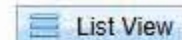




The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at ***wvOASIS.gov***. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at ***WVPurchasing.gov*** with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

Header 2

 List View

General Information

Contact

Default Values

Discount

Document Information

Clarification Request

Procurement Folder: 1902568

Procurement Type: Central Master Agreement

Vendor ID: 000000102111 

Legal Name: CHANGE HEALTHCARE PHARMACY SOLUTIONS INC

Alias/DBA:

Total Bid: \$2,209,328.00

Response Date: 06/29/2026 

Response Time: 15:02

Responded By User ID: StateLicensing 

First Name: Joe

Last Name: Bergondo

Email: joseph.bergondo@optum.ci

Phone: 7327183770

SO Doc Code: CRFQ

SO Dept: 0511

SO Doc ID: BMS2600000002

Published Date: 6/10/26

Close Date: 6/30/26

Close Time: 13:30

Status: Closed

Solicitation Description: PDL/PPL/HCPADL/ SMAC SERVICES

Total of Header Attachments: 2

Total of All Attachments: 2



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Solicitation Response

Proc Folder: 1902568
Solicitation Description: PDL/PPL/HCPADL/ SMAC SERVICES
Proc Type: Central Master Agreement

Solicitation Closes	Solicitation Response	Version
2026-06-30 13:30	SR 0511 ESR06122600000008677	1

VENDOR
000000102111
CHANGE HEALTHCARE PHARMACY SOLUTIONS INC

Solicitation Number: CRFQ 0511 BMS2600000002
Total Bid: 2209328
Response Date: 2026-06-29
Response Time: 15:02:49
Comments:

FOR INFORMATION CONTACT THE BUYER
Crystal G Hustead
(304) 558-2402
crystal.g.hustead@wv.gov

Vendor		
Signature X	FEIN#	DATE

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	PDL/PPL/HCPADL/ SMAC Startup Costs-Year 1				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$0.00

Extended Description:

Lump Sum Cost for Initial Startup Costs
2 Month Startup.
Service Period: 11/1/2026-12/31/2026

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Annual Not To Exceed Costs - Year 1				458333.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$458,333.00

Extended Description:

Annual Not To Exceed Costs-Year 1 (10 Months)
Service Period: 01/01/2027-10/31/2027

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Additional Services Hourly Rate - Year 1				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$175.00

Extended Description:

Additional Services (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26)-I Year One (1) Hourly Rate (10 months).
Service Period: 01/01/2027-10/31/2027

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Optional Services (HCPADL) Not to Exceed Costs - Year 1				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments:

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs-Year 1 (10 Months)
Service Period: 01/01/2027-10/31/2027

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Annual Not To Exceed Costs - Optional Renewal Year 1				566500.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$566,500.00

Extended Description:

Annual Not To Exceed Costs-Year 2 (Optional Renewal Year 1) (12 Months)
Service Period: 11/01/2027-10/31/2028

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Additional Services Hourly Rate - Optional Renewal Year 1				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$175.00

Extended Description:

Additional Services Year 2 (Optional Renewal Year 1) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).
Service Period: 11/01/2027-10/31/2028

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Optional Services (HCPADL) - Not to Exceed Costs -OR Year 1				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments:

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs-Year 2 (Optional Renewal Year 1)(10 Months)
Service Period: 11/01/2027-10/31/2028

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Annual Not To Exceed Costs - Optional Renewal Year 2				583495.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: 583495.00

Extended Description:

Annual Not To Exceed Costs-Year 3 (Optional Renewal Year 2) (12 Months)
Service Period: 11/01/2028-10/31/29

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Additional Services Hourly Rate - Optional Renewal Year 2				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$175.00

Extended Description:

Additional Services Year 3 (Optional Renewal Year 2) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).
Service Period: 11/01/2028-10/31/2029

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Optional Services (HCPADL) Not To Exceed Costs - OR Year 2				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments:

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs - Year 3 (Optional Renewal Year 2) (10 Months)
Service Period: 11/1/2028-10/31/2029

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Annual Not To Exceed Costs - Optional Renewal Year 3				601000.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$601,000.00

Extended Description:

Annual Not To Exceed Costs-Year 4 (Optional Renewal Year 3) (12 Months)
Service Period: 11/01/2029-10/31/2030

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Additional Services Hourly Rate - Optional Renewal Year 3				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments: \$175.00

Extended Description:

Additional Services Year 4 (Optional Renewal Year 3) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).
Service Period: 11/01/2029-10/31/2030

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	Optional Services HCPADL) Not To Exceed Costs - OR Year 3				0.00

Comm Code	Manufacturer	Specification	Model #
85131701			

Commodity Line Comments:

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List)
Not To Exceed Costs-Year 4 (Optional Renewal 3) (10 Months)
Service Period: 11/01/2029-10/31/2030

Optum Rx Experience Managing PDL and SMAC Services

3.2 A minimum of three (3) years of experience, within the last ten (10) years in implementing and managing PDL and SMAC services, for a minimum of three (3) individual state Medicaid pharmacy programs. Documentation to support meeting the requirement includes, but is not limited to, listing of contracted States where this service is provided.

We bring more than 20 years of dedicated managed Medicaid PBM experience, supporting health plans across complex, highly regulated state programs. We support Medicaid managed care plans across more than 20 states, helping customers navigate evolving state requirements, PDL dynamics, rebate pressure, and member affordability challenges—while maintaining uninterrupted access to care for vulnerable populations.

