the requested statistics assuming:
  - a. Date of service is January 1, 2026.
  - b. Globally billed (modifier ‘00’) procedure codes 90785, 90792, 90832, 90834, 90836, 90837, 90847, 90853, 90868, 96127, 97153, 97155, 99213, 99232, 99442.
  - c. Primary, commercial claims only.
  - d. Location is based on the rendering provider and the Member is a South Carolina resident.

9. Offerors shall complete the grid listed in Tab 8 (“Pricing and Network Data.xlsx”). The enrollment statistics shall reflect the offeror’s enrollment in South Carolina for Members that are utilizing the network proposed to service PEBA’s membership. Note that enrollment statistics (defined as a distinct count of members in the listed age and gender cell on the as of dates) are required for as of dates of January 1, 2023, January 1, 2024, and January 1, 2025.
10. Offerors shall complete the grid listed in Tab 9 (“Pricing and Network Data.xlsx”). The utilization statistics shall reflect the offeror’s utilization for South Carolina membership that are utilizing the network proposed to service PEBA’s membership. Note that utilization statistics (based on date of service) for the periods of 2023, 2024 and incurred through September 30, 2025, are required.
11. Offerors should describe how they will incorporate into their network, providers who deliver measurement-informed care, including the use of ongoing patient progress data to guide clinical decisions and improve outcomes.
12. Offerors should describe their experience with developing a Rapid Access Network for mental health and substance use disorders in which Members have access to care within two (2) business days or less. Offerors should provide examples and measurable utilization and outcome results where the Rapid Access Network was used.
13. Offerors should describe in detail their approach to marketing, establishing, implementing, operating and maintaining a national network of participating managed behavioral healthcare providers, including a network with board certified behavior analysts. Offerors should describe their process to recruit and credential network providers. Offerors should describe in detail how they would establish a network that includes credentialed mental health/substance use providers in various locations throughout South Carolina.
14. Offerors should describe how they promote access to network providers to Members seeking care at all levels of care and for all providers of behavioral health services.
15. Offerors should describe in detail their approach to providing a continuum of treatment services and settings for delivery of medically necessary covered inpatient and outpatient behavioral health services, including services covered for autism spectrum disorder, such as applied behavioral analysis (ABA).
16. Offerors should describe their experience with neurodivergent populations and how they will offer this type of program, including integrated components of one-on-one coaching, care navigation, training and digital tools.
17. Offerors should describe their organization’s standards for provider access and their ability to meet those standards. Standards can include those for patient access to standard outpatient appointments, urgent outpatient appointments and emergency appointments.
18. Offerors should describe how they would ensure all network providers of service are informed of the Plan’s managed behavioral healthcare benefit design. Offerors should describe how they would maintain communications with all those who have entered the Network to provide them with all the necessary instructions, support and assistance to ensure that each will be operational on January 1, 2027.
19. Offerors should describe how and how often they would advise PEBA on their progress to obtain network participation of the largest number of mental health/substance use disorder providers covering the greatest geographical area of South Carolina.
20. Offerors should provide network retention rate by provider types for 2023, 2024 and through September 30, 2025.
21. Offerors should describe pricing arrangements proposed for use in the network.
22. Offerors should provide their annual behavioral provider inflation rate in 2023, 2024 and 2025 as a percentage of reimbursement for unit costs for providers participating in its network. Information should be provided by level of care (inpatient/residential, partial hospitalization, intensive outpatient and standard outpatient separately, and managed care professional services).

23. Offerors should describe how it continuously monitors providers to ensure active status and availability at the point of care.
24. Offerors should describe what best practice processes have been put in place to encourage Members to use network behavioral health providers. Offerors should provide the average percentage of annual claims spend for out-of-network behavioral health care along with a distribution of the percentage between mental health and substance use disorder claims, and between Subscribers and dependents.
25. Offerors should describe if it offers a virtual/video care platform and provide details of how this is made available to Members, including procedures to ensure privacy and security measures are met. Offerors should describe if providers are staff, network providers or both. Offerors should provide details of services offered and the effectiveness of virtual care and how it plans to continue this delivery of care method to Members to supplement treatments they receive from in-person care/services. Offerors should provide utilization details for virtual care in 2024 and incurred through September 30, 2025.
26. Offerors should describe how it promotes virtual care to Members and provide illustrations of promotions.
27. Offerors should describe any limitations of virtual care related to state licensing requirements.
28. Offerors should describe how they would support PEBA's decision to use a direct contract with mental health and substance use disorder providers.
29. Offerors should describe their experience working with high-quality provider networks in specific geographies and demonstrate the capability and willingness to partner with such networks should PEBA be interested in establishing direct provider contracts.
30. Offerors should describe any Centers of Excellence (COE) available and the behavioral health conditions treated. Offerors should describe in general what criteria are used to support COE facilities being given this designation and, if available, provide a map of the COE locations with their names and specialties.

#### **D. Utilization Management**

1. Offerors should describe the structure or system, including staff and their qualifications, that will be used to conduct utilization management activities.
2. Offerors should describe in detail their utilization management program, including procedures followed and criteria used to identify Members (e.g., screening claims data) in performing, at a minimum, the following:
  - a. Determination of medical necessity.
  - b. Appropriate type and setting of care.
  - c. Continuing review of care.
  - d. Case management.
  - e. Discharge coordination and planning.
  - f. Out-of-area and emergency care.
  - g. Provider profiling.
  - h. Retrospective review of claims.
3. Offerors should provide details on assessment tools used by medical care managers to help identify behavioral health conditions, including the initial screening tool employed. Responses should also describe if and how artificial intelligence (AI) solutions and medical claims data are leveraged to enhance identification, risk stratification and prioritization of Members for outreach. In addition, Offerors should specify the actions taken to achieve Member engagement, such as warm transfers, provision of behavioral health information and access resources, web-based tools, Member outreach or other engagement strategies.
4. Offerors should describe in detail how it will support PEBA's implementation of a SDoH program for both Medicare and non-Medicare primary Members through collaboration with the third-party medical claims administrator. Details should include how it will:

- a. Actively collaborate with the third-party administrator to strengthen and expand the initiative.
  - b. Align efforts to identify and mitigate SDoH-related barriers to care for active and retired Subscribers, as well as their eligible covered dependents.
  - c. Coordinate integration of services, share relevant data where appropriate, and promote access to community resources.
  - d. Demonstrate how these activities will improve health outcomes and complement existing care management programs.
5. Offerors should provide how many Members of their employer-based book of business were screened for depression, anxiety, substance use disorders or other behavioral conditions in 2024 and in 2025.
  6. Offerors should describe their methods for internally monitoring and evaluating the performance of utilization management activities. Offerors should include samples of any reporting it can provide to PEBA on utilization management activities.
  7. Offerors should describe their capabilities for tracking and reporting on the number of Members with identified behavioral health conditions that have been (a) warm transferred or (b) given referral and contact information for behavioral care for mental health and substance use disorder services. Offerors should provide samples of any reporting that is provided.
  8. Offerors should provide samples of authorization of care letters by level of care.
  9. Offerors should describe how they would coordinate behavioral health benefits for Members with co-occurring disorders and between behavioral health care providers and other Plan network providers.
  10. Does the Offeror have a medical-behavioral health case management integration model and if so, describe how medical and behavioral health staff use this system including if the teams are co-located? Offerors should describe any advantages this model has and provide any specific examples that demonstrate these advantages. Otherwise, Offerors should describe how it would coordinate medical-behavioral health care management with the current medical utilization care management program managed by BlueCross, PEBA's current third-party medical claims administrator.
  11. Offerors should describe any savings it can deliver through more effective identification and management of co-occurring medical and behavioral health conditions. Offerors should describe how much of the savings are based on (a) reduction in medical claims and (b) reduction in behavioral health claims.
  12. Offerors should describe how they would identify service utilization problems and the corrective actions they will implement, with timeframes, for those corrective actions.
  13. Offerors should describe their approach to educating and informing participants and providers on receiving authorization of behavioral health benefits prior to treatment.

#### **E. Disease Management**

1. Offerors should describe in detail their approach to disease management, including complex case management. Responses must specify any demographic criteria used to determine who would qualify for disease management.
2. Offerors should describe in detail their proposed disease management program(s), identifying specific disease conditions that will be included.
3. Offerors should provide engagement rates for those who qualified for disease management, including complex case management, in 2023, 2024 and 2025.

4. Offerors should respond if they are able to demonstrate any savings across all care management programs, including disease management and complex case management. If applicable, Offerors should provide the estimated annual savings per engaged Member in behavioral health costs and where possible, any associated savings in non-behavioral medical costs.
5. Offerors should describe in detail any proposed programming for specialized evidence-based behavioral health initiatives designed to complement core benefits and deliver condition-focused support to Members. In addition, Offerors should explain their strategy for expanding these program offerings over time and identify the data-driven criteria that will guide the selection and development of new programs.
6. Offerors should describe the information that will be contained on the detailed monthly disease management participation file to be provided to PEBA and its Data Warehouse Contractor and as described in Part 3.E.2.

#### **F. Tobacco Cessation Program**

1. Offerors should describe in detail their approach to tobacco cessation.
2. Offers should describe in detail their approach to collaborating with and advising PEBA on best practice and industry standards for establishing program goals and outcome measures, and evaluation of the effectiveness of its tobacco cessation program to include successful quit rates and Member engagement.
3. Offerors should describe in detail their approach to coordinating with PEBA's third-party medical claims processor and pharmacy benefits manager to promote its tobacco cessation program to encourage Member participation.
4. Offerors should describe in detail their standardized reports or online reporting system capable of generating reports specific to their tobacco cessation program.

#### **G. Eligibility of Subscribers**

1. Offerors should describe and provide information their company currently has an operational data processing system capable of efficiently and accurately:
  - a. Providing an online claims adjudication system, including providing PEBA personnel access to the claims adjudication system, and exchanging data with the third-party medical claims administrator, currently BlueCross, and the flexible benefits administrator, currently ASIFlex.
  - b. Maintaining records and tracking each patient file; providing preadmission approval and medical necessity determination; comparing proposed treatment plans with generally recognized medical standards; assigning a DRG, if utilized for reimbursement, upon admission and comparing such DRG with that reported upon discharge; generating letters to patients, providers and insurers regarding case management decisions; and generating reports for PEBA.
2. Offerors should describe the software proposed to be used by their company in response to this RFP, the hardware on which it runs, when each system was developed and when each system was last updated and the telecommunications configurations for:
  - a. Claims administration.
  - b. Utilization management.
3. Offerors should describe their proposed method and frequency of reconciliation and how they would provide PEBA with verification of the reconciliations.
4. Offerors should describe how they would notify PEBA of enrollment discrepancies.
5. Offerors should describe how they would coordinate resolution with PEBA.
6. Offerors should describe their process for making modifications to their system and how long it would typically take for system modification.

7. Offerors should describe their ability to handle multiple addresses for dependents. Currently, if a dependent formally requests in writing that PEBA use alternative means or an alternative address when communicating any protected health information to avoid personal endangerment, PEBA will grant the request. This would be communicated both verbally and in writing to the Contractor. PEBA reserves the right to grant the request for other reasons in the future.
8. Offerors should describe their ability to handle multiple transactions for a Member on the same file.
9. Offerors should describe their backup schedule and how often would PEBA eligibility and claims data be backed up.
10. Offerors should describe their procedure for providing access to PEBA eligibility and claims data in the event of a disaster.

## **H. Financial Arrangements**

1. Offerors should describe in detail their process of releasing behavioral health payments, including timeline between requesting claims reimbursement from PEBA and releasing payments to behavioral health providers.

## **I. Customer Service**

1. Offerors should describe in detail their approach to customer service. Offerors should describe the number of customer service representatives with training on the specific features of the behavioral health benefits of the Plans they will make available to PEBA. Offerors should describe the orientation and initial and on-going training (including length of training) that will be made available to the customer service representatives on the benefits of the Plan. Offerors should provide, if possible, what percent of calls are reviewed to assess professional staff performance.
2. Offerors should provide the location(s) of their customer service call center, including physical and mailing addresses. Offerors should provide how many and what percentage of customer service representatives telecommute.
3. Offerors should describe the assistance available to Members, providers and PEBA administrative staff via dedicated toll-free telephone line(s), including the average time a caller must wait to speak to a customer service representative or other measure of the efficiency of the customer services rendered over the dedicated telephone lines.
4. Offerors should describe their IVR system capabilities and functionalities including which options and prompts and the number of options and prompts that can be made available to PEBA. Offerors should describe what information and what services Members can access through their IVR system. Offerors should also describe this same information for providers that can access their IVR system.
5. Offerors should describe other options (email or other digital platform) for Members, providers and PEBA administrative staff to contact the Offeror's customer service representatives.
6. Offerors should describe their procedures to ensure a prompt response to all written or telephone inquiries from Members, providers, employers and PEBA administrative staff, including the average time from receipt to response.
7. Offerors should describe the entire process for the more common scenarios for Members who call the customer service call center seeking assistance in scheduling an appointment or seeking care with a provider.
8. Offerors should describe how follow-up is conducted for all Members seeking care to ensure no barriers were encountered. Offerors should provide on-going reporting of follow-up results and describe any variation between Members accessing care through their service center via direct access to providers and/or their provider directory. Offerors should provide what percent of Members give permission for follow-up and what type of follow-up outcome data can be provided. If follow-up outcome data cannot be provided, is this functionality part of the Offeror's future offering and if so, what is the timeline?
9. Are the call center customer service representatives who answer initial calls licensed clinicians and if not, what are the minimum requirements to be a customer service representative? Are clinicians onsite and if not, what protocols are used to access a clinician?

10. Offerors should describe their dedicated toll-free telephone crisis line to provide referrals and assistance for emergencies to covered Members, if necessary. Offerors should describe how emergency calls are handled during the call center's hours of operations, as well as after hours of operations. Offerors should also describe how non-emergency calls are handled after hours of operations.
11. Offerors should describe if incoming calls are recorded and if so, can Members opt-out of the recording? Offerors should describe their retention schedule of recorded calls and describe hardware used to archive recordings, including how recordings are protected from penetration and unauthorized use.
12. Offerors should describe any digital applications or platforms they maintain. Offerors should also describe their experience integrating with any digital navigation, transparency tools and other digital applications or platforms that PEBA uses to enhance Member experience. Will the Offeror warm transfer Members to external programs designated by PEBA and offered by PEBA's third-party medical claims administrator, currently BlueCross, or the pharmacy benefits manager, currently CVS Caremark? If so, please describe this process.
13. Offerors should provide a sample of the Member Satisfaction Survey they would use.

#### **J. Communications and Training**

1. Offerors should describe the informational materials that might be used to make Subscribers, benefits administrators and the provider community aware of the features, operations and behavioral health benefits. Offerors should provide a list and detailed description of proposed materials they will provide at no cost to PEBA to Members of the Plans, the provider community and PEBA. Provide examples of materials, such as flyers and social media content.
2. Offerors should describe their ability to customize communications for PEBA. Provide examples that illustrate cobranding.
3. Offerors should provide a detailed description of the website they will use that will include information specific to the behavioral health benefits and features available through PEBA. Detail the capability for customization.

#### **K. Reporting**

1. Offerors should describe in detail their online reporting tool, including what information will be provided and how often it will be updated (i.e., daily, weekly, monthly).
2. Offerors should describe in detail their quarterly review reporting specifying the metrics and outcome measures to be included. At a minimum, reporting should address Plan financial performance and trends; patterns in service types and sites of care; and utilization and care management activities, including specialized behavioral health support programs.
3. Offerors should describe the information that will be contained in the detailed claims transaction file provided to PEBA and the Data Warehouse Consultant.
4. Offerors should describe the information that will be contained in the detailed provider file provided to PEBA and the Data Warehouse Consultant.
5. Offerors should describe the information that will be contained in the detailed practitioner file provided to PEBA and the Data Warehouse Consultant.
6. Offerors should describe the typical turn-around time for custom report requests. Offerors should describe in detail the type and frequency of any reports they propose to provide in addition to those required in Part 3.K. Reporting.

**L. Information Security**

1. Offerors should describe your organization’s data security system and processes including breach notification. Provide a complete Service Provider Security Assessment Questionnaire (Attachment 3) with your response.

**M. Performance Standards and Guarantees (Liquidated Damages)**

1. Offerors should propose standards/guarantees for performance and penalties for deviation from those standards in the following areas at a minimum and describe how they will be reported to PEBA.

<b>Performance Standard</b>	<b>Standards</b>	<b>Performance Guarantee</b>
<b>Network administration (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Provider referrals</li> <li>2. Network adequacy</li> <li>3. Appointment standards</li> </ol>		
<b>Utilization management (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Accuracy and appropriateness of authorization determinations</li> <li>2. Timeliness of determinations</li> </ol>		
<b>Claims processing (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Payment accuracy of claims transactions</li> <li>2. Procedural accuracy of claims transactions</li> <li>3. Turnaround time on claims transactions</li> <li>4. Accuracy of data transmissions to the Plan’s third-party administrator for application of Plan provisions</li> <li>5. Timeliness of data transmission to the Plan’s third-party administrator for application of Plan provisions</li> </ol>		
<b>Eligibility processing (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Timeliness of file updates</li> <li>2. Accuracy</li> </ol>		
<b>Communications with Members and PEBA (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Telephone service standards</li> <li>2. Average speed to answer</li> <li>3. Call abandonment</li> <li>4. First call resolution</li> <li>5. Written inquiries</li> </ol>		
<b>Reporting (including but not limited to)</b> <ol style="list-style-type: none"> <li>1. Timeliness of reporting</li> <li>2. Accuracy of reporting</li> </ol>		

2. In addition to the proposed guarantees, Offerors must provide the following guarantees:

<b>Performance measurement</b>	<b>Standard</b>	<b>Performance guarantee</b>
The Final Implementation Plan	As described in Part 3.M.	\$1,000 per day, up to a maximum of 5% of the annual administrative fee under the contract.
Member communication/use of Member data	A communication sent in violation of Sections 7.21 Advertising Use and Representation: Contact with State Entities or Part 3.J.7	\$1,000 per person up to a maximum of \$50,000 for each violation.

## **N. Implementation Plan (Not an evaluated item)**

Offerors should submit a proposed implementation plan. In the event of a transition, the Offeror should describe its best practices plan to ensure a seamless transition for PEBA and its Members. The proposed implementation plan should outline in detail all the tasks necessary to begin full operations and performance on January 1, 2027. At a minimum, the proposed implementation plan should specify expected dates of completion of all tasks, how the tasks will be accomplished, the identity of the person(s) responsible for each task and any personnel who will be onsite during the implementation process. Specific tasks and schedules that should be included in the Offeror's proposed implementation plan include:

1. Staff recruitment, hiring and training.
2. The behavioral health provider network.
3. Loading and testing of all computer and data processing systems, which must be ready to begin processing and conduct a demonstration test no later than October 1, 2026.
4. When and how eligibility databases will be installed and ready for use on Contractor's system.
5. Establishing and staffing of customer services unit and toll-free telephone lines.
6. Timeline for developing all publications, the website and other communications materials by December 1, 2026.
7. Support and coordination required from PEBA.

The Contractor must demonstrate its operational system capability on or before October 1, 2026. The preliminary implementation plan will become the Final Implementation Plan.

### **5.1.5 BACKGROUND AND QUALIFICATIONS**

Offerors should describe in detail their background and qualifications in providing behavioral health management services. Offerors, in describing their background and qualifications, should restate each of the items below and provide their response to that item immediately thereafter.

1. Offerors should provide a detailed description of its present organization, including a description of its size and assets and the length of time it has been in the business of providing behavioral health management services. Offerors should provide their experience providing behavioral health management services in a mental health parity setting, with special emphasis on clients operating in an environment like that applicable to the state of South Carolina.
2. Offerors should provide its last two (2) audited financial statements and annual reports.
3. Offerors should provide information that demonstrates it possesses the qualifications outlined in Part 4, Qualifications. Offerors should restate each of the bulleted items in this section and provide information that demonstrates that it possesses the specific qualification immediately thereafter. Offerors who do not meet the minimum qualifications outlined in Part 4, Qualifications, will not be considered for award.
4. Offerors should identify the total number of covered lives for which the Offeror currently processes behavioral health claims. Offerors should be prepared to provide specific reference accounts to verify this number.
5. Offerors should state the total annual dollar volume of behavioral health claims processing for the Offeror's entire book of business (excluding EAP services) during the calendar years 2023, 2024 and incurred through September 30, 2025.

6. Offerors should complete the following table, identifying the five (5) largest group medical plans (in decreasing order of size of calendar year 2025 paid claim dollar volume, excluding EAP services) for which the Offeror currently provides behavioral health management services that includes secure data transfer capability with a third-party medical plan administrator. Include both insured and self-insured plans. Also, identify each contract for which the Offeror is using a subcontractor.

<b>Group Name</b>	<b>Medical Plan Administrator</b>	<b>Group Size (Subscribers)</b>	<b>2023 Paid BH Claim Dollar Value</b>	<b>2024 Paid BH Claim Dollar Value</b>	<b>Incurred through September 30, 2025 Paid BH Claim Dollar Value</b>

7. Offerors should provide not less than three (3) reference accounts from the list above (excluding the state of South Carolina) including the name of person to contact, title, telephone number and email addresses.
8. Offerors should list the amount of the Offeror’s liability insurance and insurance carrier.

**5.1.6 ATTACHMENTS**

Offerors should complete all pertinent attachments listed in Part 8.

## 5.2 BUSINESS PROPOSAL

### 5.2.1 TOTAL FIXED ADMINISTRATIVE FEE FOR THE INITIAL CONTRACT TERM

Offerors should submit an administrative fee per subscriber per month for all services rendered under this Contract. The administrative fee shall be fixed for the initial three (3) year term of the contract. The administrative fee should be adequate to provide for the first-class operation of the program in every element.

**Administrative fee:** \$ \_\_\_\_\_ per subscriber per month. **(311,289 as of January 2026)**

**NOTE:** It is not the normal practice of PEBA to solicit Best and Final Offers. Offerors should put their best foot forward with the initial proposal submission.

### 5.2.2 WEIGHTED CLAIM COST (Excel spreadsheet) **(may be submitted electronically via USB)**

Offeror's response document "Pricing and Network Data.xlsx" will be used to measure the unit cost effectiveness of the proposed provider networks. The total allowances for each case type (inpatient, outpatient and managed care professional) will be weighted based upon current proportion of PEBA's population claim cost for the claim type to determined total weighted claim cost. For example:

- Inpatient case total allowance (sum of allowances for all repricing cases) = \$2,000,000 (20% of PEBA's behavioral health expenditures)
- Outpatient claim total allowance (sum of allowances for all repricing services) = \$3,000,000 (25% of PEBA's behavioral health expenditures)
- Managed care professional (sum product of allowed per unit average times PEBA's population frequency of the target procedures in the geographic unit weighted by PEBA's geographic unit managed care professional behavioral health expenditure percentage of total PEBA managed care professional behavioral health expenditures) weighted allowances = \$3,500,000 (55% of PEBA's expenditures)

Weighted claim cost using the illustrative results and weights listed above would be calculated as  $(\$2,000,000 \times 0.20) + (\$3,000,000 \times 0.25) + (\$3,500,000 \times 0.55)$  or \$3,075,000.

**Note the weights listed above are illustrative only and not actual weights.**

## PART 6

### AWARD CRITERIA

An award will be made to the highest ranked responsive and responsible Offeror whose offer is determined to be the most advantageous to PEBA. The award will be made to one Offeror only.

Proposals will be evaluated by a review panel on the following criteria and may be compared to other offers/proposals. Evaluation criteria are stated in relative order of importance with the first criteria being the most important. Once evaluation is complete, all responsive Offerors shall be ranked from most advantageous to least advantageous.

1. **Approach:** Offeror's detailed approach and understanding of the services being solicited. The evaluation panel will use the information submitted in response to Part 5.1.4 to evaluate this criterion. Each evaluation panel member will assign points to this criterion subjectively.
2. **Business Proposal:** Offeror's Fixed Administrative Fee per subscriber per Month times the current number of PEBA subscribers as quoted in Part 5.2.1 plus the weighted claim cost developed in Part 5.2.2. Points will be provided to the evaluation panel by the Procurement Officer based on calculations as outlined below.

The method of determining the points assigned for the total cost (administrative fees plus weighed claims expense) in the evaluation process will be as follows. The first step will be to determine the lowest total cost. This Offeror will receive the maximum number of points assigned to the criteria. The next step will be to divide each of the other Offeror's total cost into the lowest total cost to arrive with the percentage the low is to each of the other Offeror's total cost. These percentages will then be multiplied by the number of points available for the assignment of points for the total cost.

In the example below we assume 100 points are available for the total cost.

	<b>Total cost</b>	<b>Points</b>
<b>Company A</b>	\$7,000,000	100
<b>Company B</b>	\$8,000,000	87.50
<b>Company C</b>	\$9,150,000	76.50

3. **Background And Qualifications:** The evaluation panel will use the information submitted in response to Part 5.1.5 to evaluate these criteria. Each evaluation panel member will assign points to this criterion subjectively.

## PART 7

### TERMS AND CONDITIONS - A. GENERAL

**7.1 ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015):** (a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the Procurement Officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty (30) days after Contractor (not the assignee) has provided the Procurement Officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, Contractor shall provide the Procurement Officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

**7.2 BANKRUPTCY – GENERAL (FEB 2015):** (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to PEBA. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the Contractor's insolvency, including the filing of proceedings in bankruptcy.

**7.3 CHOICE-OF-LAW (JAN 2006):** The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation.

**7.4 CONTRACT AWARDED PURSUANT TO CODE (MAR 2024):** Any contract resulting from this solicitation is formed pursuant to the South Carolina Consolidated Procurement Code and is deemed to incorporate all applicable provisions thereof and the ensuing regulations. See also clause titled "Code of Laws Available." [07-7A012-1]

**7.5 CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (MAY 2024):**

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) the solicitation, as amended, (2) your offer, as amended, (3) any statement reflecting the State's final acceptance (a/k/a "award"), and (4) purchase orders. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

(b) The terms and conditions of documents (1) through (4) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) any instrument submitted by the State other than a purchase order, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed by the solicitation, the terms and conditions of all such documents and any purchase orders shall be void and of no effect.

(c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect. [07-7A015-2]

**7.6 DISCOUNT FOR PROMPT PAYMENT (JAN 2006):** (a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices. (b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the State annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

**7.7 DISPUTES (MAY 2024):** (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the government regarding the Agreement is not a waiver of either the government's sovereign immunity or the government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. The government does not consent to the jurisdiction of any judicial or administrative tribunals in any other state or to any forum of alternative dispute resolution. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail. [07-7A025-2]

**7.8 EQUAL OPPORTUNITY (JAN 2006):** Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

**7.9 FALSE CLAIMS (JAN 2006):** According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

**7.10 FIXED PRICING REQUIRED (JAN 2006):** Any pricing provided by Contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit Contractor from offering lower pricing after award.

**7.11 NO INDEMNITY OR DEFENSE (FEB 2015):** Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason.

**7.12 NOTICE (MAY 2024):** (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) ten days after deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph. [07-7A050-2]

**7.13 OPEN TRADE (JUN 2015):** During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

**7.14 ORGANIZATIONAL CONFLICT OF INTEREST (JUL 2023)** (a) The Contractor agrees to immediately advise the Procurement Officer if an actual or potential organizational conflict of interest is discovered after award, and to make a full written disclosure promptly thereafter to the Procurement Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Procurement Officer, to avoid, mitigate, or neutralize the actual or potential conflict. (b) The State may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the State beyond what it would have been if the subcontract had contained such a clause. (c) The disclosure required by paragraph (a) of this provision is a material obligation of the contract. If the Contractor knew or should have known of an organizational conflict of interest prior to award, or discovers an actual or potential conflict after award, and does not disclose, or misrepresents, relevant information to the Procurement Officer, the State may terminate the contract for default. [07-7A054-1]

**7.15 PAYMENT & INTEREST:** (a) PEBA shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by PEBA. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two." (c) 58 Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, PEBA shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to PEBA shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) PEBA shall have all of its common law, equitable, and statutory rights of set-off.

**7.16 PUBLICITY (JAN 2006):** Contractor shall not publish any comments or quotes by State employees or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

**7.17 PURCHASE ORDERS (JAN 2006):** Contractor shall not perform any work prior to the receipt of a purchase order from PEBA. Purchase orders may be used to elect options available under this contract, e.g., quantity, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

**7.18 SURVIVAL OF OBLIGATIONS (JAN 2006):** The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Indemnification - Intellectual Property, Contract Documents and Order of Precedence, HIPAA Compliance/Confidentiality and any provisions regarding warranty or audit.

**7.19 TAXES (JAN 2006):** Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to the Contractor, Contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on the Contractor's net income or assets shall be the sole responsibility of the Contractor.

**7.20 TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006):** Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

**7.21 THIRD PARTY BENEFICIARY (JAN 2006):** This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise.

**7.22 WAIVER (JAN 2006):** The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

### **TERMS AND CONDITIONS - B. SPECIAL**

**7.23 ADVERTISING USE AND REPRESENTATION: CONTACT WITH STATE ENTITIES:** The Contractor agrees not to refer to the award of this contract in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by PEBA or the State of South Carolina or is considered by PEBA or the State of South Carolina to be superior to other products or services. PEBA reserves the right to review and approve any commercial advertising to which PEBA's use of Contractor's services and/or supplies under this Contract is referred. Such review shall be timely, and approval shall not be unreasonably withheld. The Contractor shall not perform any mass or targeted mailings, electronic or otherwise, to Members or PEBA-covered employers without the permission of PEBA. At no time during the term of the Contract or otherwise, shall any employee of the Contractor use any data, name, address or other information received by the Contractor or Subcontractor pursuant to this Contract for any purpose other than performance of the contract. Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay PEBA liquidated damages of \$1,000 per person or employer contacted, or each piece of data used for purposes other than performance of this contract, up to a maximum of \$50,000 per incident.

**7.24 ATTORNEY'S FEES:** In the event that PEBA brings suit or action to compel performance of or recover for any breach of any stipulation, covenant, term, or condition of this Contract, PEBA may seek attorneys' fees from the Contractor and the Contractor will pay to PEBA such attorneys' fees as the court may award. Contractor will, in all instances, bear its own attorneys' fees and expenses.

**7.25 BANKRUPTCY – GOVERNMENT INFORMATION (FEB 2015):** (a) All government information (as defined in the clause herein entitled "Information Security - Definitions") shall belong exclusively to the State, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate. (b) Contractor agrees to notify the State within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to the State, before such filing, all government information that is in Contractor's possession in a format that can be readily utilized by the State. (c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or access government information.

**7.26 CHANGES (JAN 2006):** (1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

**7.27 COMPLIANCE WITH LAWS (JAN 2006):** During the term of the contract, Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

**7.28 CONFERENCE – PRE-PERFORMANCE (JAN 2006):** Unless waived by the Procurement Officer, a pre-performance conference between the Contractor, PEBA and Procurement Officer shall be held at a location selected by PEBA within five (5) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The Contractor or his duly authorized representative shall be required to attend at Contractor's expense.

**7.29 CONTRACT INTERPRETATION:** In the event there are any disagreements between the parties with regards to the application of this contract or the requirements of PEBA arising from any interpretation of the Request for Proposal, this contract, or otherwise, Contractor agrees to defer to the reasonable interpretations of PEBA as from time to time may be made by PEBA. This provision applies to all matters including those arising from disputes concerning whether Contractor is required to provide some service or item including scope of work issues and whether particular items or services were included in the scope of work agreed to by the parties in this contract or otherwise. In summary, if both parties have a reasonable interpretation regarding application of the contract, Contractor agrees to defer to PEBA's interpretation.

**7.30 CONTRACT LIMITATIONS (JAN 2006):** No sales may be made pursuant to this Contract for any item or service that is not expressly listed. No sales may be made pursuant to this Contract after expiration of this Contract. Violation of this provision may result in termination of this Contract and may subject contractor to suspension or debarment.

**7.31 CONTRACTOR PERSONNEL (JAN 2006):** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**7.32 CONTRACTOR'S LIABILITY INSURANCE-GENERAL (FEB 2015):** (a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of A-VII or better, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the Contractor and their representatives and employees. (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(b) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) PEBA, its officers, officials, employees and volunteers, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.

(c) For any claims related to this contract where additional insured applies, the Contractor's insurance coverage shall be primary insurance as respects the State, PEBA, and its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the State, PEBA, or its officers, officials, employees and volunteers, shall be excess of the Contractor's insurance and shall not contribute with it.

(d) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require proof of applicable coverage and endorsements required by this section, at any time.

- (e) Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State as soon as practicable upon receiving any information that any of the coverages required by this section are or will be changed bringing said policy(ies) out of compliance with the requirements herein, cancelled or non-renewed unless said policy(ies) is/are immediately replaced by a substantially similar insurance program without a disruption in coverage while continuing to meet the requirements herein.
- (f) Contractor hereby grants to the State and PEBA a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or PEBA by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or PEBA has received a waiver of subrogation endorsement from the insurer.
- (g) Any deductibles or self-insured retentions must be declared to the State. The State may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- (h) With agreement of Contractor, the State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

### **7.33 CONTRACTOR'S LIABILITY INSURANCE–INFORMATION SECURITY AND PRIVACY (FEB 2015)**

[ASK QUESTIONS NOW: For products providing the coverages required by this clause, the insurance market is evolving. Our research indicates that the requirements stated herein reflect commercially available insurance products. Any offeror having concerns with any specific requirements of this clause should communicate those concerns to the Procurement Officer prior to the adjournment of the Pre-Proposal Conference.]

- (a) Without limiting any other obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of A-VII or better, and maintain for the duration of the contract, a policy or policies of insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the Contractor and their representatives and employees or any other entity for which the Contractor is legally responsible.
- (b) Coverage must include claims for:
  - (i) information security risks, including without limitation, failure to prevent unauthorized access to, tampering with or unauthorized use of a computer system; introduction of malicious codes, computer viruses, worms, logic bombs, etc., into data or systems; or theft, damage, unauthorized disclosure, destruction, or corruption of information in whatever form;
  - (ii) privacy risks, including (A) failure to properly handle, manage, store, dispose of, destroy, or otherwise control non-public personally identifiable information in any format; (B) loss of, unauthorized access to, or disclosure of confidential information; and (C) any form of invasion, infringement or interference with rights of privacy, including breach of security/privacy laws or regulations;
  - (iii) contractual liability for the Contractor's obligations described in the clauses titled "Indemnification - Third Party Claims – Disclosure Of Information" and "Information Use And Disclosure;" and
  - (iv) errors, omissions, or negligent acts in the performance, by the Contractor or by any entity for which the Contractor is legally responsible, of professional services included in the work.
- (c) If the work includes content for internet web sites or any publications or media advertisements, coverage must also include claims for actual or alleged infringement of intellectual property rights, invasion of privacy, as well as advertising, media and content offenses.
- (d) If the work includes software, coverage must also include claims for intellectual property infringement arising out of software and/or content (with the exception of patent infringement and misappropriation of trade secrets)
- (e) Coverage shall have limits no less than four million (\$4,000,000.00) dollars per occurrence/claim or aggregate, and a Certificate of Insurance confirming cyber coverage limits may be requested before award.
- (f) If the insurance required by this clause is procured on a form affording "claims-made" coverage, then (i) all limits stated above as "per occurrence" shall be understood to mean "per claim" or "per occurrence," as is consistent with the terms of the "claims-made" policy; and (ii) such claims-made insurance shall provide for a retroactive date no later than the date the contract is awarded.
- (g) All terms of this clause shall survive termination of the contract and shall continue until thirty (30) days past the final completion of the work, including the performance of any warranty work. In addition, Contractor shall maintain in force and effect any "claims- made" coverage for a minimum of two (2) years after final completion of all work or services to be provided hereunder. Contractor shall purchase an extended reporting period, or "tail coverage," if necessary to comply with the latter requirement.
- (h) PEBA must be covered as additional insureds on the policy or policies of insurance required by this clause.

(i) Prior to commencement of the work, the Contractor shall furnish the State with original certificates of insurance for every applicable policy effecting the coverage required by this clause. All certificates are to be received and approved by the Procurement Officer before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require proof of applicable coverage and endorsements required by this section, at any time.

(j) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State as soon as practicable immediately upon receiving any information that any of the coverages required by this clause are or will be changed bringing said policy(ies) out of compliance with the requirements herein, cancelled or non-renewed unless said policy(ies) is/are immediately replaced by a substantially similar insurance program without a disruption in coverage while continuing to meet the requirements herein.

(k) Contractor hereby grants to the State and PEBA a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or PEBA by virtue of the payment of any loss under such insurance as is required by this clause. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or PEBA has received a waiver of subrogation endorsement from the insurer.

(l) Any deductibles or self-insured retentions must be declared to the State. The State may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

**7.34 CONTRACTOR'S OBLIGATION - GENERAL (JAN 2006):** The Contractor shall provide and pay for all materials, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work. The Contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

**7.35 DEFAULT (JAN 2006):** (a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or
- (iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within ten (10) days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

**7.36 DUTIES UPON TERMINATION:** Upon expiration or termination of the Contract for any reason, the Contractor shall provide full cooperation to PEBA and any successor Contractor so that the transition to PEBA or a subsequent Contractor will be efficiently accomplished without any disruption in claims processing, claims payments, or services to Members and providers. Within ten (10) working days following notice of termination of the Contract, the Contractor shall deliver to PEBA a detailed transition plan, including all information regarding current operations requested by PEBA, that PEBA, in its sole discretion, feels is necessary to effectuate a smooth transition to a successor contractor. No later than sixty (60) days before the end of the term of the Contract, the Contractor shall provide any and all materials, data, records, databases, software, and all other things in the Contractor's possession to PEBA or the successor Contractor at no additional cost to PEBA, including: (1) all Members information received during the term of the contract, (2) claims processed during the preceding twenty-four (24) months; (3) sufficient information and technical assistance on current operations to assure that the transition can be achieved without disruption of ongoing operations. For a year following the termination of the Contract, the Contractor shall provide any continuing support and/or information to PEBA and the successor contractor necessary to complete the transition and resolve outstanding claims, accounting, and customer service issues. Performance Guarantees will continue to apply during this period of transition. In the event that PEBA has not secured alternate sources for the supplies and/or services under this Contract at the expiration of, or following termination of the Contract for any reason, the Contractor agrees to continue to perform hereunder at the then-applicable prices and terms until such alternate source is obtained and any transition period required to maintain continuity has been successfully completed.

**7.37 HIPAA COMPLIANCE/CONFIDENTIALITY:** The Contractor shall keep confidential all information and material which has or will come into its possession or knowledge in connection with the performance of services under this contract; and will not release, use or disclose any such information without prior written consent of PEBA. In addition, the Contractor shall comply with all applicable State and federal laws and regulations concerning the confidentiality of medical records, including, but not limited to, the Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and any federal regulations concerning the confidentiality of alcohol and drug abuse patient records. Furthermore, the Contractor shall adhere to the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and sign PEBA's Business Associate Agreement (Attachment 4), prior to award of the contract, which has been constructed in accordance with the requirements of the HIPAA Privacy and Security Rules and the requirements of the HITECH Act.

**7.38 ILLEGAL IMMIGRATION (NOV. 2008):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

### **7.39 INDEMNIFICATION - THIRD PARTY CLAIMS - GENERAL:**

(a) Notwithstanding any limitation in this Contract, and to the fullest extent permitted by law, Contractor will indemnify PEBA for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages from all suits or claims of any character brought by a third party, when the third party's claims arise out of or are in connection with the goods or services acquired under this Contract, whether caused in whole or in part by any act or omission of Contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, and regardless of whether or not caused in part by PEBA. The Contractor shall be required to indemnify under this section regardless of its own fault, but if PEBA's negligence is determined by the appropriate court to be the sole proximate cause of the suit or claim, the Contractor will not be required to indemnify PEBA under this paragraph. PEBA will, at all times, retain the right to choose its own counsel and control its own defense.

(b) In the event Contractor's obligation to indemnify arises pursuant to 7.39(a) above, PEBA may, at its sole discretion, request Contractor to provide defense of the third-party claim or suit. If PEBA elects defense, Contractor will bear full responsibility for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages resulting from the suit or claim. PEBA will give Contractor timely notice of the suit or claim. PEBA's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this subparagraph only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Contractor must provide counsel acceptable to PEBA. Contractor will keep PEBA apprised of all documents filed or sent to the third party in the claim or suit and allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed or sent. PEBA reserves the right to revoke its request for defense at any point and to undertake responsibility for its own defense, in which case Contractor will be required to indemnify PEBA under subparagraph (a) of this paragraph. Contractor may not, without PEBA's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action, suit, or claim.

(c) Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause will not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist at law or in equity. The obligations of this paragraph will survive termination, cancelation, or expiration of this Contract. This provision will be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

### **7.40 INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION:**

(a) Notwithstanding any limitation in this Contract, and to the fullest extent permitted by law, Contractor will indemnify PEBA for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages from all suits or claims by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security - Definitions) caused in whole or in part by any act or omission of Contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by PEBA. The Contractor shall be required to indemnify under this section regardless of its own fault, but if PEBA's negligence is determined by the appropriate court to be the sole proximate cause of the suit or claim, the Contractor will not be required to indemnify PEBA under this section. PEBA will, at all times, retain the right to choose its own counsel and control its own defense.

(b) In the event Contractor's obligation to indemnify arises pursuant to 7.40(a) above, PEBA may, at its sole discretion, request Contractor to provide defense of the third-party claim or suit. If PEBA elects defense, Contractor will bear full responsibility for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages resulting from the suit or claim. PEBA will give Contractor timely notice of the suit or claim. PEBA's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this subparagraph only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Contractor must provide counsel acceptable to PEBA. The Contractor will keep PEBA apprised of all documents filed or sent to the third party in the claim or suit and, to the extent practicable, allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed or sent. Contractor may not, without PEBA's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise, or consent (i) includes an unconditional release of PEBA from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability, or failure to act by or on behalf of PEBA or otherwise adversely affect PEBA. PEBA's consent is necessary for any settlement that requires PEBA to part with any right or make any payment or subjects PEBA to any injunction. PEBA reserves the right to revoke its request for defense at any point and to undertake responsibility for its own defense, in which case Contractor will be required to indemnify PEBA under subparagraph (a) of this paragraph.

(c) Notwithstanding any other provision, Contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

**7.41 INDEMNIFICATION-INTELLECTUAL PROPERTY (JAN 2006):** (a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

**7.42 INFORMATION SECURITY - DEFINITIONS (FEB 2015):** The following definitions are used in those clauses that cross reference this clause.

**Compromise** means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

**Data** means a subset of information in an electronic format that allows it to be retrieved or transmitted.

**Government information** means information (i) provided to Contractor by, or generated by Contractor for, PEBA, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

**Information** means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

**Information system** means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

**Public information** means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

**Software** means any computer program accessed or used by PEBA or a third party pursuant to or as a result of this contract.

**Third party** means any person or entity other than PEBA, the Contractor, or any subcontractors at any tier.

**Unrestricted information** means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

**Web-based service** means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

### 7.43 INFORMATION SECURITY - SAFEGUARDING REQUIREMENTS (FEB 2015)

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause,

**Clearing** means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods.

**Intrusion** means an unauthorized act of bypassing the security mechanisms of a system.

**Media** means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, portable hard drives, “thumb” drives, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system.

**Safeguarding** means measures or controls that are prescribed to protect information.

**Voice** means all oral information regardless of transmission protocol.

(b) *Safeguarding Information.* Without limiting any other legal or contractual obligations, Contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality and integrity of the government information in its possession. In addition, Contractor shall apply security controls when the Contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or vulnerability.

(c) *Safeguarding requirements and procedures.* Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure:

(1) Protecting information on public computers or Web sites: Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts).

(2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment.

(3) Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.

(4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.

(5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800–88, Guidelines for Media Sanitization, at [http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88\\_with-errata.pdf](http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_with-errata.pdf).

(6) Intrusion protection. Provide at a minimum the following protections against intrusions and compromise:

(i) Current and regularly updated malware protection services, e.g., anti-virus, antispayware.

(ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.

(7) Transfer limitations. Transfer government information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

(d) *Subcontracts.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.

(e) *Other contractual requirements regarding the safeguarding of information.* This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

**7.44 INFORMATION SECURITY – DATA LOCATION (FEB 2015):** Contractor is prohibited from accessing, processing, transmitting, or storing government information, as defined in the clause titled Information Security, outside the United States. This obligation is a material requirement of this contract.

**7.45 INFORMATION USE AND DISCLOSURE (FEB 2015):** Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by the government in order to access services provided by the government and such information should be used by those engaged by the government only to the extent necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the Contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymizing information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for government information.

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

(b) *Legal mandates.* Contractor shall be permitted to use, disclose, or retain government information to the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is necessary for Contractor to use, disclose, or retain government information in order to comply with a law, Contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law.

(c) *Flow down.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to government information.

(d) *Collecting Information.* Contractor must gather and maintain government information only to the minimum extent necessary to accomplish the work.

(e) *Rights, Disclosure and Use.* Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose government information, or (2) retain government information after termination or expiration of this contract. Contractor acquires no rights in any government information except the limited rights to use, disclose and retain the government information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain the government information itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors). Before disclosing government information to a subcontractor or third party, Contractor shall give PEBA detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure.

(f) *Return.* Notwithstanding PEBA's failure to perform or the pendency of a dispute, eight years (or longer where required by applicable law) following the termination of this contract Contractor agrees to promptly deliver to PEBA (or destroy, at PEBA's option) all government information in its possession as and upon written request of PEBA.

(g) *Privacy Policy & Applicable Laws.* Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding government information, and (2) all laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards.

(h) *Actions Following Disclosure.* Immediately upon discovery of a compromise or improper use of government information, Contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than two business days after discovery, Contractor shall notify PEBA of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide PEBA all information necessary to enable PEBA to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, Contractor shall: (1) provide any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if legally required of PEBA), Contractor shall reimburse PEBA for the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised; (3) undertake any other measures that are customary and reasonable for an entity to take when experiencing a similar disclosure, (4) pay any related fines or penalties imposed on PEBA, and (5) reimburse PEBA all costs reasonably incurred for communications and public

relations services involved in responding to the compromise or improper use. Notwithstanding any other provision, contractor's obligations pursuant to this item (h) are without limitation.

(i) *Survival & Remedy*. All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights PEBA may have, and notwithstanding any other term of this contract, Contractor agrees that PEBA may have no adequate remedy at law for a breach of Contractor's obligations under this clause and therefore PEBA shall be entitled to pursue equitable remedies in the event of a breach of this clause.

**7.46 INFORMATION USE AND DISCLOSURE – STANDARDS (FEB 2015):** To the extent applicable: (a) Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division, S.C. Code Ann. § 1-11-490.

(b) South Carolina Financial Identity Fraud and Identity Theft Protection Act (FIFITPA), 2008 Act 190, as amended. Solely for purposes of Section 39-1-90 of the South Carolina Code of Laws, as amended, Contractor is deemed to be the owner of government information, as defined herein, and Contractor agrees that PEBA is not a licensee.

(c) The South Carolina Family Privacy Protection Act of 2002, S.C. Code Ann. §§ 30-2-10, *et seq.*

(d) Personal Identifying Information Privacy Protection, S.C. Code Ann. §§ 30-2-310 *et seq.*

(e) Data Breach Notification, Proviso 117.110 of the 2015-2016 Appropriations Act. H.R. 3701 § 117.110. 121st Cong. (S.C. 2015) (Act 91), as revised in any future annual appropriations act.

**7.47 LAWSUIT NOTIFICATION AND COOPERATION:** The Contractor shall notify PEBA of any lawsuit or legal claim asserted, brought, filed, or served against the Contractor arising out of or in connection with the goods or services acquired hereunder. Notification shall be made within two (2) business days after the date Contractor first learns, by any means, of the legal claim or lawsuit. The Contractor will keep PEBA apprised of all documents filed in the lawsuit, and, to the extent possible, allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed. PEBA will, at all times, retain the right to choose its own counsel and control its own defense. The Contractor also agrees to cooperate with PEBA and provide data, information, and documentation necessary to pursue litigation filed by or on behalf of PEBA against any party.

**7.48 LICENSES AND PERMITS (JAN 2006):** During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

**7.49 OWNERSHIP OF DATA & MATERIALS (JAN 2006):** All data, material, and documentation prepared for the state pursuant to this contract shall belong exclusively to the State.

**7.50 PRICE ADJUSTMENT – LIMITED:** Fees shall not be increased during the initial term of the Contract (1/1/2027 through 12/31/2029). Upon approval of the Procurement Officer, fees may be adjusted for renewal term one (1/1/2030 through 12/31/2030) and renewal term two (1/1/2031 through 12/31/2031) of the contract. Any request for a price increase must be received by the Procurement Officer by January 15, 2029, for renewal term one and by January 15, 2030, for renewal term two and must be accompanied by sufficient documentation to justify the increase. A price increase must be executed as a change order.

**7.51 PRICE ADJUSTMENTS–LIMITED BY CPI “OTHER GOODS & SERVICES” (JAN 2006):** Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 24 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), “Other Goods & Services” for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at [www.bls.gov](http://www.bls.gov). Any request for a price increase must be reviewed and validated by PEBA actuaries.

**7.52 PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)**

[Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with Contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the State finds that such price was increased because you furnished cost or pricing

data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the Chief Procurement Officer. The State may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the State may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the State context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

**7.53 RELATIONSHIP OF THE PARTIES (JAN 2006):** Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

**7.54 RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES:**

(a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter "applicable services") or, in the case of public employees, to perform their job duties; accordingly, in performing the work, contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter "terms of use") not previously approved in writing by the procurement officer. Contractor agrees that any terms of use regarding applicable services are void and of no effect. (b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

(c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work. (d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay PEBA liquidated damages of \$1,000 for each contact with a citizen or public employee that violates this restriction, up to a maximum of \$1 million per incident.

**7.55 SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE - REQUIRED (FEB 2015)**

The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by Contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor's security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire ("Response to SPSAQ") attached to this Solicitation (Attachment 3), which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

**7.56 SERVICE PROVIDER SECURITY REPRESENTATION (FEB 2015):** The following obligations are subordinate to any other contract clause to the extent the other clause specifically provides for enhanced safeguarding of government information, applicable information systems, or applicable organizations. Offeror (i) warrants that the work will be performed, and any applicable information system (as defined in the clause titled "Information Security - Definitions") will be established and maintained in substantial conformity with the information provided in Offeror's Response to SPSAQ; (ii) agrees to provide PEBA with prompt notice of any material variation in operations from that reflected in the Response to SPSAQ; and (iii) agrees to comply with all other obligations involving either information security or information use and disclosure imposed by the contract, notwithstanding any inconsistent statement in Offeror's Response to SPSAQ. To the extent Offeror's Response to SPSAQ does not conform to any other contractual requirements, PEBA's lack of objection does not constitute a waiver.

## **7.57 TERM OF CONTRACT - EFFECTIVE DATE/INITIAL CONTRACT TERM:**

**Initial Contract Term:** January 1, 2027, through December 31, 2029

**Maximum Contract Term:** January 1, 2027, through December 31, 2031

These dates are estimates only. The effective date of this contract is the first day of the Contract Term as specified on the final statement of award. Regardless, this contract expires no later than the last date stated on the final statement of award.

**7.58 TERMINATION FOR CONVENIENCE (JAN 2006):** (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

**7.59 SECURITY FOR PERFORMANCE, DAMAGES:** The Contractor shall supply security no later than **July 1, 2026**. The Contractor shall supply security in the form of an unconditional irrevocable standby letter of credit, on deposit in or issued by, respectively, a federal or state chartered bank with offices physically located in the State of South Carolina in the amount of two hundred fifty thousand dollars US (\$250,000.00) whereby funds are (1) pledged to the benefit of the State; (2) are not under the control of the Contractor; and (3) are payable to PEBA upon written demand to the holder.

This security is for the faithful performance of this contract between the State and Contractor and will further protect, indemnify and save harmless the State from all costs and damages by reason of the Contractor's default, breach or failure to satisfactorily perform the obligations outlined in this RFP, the Contractor's response thereto, and any amendments, modifications or change orders. Damages for failing to adhere to the implementation plan may also be drawn from the security.

Not sooner than twelve (12) months following the commencement of performance, the Contractor may seek a reduction in the amount of the security and consideration for such a request will depend on Contractor's performance up to the time of the request and the time remaining under the contract. Further, any revenue or other yield generated by the security shall be owned by the Contractor and may be withdrawn periodically so long as then applicable minimum security amount is maintained.

In the event of any condition of breach or other circumstance attributable to the Contractor, PEBA shall have the right to draw against the security such sums as are necessary to make the State whole, including, but not limited to, the costs incurred to secure and compensate for substituted services of another entity made necessary by the breach. Nothing herein shall be construed to mean that the security provided for herein is exclusive or constitutes any limitation or restriction on any remedies to which the State may be entitled.

## **PART 8**

### **ATTACHMENTS TO SOLICITATION**

Attachment 1	Important Tax Notice – Nonresidents Only
Attachment 2	Offeror's Checklist
Attachment 3	Service Provider Security Assessment Questionnaire
Attachment 4	Business Associate Agreement
Attachment 5	Non-Disclosure Agreement
Attachment 6	Provider Reimbursement Methodologies
Attachment 7	Detailed Claims File
Attachment 8	Detailed Provider File
Attachment 9	Detailed Practitioner File

**Attachment 1**  
**IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

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Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

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For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at [www.sctax.org](http://www.sctax.org).

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This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.



STATE OF SOUTH CAROLINA  
 DEPARTMENT OF REVENUE  
**NONRESIDENT TAXPAYER  
 REGISTRATION AFFIDAVIT  
 INCOME TAX WITHHOLDING**

**I-312**  
 (Rev. 6/26/01)  
 3323

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: \_\_\_\_\_

2. Trade Name, if applicable (Doing Business As):  
 \_\_\_\_\_

3. Mailing Address: \_\_\_\_\_

4. Federal Identification Number: \_\_\_\_\_

5. \_\_\_\_\_ Hiring or Contracting with:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_

\_\_\_\_\_ Receiving Rentals or Royalties From:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_

\_\_\_\_\_ Beneficiary of Trusts and Estates:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_

6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):  
 The South Carolina Secretary of State or  
 The South Carolina Department of Revenue  
 Date of Registration: \_\_\_\_\_

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
 Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) \_\_\_\_\_ Date

If Corporate officer state title: \_\_\_\_\_

\_\_\_\_\_  
 (Name - Please Print)

**Attachment 2**  
**OFFEROR'S CHECKLIST**

Review this checklist prior to submitting your proposal. If you fail to follow this checklist, you risk having your proposal rejected.

This checklist is included as a reminder only to help offeror avoid common mistakes. Responsiveness will be evaluated against the solicitation, not against this checklist. You do not need to return this checklist with your response.

- Do not include any of your standard contract forms.
- Unless expressly required, do not include any additional boilerplate contract clauses.
- Reread your entire proposal to make sure your proposal does not take exception to any of PEBA's mandatory requirements.
- Make sure you have properly marked all protected, confidential or trade secret information in accordance with the instructions entitled: SUBMITTING CONFIDENTIAL INFORMATION. Do not mark your entire proposal as confidential, trade secret or protected. Do not include a legend on the cover stating that your entire response is not to be released.
- Have you properly acknowledged all amendments? Instructions regarding how to acknowledge an amendment should appear in all amendments issued.
- Make sure your proposal includes a copy of the solicitation cover page. Make sure the cover page is signed by a person who is authorized to contractually bind your business.
- Make sure your proposal includes the number of copies requested.
- Check to ensure your proposal includes everything requested.
- If you have concerns about the solicitation, do not raise those concerns in your response. After opening, it is too late as this solicitation includes a question-and-answer period. Raise your questions as a part of that process.

## Attachment 3



**South Carolina Public Employee Benefit Authority**  
*Serving those who serve South Carolina*

### Service Provider Security Assessment Questionnaire

**Instructions**

Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. As used in this questionnaire, the phrase “government information” shall have the meaning defined in the clause titled Information Security. This questionnaire must be read in conjunction with both of the following two clauses:

- Service Provider Security Assessment Questionnaire – Required; and
- Service Provider Security Representation.

Highlight any updates or changes to answers that have occurred in the last year unless otherwise specified.

**Access control**

1. Is access to government information limited only to those employees and contractors who require access to perform work on behalf of PEBA?  If yes, provide the policies and procedures that demonstrate this.  If no, provide more detail.	<input type="checkbox"/> Yes <input type="checkbox"/> No														
2. What security controls do you have in place for incoming email? Choose all that apply. <input type="checkbox"/> Detonation and evaluation of attachments in a sandbox <input type="checkbox"/> Screening for malicious attachments <input type="checkbox"/> Domain Based Message Authentication, Reporting and Conformance <input type="checkbox"/> Screening for malicious links <input type="checkbox"/> DomainKeys Identified Mail <input type="checkbox"/> Sender Policy Framework strictly enforced <input type="checkbox"/> Quarantine service <input type="checkbox"/> Tagging external emails															
3. Do you enforce multi-factor authentication for all user accounts (other than domain administrator accounts) when accessing your network remotely?	<input type="checkbox"/> Yes <input type="checkbox"/> No														
4. Do you enforce MFA for all domain administrator accounts?	<input type="checkbox"/> Yes <input type="checkbox"/> No														
5. Do you permit ordinary users’ local administrator rights to their devices?	<input type="checkbox"/> Yes <input type="checkbox"/> No														
6. What security solutions do you use to prevent or detect malicious activity on your network? <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left; border: none;">Security solution</th> <th style="text-align: left; border: none;">Vendor</th> </tr> </thead> <tbody> <tr> <td style="border: none;">Endpoint Protection Platform</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Endpoint Detection and Response</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Managed Detection and Response</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Network Detection and Response</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Security Information and Event Management</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;">Application Isolation and Containment</td> <td style="border: none;">_____</td> </tr> </tbody> </table>		Security solution	Vendor	Endpoint Protection Platform	_____	Endpoint Detection and Response	_____	Managed Detection and Response	_____	Network Detection and Response	_____	Security Information and Event Management	_____	Application Isolation and Containment	_____
Security solution	Vendor														
Endpoint Protection Platform	_____														
Endpoint Detection and Response	_____														
Managed Detection and Response	_____														
Network Detection and Response	_____														
Security Information and Event Management	_____														
Application Isolation and Containment	_____														
7. Do you have a Security Operations Center? If yes, is your SOC internal or managed by a third party? <input type="checkbox"/> Internal <input type="checkbox"/> Third party <input type="checkbox"/> Both If yes, is your SOC staffed 24 hours? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No														
8. Do you use a protective DNS service (e.g., Cisco Umbrella)?	<input type="checkbox"/> Yes <input type="checkbox"/> No														
9. Are host-based and network firewalls configured to disallow inbound connections by default?	<input type="checkbox"/> Yes <input type="checkbox"/> No														
10. Are network firewalls configured to disallow outbound connections by default?	<input type="checkbox"/> Yes <input type="checkbox"/> No														

11. Do you use a hardened baseline configuration across all (or substantially all) of your devices?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Do you screen your employees and contractors who will have access to government information? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Do you have a key escrow solution? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No

### Data protection and disposal

14. Do you have documented policies and procedures for managing information assets? If yes, provide those policies and procedures.	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Will government information be stored on: a) Portable media? <input type="checkbox"/> Yes <input type="checkbox"/> No i. Is it encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No b) Laptops? <input type="checkbox"/> Yes <input type="checkbox"/> No i. Is it encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No c) Backup media? <input type="checkbox"/> Yes <input type="checkbox"/> No i. Is it encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No d) Mobile devices? <input type="checkbox"/> Yes <input type="checkbox"/> No i. Is it encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No e) Databases? <input type="checkbox"/> Yes <input type="checkbox"/> No i. Is it encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No f) Cloud or third-party sites (e.g., Dropbox)? <input type="checkbox"/> Yes <input type="checkbox"/> No i. If yes, provide locations. ii. Are they all encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Will government information be encrypted when transmitted?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Will government information be encrypted during data backups and on backup media?	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Will government information be deleted or destroyed in accordance with NIST Special Publication 800-88 at the termination of the contract? Provide additional details.	<input type="checkbox"/> Yes <input type="checkbox"/> No

### Data protection and recovery

19. Does your <i>Business Continuity Plan</i> contain recovery time objectives for the amount of time within which business processes and continuity must be restored? If yes, what are the current stated and tested recovery time objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No
20. What is the process for backing up data? Check all that apply. <input type="checkbox"/> Full back-up <input type="checkbox"/> Incremental <input type="checkbox"/> Differential <input type="checkbox"/> Mirror <input type="checkbox"/> Other: _____ How often is data backed up?	
21. Where are data backups stored? Check all that apply. <input type="checkbox"/> Secure offsite <input type="checkbox"/> Secondary data center <input type="checkbox"/> Other: _____	
22. If necessary, how quickly can backed up data be accessed and restored?	
23. When was the last time you successfully tested your <i>Business Continuity Plan</i> ? When tested, did you meet all objectives?	
24. When was the last time you successfully tested your <i>Disaster Recovery Plan</i> ? When tested, did you meet all stated restore time objectives?	
25. Do you have an <i>Incident Response Plan</i> that addresses cybersecurity events? If yes, when was the last time it was tested? If yes, does it address ransomware events?	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No

26. Do you have immutable backups to protect against ransomware? If no, describe how PEBA's data and operations would be protected against ransomware events.	<input type="checkbox"/> Yes <input type="checkbox"/> No
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### Third party management

27. Identify any third party that will host or have access to government information. Provide a description of the services that are or will be provided related to the contract with PEBA.
28. Describe and explain your security policies and procedures as they relate to your use of contractors and next-tier sub-contractors.

### Human resources

29. Do you conduct employee security and awareness training at least annually? If yes, provide the last three annual dates of completion, who is included and the outline for the training.	<input type="checkbox"/> Yes <input type="checkbox"/> No
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### Audit and compliance

30. Which current reports or certifications do you have that demonstrate that adequate security controls and assurance requirements are in place to protect PEBA's data? If you answer yes to any of the following, provide a copy. a. SOC 1 b. SOC 2 If yes, Type I / Type II c. SOC 3 d. ISO/IEC27001 certificate e. HITRUST f. Other: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
31. Are you required to be PCI compliant in relation to the business you do with PEBA? a. If yes, are you compliant with PCI standards? b. If yes, is payment card data encrypted at the point of sale through transmission to the payment processor? c. If you are not compliant with PCI standards, describe the status of any compliance work and the estimated date of completion.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

### HIPAA compliance

32. Are you or would you be required to be HIPAA compliant in relation to the business you do with PEBA? If yes, continue to complete this section.	<input type="checkbox"/> Yes <input type="checkbox"/> No
33. When was the last HIPAA risk assessment completed?	
34. Does your company have a comprehensive HIPAA policy? If yes, what was the last date it was updated?	<input type="checkbox"/> Yes <input type="checkbox"/> No
35. Do you conduct employee HIPAA training at least annually? If yes, provide the last three annual dates of completion, who is included and the outline for the training.	<input type="checkbox"/> Yes <input type="checkbox"/> No
36. Describe the training.	
37. Have executive officers been trained on HIPAA?	<input type="checkbox"/> Yes <input type="checkbox"/> No
38. Do you have a dedicated HIPAA Compliance Officer and/or department? If yes, describe the department and provide the contact information for that person or department.	<input type="checkbox"/> Yes <input type="checkbox"/> No
39. Do you have a dedicated Chief Privacy Officer? If yes, describe who they report to and provide basic information about their job responsibilities and roles.	<input type="checkbox"/> Yes <input type="checkbox"/> No
40. To the best of your knowledge, is your company/entity HIPAA compliant?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If no, explain why your company/entity is not HIPAA compliant.	
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**Artificial intelligence**

41. Is AI developed in-house or supplied by a third party? Provide details.	<input type="checkbox"/> In-house <input type="checkbox"/> Third party <input type="checkbox"/> N/A
42. Do you perform independent audits of AI model outputs?	<input type="checkbox"/> Yes <input type="checkbox"/> No
43. Is customer data used to train or fine-tune models?	<input type="checkbox"/> Yes <input type="checkbox"/> No
44. Will AI be used to handle or store sensitive data?	<input type="checkbox"/> Yes <input type="checkbox"/> No
45. Will personally identifiable information be anonymized?	<input type="checkbox"/> Yes <input type="checkbox"/> No
46. Will the system continue to function if the AI service is not available?	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Physical security**

47. List the geographical locations of your data centers that could contain PEBA’s data.	
48. Do your secondary/failover sites have commensurate security with your primary site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
49. Is your data center hosted by a third party? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
50. Describe the policies, procedures and practices you have in place to provide for the physical security of your data centers and other sites where government information will be hosted, accessed or maintained.	

**Detection and prevention**

51. What controls are in place to detect security breaches?	
52. What system and network activity do you log?	
53. How long do you maintain these audit logs?	
54. Describe who monitors the logs (e.g., internal SOC, third-party SOC, etc.) and how they are monitored.	
55. Do you have network intrusion detection systems that provide actionable alerts if an unauthorized computer system intrusion occurs? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
56. How often do you perform internal vulnerability scanning? <input type="checkbox"/> Continuous <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly	
57. How often do you perform external vulnerability scanning against internet-facing IP addresses? <input type="checkbox"/> Continuous <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly	
58. Is penetration testing performed by an external vendor? If yes, how often is it performed? <input type="checkbox"/> Continuous <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly	<input type="checkbox"/> Yes <input type="checkbox"/> No
59. Is there any other penetration testing performed? If yes, who performs it? If yes, how often is it performed? <input type="checkbox"/> Continuous <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-annually <input type="checkbox"/> Other: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
60. Provide the last three dates of testing and indicate if it was conducted by an external vendor or internally.	
61. Is there a process for the timely installation of software updates/patches? If yes, are critical updates/patches installed within 30 days of release?	<input type="checkbox"/> Yes <input type="checkbox"/> No

	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

**Incident response**

62. Describe your incident response policies and practices.	
63. Have you had any non-HIPAA breaches in the last three years? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
64. Have you or your third-party vendors had any breaches in the last three years, as defined by HIPAA, that involved more than 500 records? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
65. Have you or your third-party vendors paid any HIPAA related fines in the last three years? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Security requirements and general information**

66. Are there any planned system upgrades, conversions or other system changes that might affect PEBA in the next year? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
67. Have there been or are there any planned changes in leadership or key staff that might affect your relationship with PEBA? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No
68. Are there any other material items/changes you believe PEBA should be made aware? If yes, provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No

The Offeror’s response to this questionnaire includes any other information submitted with its Offer regarding information or data security.

SIGNATURE OF PERSON AUTHORIZED TO REPRESENT THE ACCURACY OF THIS INFORMATION ON BEHALF OF CONTRACTOR:

By: \_\_\_\_\_

(Authorized signature)

\_\_\_\_\_

(Printed name)

Its: \_\_\_\_\_

(Title)

Date: \_\_\_\_\_

**Attachment 4**  
**BUSINESS ASSOCIATE AGREEMENT**

THIS BUSINESS ASSOCIATE AGREEMENT (“Agreement”) is entered into as of the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between **NAME OF BUSINESS ASSOCIATE, ADDRESS OF BUSINESS ASSOCIATE** (hereinafter referred to as “Business Associate”) and the **South Carolina Public Employee Benefit Authority**, 202 Arbor Lake Drive, Columbia, South Carolina 29223 (hereinafter referred to as the “Covered Entity”).

In consideration of the mutual promises and agreements set forth herein, Covered Entity and Business Associate do hereby contract and agree as follows:

**1. DEFINITIONS**

- (a) “Breach” shall have the same meaning as the term “Breach” in 45 CFR § 164.402.
- (b) “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 CFR § 160.103, and in reference to the party to this agreement, shall mean **NAME OF BUSINESS ASSOCIATE**.
- (c) “Compliance Date” shall have the same meaning as the term “Compliance Date” in 45 CFR § 160.103.
- (d) “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 CFR § 160.103, and in reference to the party to this agreement shall mean the South Carolina Public Employee Benefit Authority (PEBA).
- (e) “Data Aggregation” shall have the same meaning as the term “Data Aggregation” in 45 CFR § 164.501.
- (f) “Designated Record Set” shall have the same meaning as the term “Designated Record Set” in 45 CFR § 164.501.
- (g) “Electronic Protected Health Information” shall have the same meaning as “Electronic Protected Health Information” in 45 CFR §160.103.
- (h) “HITECH Act” shall have the same meaning as the Health Information Technology for Economic and Clinical Health Act, as incorporated into the American Recovery and Reinvestment Act of 2009.
- (i) “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (j) “Individual” shall have the same meaning as the term “Individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- (k) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164, subparts A and E.
- (l) “Protected Health Information” or “PHI” shall have the same meaning as the term “Protected Health Information” in 45 CFR § 160.103, limited to the information created or received by Business Associate from, or on behalf of, Covered Entity.
- (m) “Required By Law” shall have the same meaning as the term “Required By Law” in 45 CFR § 164.103.
- (n) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) “Security Incident” shall have the same meaning as “Security Incident” in 45 CFR § 164.304.
- (p) “Security Rule” shall mean the Security Standards and Implementation Specifications at 45 CFR Part 160 and 164, Subpart C.

(q) “Service Agreement” shall mean the agreement between **NAME OF BUSINESS ASSOCIATE** and PEBA, whereby **NAME OF BUSINESS ASSOCIATE** performs plan administrative tasks on behalf of the benefit program described herein as Covered Entity.

(r) “Unsecured PHI” shall have the same meaning as the term “Unsecured Protected Health Information” in 45 CFR § 164.402.

## **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

(a) Business Associate agrees to use or disclose PHI only as permitted or required by this Agreement or as Required By Law. Business Associate is permitted to use and disclose PHI or Electronic PHI that it creates for, or receives from, Covered Entity or business associate of Covered Entity and to request PHI on behalf of Covered Entity as described in the Agreement, consistent with the HIPAA Rules. When requesting, using, or disclosing PHI, Business Associate shall restrict the request, use, or disclosure of said PHI to the minimum necessary to accomplish the intended purpose of the request, use, or disclosure.

(b) Business Associate agrees to provide access to Covered Entity, at the request of Covered Entity, to PHI in a Designated Record Set in order to meet the requirements under 45 CFR § 164.524.

(c) Business Associate agrees to make available PHI for amendment and incorporate any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity, within thirty (30) days of a written request by Covered Entity.

(d) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity available to the Covered Entity or the Secretary, within thirty (30) days of a written request by the Covered Entity or the Secretary, for the purpose of permitting the Secretary to determine Covered Entity's compliance with the HIPAA Rules.

(e) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528 and to make available to Covered Entity, within thirty (30) days of a written request by Covered Entity, the information required to provide such an accounting to an individual. Business Associate will comply with mandates regarding individuals' rights under the HITECH Act, including rights to access and accounting of disclosures. Such information shall be made available in an electronic format where directed by Covered Entity. In addition, Business Associate shall include, within its accounting, disclosures for payment and health care operations purposes where such recording or accounting is required by the HITECH Act and as of the effective date for this provision of the HITECH Act. Covered Entity shall provide any additional information to the extent required by the HITECH Act and any accompanying regulations.

(f) Business Associate shall make information available directly to an individual within thirty (30) days, when that individual so requests, if such information is required to be disclosed.

(g) Business Associate agrees to develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the privacy, confidentiality, integrity, and availability of Covered Entity's electronic and paper PHI that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf, as required by the HIPAA Rules and as required by the HITECH Act. Business Associate shall also develop and implement policies and procedures and meet the HIPAA Rules' documentation requirements as required by the HITECH Act.

(h) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate agrees to ensure that any agent, including a subcontractor, to whom Business Associate provides PHI, agrees in writing, to abide by the same restrictions, conditions, and requirements that apply to Business Associate with respect to PHI and to implement appropriate safeguards to protect it.

(i) Business Associate agrees to notify Covered Entity within two (2) business days of becoming aware of any use or disclosure of PHI not provided for by the Agreement or of any security incident resulting in the successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, or resulting in any “Breach” of “Unsecured Protected Health Information,” as required by 45 CFR 164.410.

(j) Business Associate will provide written notice of the HIPAA Breach of Unsecured PHI, on behalf of Covered Entity, without unreasonable delay but no later than sixty (60) calendar days following the date the HIPAA Breach of Unsecured PHI is discovered or such later date as is authorized under 45 CFR § 164.412 to each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, used, or disclosed as a result of the HIPAA Breach. For purposes of this paragraph, a HIPAA Breach shall be treated as discovered as of the first day on which the HIPAA Breach is known or should reasonably have been known to Business Associate (including any person, other than the one committing the HIPAA Breach, which is an employee, officer, or other agent of Business Associate).

The content, form, and delivery of such written notice shall comply in all respects with 45 CFR § 164.404(c)-(d).

If the HIPAA Breach of Unsecured PHI involves less than five hundred (500) individuals, Business Associate will maintain a log or other documentation of the HIPAA Breach of Unsecured PHI which contains such information as would be required to be included if the log were maintained by Covered Entity pursuant to 45 CFR § 164.408, and provide such log to Covered Entity within five (5) business days of Covered Entity’s written request.

Additionally, upon request by the Covered Entity, Business Associate shall notify the Secretary of its breach of unsecured protected health information pursuant 45 CFR § 164.408.

(k) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

(l) Business Associate agrees to maintain appropriate clearance procedures and provide supervision to ensure that its workforce follows Business Associate’s security procedures.

(m) Business Associate agrees to provide appropriate training for its staff to ensure that its staff complies with the HIPAA Rules and the requirements of the HITECH Act.

(n) Business Associate agrees to implement appropriate security incident procedures and provide training to its applicable staff sufficient to detect and analyze security incidents.

(o) Business Associate agrees to maintain a current contingency plan in case of an emergency, as required by 45 CFR § 164.308.

(p) Business Associate agrees, as appropriate, to maintain an emergency access plan to ensure that the PHI it holds on behalf of Covered Entity is available when needed, as required by 45 CFR § 164.312.

(q) Business Associate agrees to implement appropriate storage, disposal and reuse procedures to protect any PHI that Business Associate holds for Covered Entity.

(r) Business Associate agrees to provide appropriate backup of the PHI that Business Associate holds for Covered Entity, as required by 45 CFR § 164.308.

(s) Business Associate agrees to have in place appropriate authentication and access controls to safeguard the PHI that Business Associate holds for Covered Entity.

(t) Business Associate agrees to make use of encryption, as appropriate, when transmitting PHI over the Internet.

(u) Business Associate agrees to retain the documentation required by this agreement for six years from the date of its creation or the date when it last was in effect, whichever is later.

(v) Business Associate agrees not to engage in any sale (as defined in the HIPAA Rules) of PHI.

(w) With respect to PHI, Business Associate shall abide by any marketing restrictions established by Section 13406 of the HITECH Act.

(x) With respect to PHI, Business Associate shall abide by any fundraising restrictions established by Section 13406 of the HITECH Act.

### **3. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION BY BUSINESS ASSOCIATE**

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity, as specified in the Service Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity.

(b) Except as otherwise limited in this agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate if the disclosures are Required By Law; or if Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the PHI will remain confidential and will be used or further disclosed only as Required By Law or only for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

(e) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

### **4. OBLIGATIONS OF COVERED ENTITY**

Covered Entity shall notify Business Associate of any limitations in its notice(s) of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI.

### **5. PERMISSIBLE REQUESTS BY COVERED ENTITY**

Covered Entity shall not request that Business Associate use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity, except Business Associate may use or disclose PHI for data aggregation or management and administrative activities of Business Associate.

### **6. TERM AND TERMINATION**

(a) Term.

The Term of this Agreement and the obligations herein shall be deemed effective as of the Compliance Date or the date of execution of this Agreement, whichever date is later, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is not feasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause.

Upon either Party's (the Non-Breaching Party's) knowledge of a material breach by the other party (the Breaching Party), the Non-Breaching Party may:

(1) Provide an opportunity for the Breaching Party to cure the material breach or end the violation and terminate this Agreement if the Breaching Party does not cure the material breach or end the violation within the reasonable time specified by the Non-Breaching Party; or

(2) If neither termination nor cure is feasible, the Non-Breaching Party may report the violation to the Secretary. Failure by the Non-Breaching Party to exercise its rights to terminate under this provision shall not be construed as a waiver of its rights to terminate, rescind or revoke the services herein in case of any subsequent breach.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

(2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible, including the need to retain PHI for audit, justification of work product or compliance with other applicable law. Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## 7. MISCELLANEOUS

(a) Definitions. All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations, and other official government guidance.

(b) Independent Contractor. The relationship between the parties will solely be that of independent contractors engaged in the operation of their own respective businesses.

(c) Third Party Beneficiaries. The parties agree that there are no intended third party beneficiaries under this Agreement.

(d) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules and/or HITECH Act means the section as in effect, or as amended, and for which compliance is required.

(e) Amendment. The parties agree to take such action as is necessary to amend this Agreement as is necessary to comply with the requirements of the HIPAA Rules and other applicable law or regulation.

(f) Survival. The respective rights and obligations of Business Associate under Section 6 (c) of this Agreement shall survive the termination of this Agreement.

(g) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with the applicable requirements under HIPAA and other applicable law or regulation.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date indicated below.

**NAME OF BUSINESS ASSOCIATE**

**S.C. PUBLIC EMPLOYEE BENEFIT AUTHORITY**

BY: \_\_\_\_\_  
*Signature*

BY: \_\_\_\_\_  
*Signature*

NAME: \_\_\_\_\_  
*Type or print name*

NAME: \_\_\_\_\_  
*Type or print name*

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Attachment 5**  
**Non-Disclosure Agreement**

This Non-Disclosure Agreement (the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_ 202\_, by and between \_\_\_\_\_ (hereinafter referred to as “the Offeror”) and the State of South Carolina, South Carolina Public Employee Benefit Authority (hereinafter referred to as “the State”). Offeror as herein used includes both any entity that submits a proposal and any entity that is considering submitting a proposal but ultimately does not.

Offeror warrants and represents that it intends to submit a Technical and Business Proposal in response to the Request for Proposals for Behavioral Health Management Services. In order for the Offeror to submit a Proposal, it will be necessary for the State to provide the Offeror with access to certain confidential information including, but not limited to, demographic and identifying information on eligible individuals and plan utilization data. All such information provided by the State shall be considered Confidential Information regardless of the form, format, or media upon which or in which such information is contained or provided, regardless of whether it is oral, written, electronic, or any other form, and regardless of whether the information is marked as “Confidential Information.” As a condition for its receipt and access to the Confidential Information described in Part 3, Scope of Proposal, Offeror agrees as follows:

1. Offeror will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form any Confidential Information received except in connection with the preparation of its Proposal. All Confidential Information and copies thereof shall be protected from disclosure by commercially reasonable means, including without limitation physical separation, security and limited need to know access for any hard copy materials and encryption, password protection, and secure transmission for electronic materials respectively.
2. Each employee or agent (including without limitation subcontractors) of the Offeror who receives or has access to the Confidential Information shall be notified of the confidentiality and nondisclosure requirements of this Agreement and the confidential nature of the Confidential Information. Each employee or agent of the Offeror who is provided access to or a copy of the Confidential Information shall be bound by confidentiality and nondisclosure obligations that are no less restrictive than the obligations set forth herein. The Offeror shall be liable for any violations by any employees or agents who are provided or given access to Confidential Information. The Offeror shall provide a list of all individuals, employees, and agents of the Offeror who have or have had access to the Confidential Information, along with the certification required in Section 3 of this Agreement.
3. Offeror, other than the Contractor, shall return to the State the original and destroy (in a manner designed to prohibit reading of, copying or reconstruction of the data) any copies of the Confidential Information remaining in its possession within five (5) business days of the State’s notice of award in connection with this procurement. If any Offeror does not submit a Proposal, the Offeror shall return the Confidential Information to the Procurement Officer on or before the due date for Proposals. The Offeror, other than the Contractor, shall certify, in writing and signed by an individual with authority to bind the Offeror, to the Procurement Officer that any and all Confidential Information (in whatever format or media) has been destroyed or returned to the Procurement Officer within five (5) business days of the notice of award or by the date the Offeror will not or did not submit a proposal, whichever is earlier. Such certification may be in the form provided below or in another form.
4. Offeror acknowledges that the disclosure of the Confidential Information may cause irreparable harm to the State and agrees that the State may obtain an injunction to prevent the disclosure, copying, or other impermissible use of the Confidential Information. The State’s rights and remedies hereunder are cumulative, and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages for the Offeror’s failure to comply with the requirements of this Agreement. The Offeror consents to personal jurisdiction in the South Carolina State Courts.
5. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the Offeror or any employee or agent of the Offeror to comply with the requirements of this Agreement, Offeror shall hold harmless and indemnify

the State from and against any such losses, damages, liabilities, expenses, and/or costs.

6. This Agreement shall be governed by the laws of the State of South Carolina.
7. Offeror acknowledges that a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Offeror further acknowledges that this Agreement is a statement made in connection with a procurement contract.
8. The individual signing below warrants and represents that he or she is fully authorized to bind the Offeror to the terms and conditions specified in this Agreement.

OFFEROR: \_\_\_\_\_

BY: \_\_\_\_\_  
Signature

NAME: \_\_\_\_\_  
Print Name

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OFFEROR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Employee/Agent	Employee (E) or Agent (A)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I certify, on behalf of \_\_\_\_\_ (“Offeror”) that the original and any and all copies of the Confidential Information provided by the State in connection with the Request for Proposals for Behavioral Health Management Services for PEBA have been returned to the Procurement Officer or destroyed in a manner designed to prevent copying, reconstruction of or reading of the data. Below is a list of the individuals, employees and/or agents to whom copies of or access to the Confidential Information have been provided.

I warrant and represent that I am fully authorized to bind the Offeror to the terms and conditions specified in this Agreement.

OFFEROR’S EMPLOYEES AND AGENTS WHO WERE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Employee/Agent

Employee (E) or Agent (A)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**Attachment 6**  
**Provider Reimbursement Methodologies**

- Reimburse institutional providers for inpatient services using prospective payment methodologies including, but not limited to, case rates, per diems, and global case rates.
  
- Reimburse institutional providers for outpatient services using prospective payment methodologies including, but not limited to, outpatient APC, case rates, and global case rates.
  
- Reimburse professional providers using methodologies including, but not limited to, fee schedules, case rates, and global case rates.
  
- Reimburse under a percent of charge arrangement for services otherwise not enumerated under general contractual terms with institutional and professional providers.