Our differentiated approach combines hands-on Medicaid expertise, disciplined compliance execution, and forward-looking pharmacy strategies that help plans remain competitive as state programs and policy expectations evolve.

Our expertise includes:

- **Purpose-built for Medicaid complexity:** We understand that Medicaid pharmacy programs demand precision, speed, and accountability. Our teams are deeply experienced in state oversight, CMS expectations, and rapid response to state inquiries—helping customers reduce regulatory risk while staying focused on member outcomes.
- **Seamless implementation with zero disruption:** Optum Rx has a proven track record of delivering fast, accurate, and reliable Medicaid implementations, even under aggressive timelines. Our structured approach is designed to avoid gaps in coverage, protect continuity of care, and support a smooth members transition experience from day one.
- **Member-focused strategies that address affordability and equity:** We apply advanced analytics, clinical expertise, and program design to support personalized interventions that close care gaps, integrated approaches to health equity and social determinants of health, and targeted clinical programs that improve adherence and outcomes without adding administrative burden to plans
- **Collaborative, state-specific strategy:** We work closely with plans to execute on the nuances of each state Medicaid program and tailor solutions accordingly—supporting market entry and readiness, state-aligned formulary and PDL strategies, growth planning and ongoing program optimization, and flawless day-to-day administration of Medicaid pharmacy benefits
- **Proactive compliance and regulatory support:** Our compliance model is designed for an evolving regulatory environment. We provide proactive guidance and operational support to help plans stay aligned with federal and state requirements—reducing surprises and audit exposure.
- **Medicaid financial stewardship at scale:** Optum Rx manages one of the largest Medicaid books of business in the market, giving us deep, practical experience navigating statutory rebate dynamics, inflation exposure, and class-level financial tradeoffs. We apply disciplined rebate strategies—including price protection,

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multi-year agreements, and proactive therapeutic class management—to help Medicaid plans balance affordability, access, and long-term financial sustainability.

- **State PDL and formulary management:** We have extensive experience managing state-mandated Preferred Drug Lists (PDLs) and open formularies. We work within state requirements while providing flexibility to support plan-specific objectives, including the ability to customize formularies with additional drugs when customers choose to go beyond the state PDL.

Our approach balances compliance, access, affordability, and clinical appropriateness—helping plans manage pharmacy trend without compromising member care.

Our current list of contracted states where this service is provided is below:

PDL Customers	SMAC Customers
Iowa	Arizona
Indiana	Georgia
Maine	Illinois
Ohio	Indiana
Pennsylvania	Maine
Tennessee	Mississippi
Texas	New Jersey
Utah	South Dakota
Vermont	TennCare
Wyoming	Utah
	Vermont
	VFMP
	West Virginia
	Wyoming

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3.2.1 Account manager who is a registered pharmacist with a minimum of three (3) years' experience as a registered pharmacist, actively licensed with the Board of Pharmacy for the state in which they are employed and in good standing, and including a minimum of one (1) year experience in the administration of Medicaid FFS and/or Medicaid MCO services included in 3.2.

Joseph Bergondo, PharmD - Account Manager

Professional Summary

Joe has more than three years of experience as a registered pharmacist and is actively licensed in good standing with the Board of Pharmacy in the state in which he is employed. He has more than one year of experience in the administration of Medicaid FFS and/or Medicaid MCO services.

Joe is a passionate pharmacist with a knack for leading others to reach their full potential. Proven success in project management with impressive results such as increasing immunization and adherence rates. He is highly motivated to lead others and aid in their skill development to help achieve and exceed organizational goals. Joe is committed to delivering high-quality patient services to improve standards of medical practice. He has excellent written and verbal communication skills coupled with the ability to build and maintain professional partnerships. Joe is a hands-on leader that enjoys working in a fast-paced, high-pressure environment.

Experience

Optum Rx/Change Healthcare

Regional Pharmacy Account Manager

2022 - Present

- Responsible for managing and maintaining relationship with Pennsylvania, Delaware, West Virginia, New Jersey, North Dakota and Minnesota Medicaid accounts.
- Provides clinical and administrative services related to the Preferred Drug List (PDL), supplemental rebate (SR), state maximum allowable cost (SMAC), retrospective DUR, pharmaceutical and therapeutics (P&T) committee support, file transfers and maintenance, preparation of weekly drug files and post P&T committee updates, maintenance for preferred drug list including budgetary and clinical reports
- Deliver exceptional service in resolving issues related to each of the 6 Medicaid accounts. Working directly with our clinical staff, data analysts and other important key personnel, provide clinically and fiscally responsible solutions to the Medicaid programs of each state.

Integrity Health Partnership Health Centers

Director of Pharmacy Operations

2021 - 2023

- As the Director of Pharmacy Operations, I have oversight for all pharmacy operations that exist within the company

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- Lead the project management implementation of over overall inventory management for the company, resulting in over \$20,000 savings in the first two months of implementation
- Program manager for our care coordination teams within the health centers. Implemented weekly strategy meetings with all members of the healthcare team. This resulted in a more coordinated effort in treating each patient as well as a newly created document to help assess patients' healthcare needs holistically.
- Pharmacy Contracting- responsible for contract negotiations with PBM's and wholesalers for inventory to allow for the maximum benefit for our patients and our Profit and Loss statement
- Developing Talent- recruiting top tier talent, hiring, training and development of all pharmacy staff within the organization
- Executive level decision making- as part of the executive team I am responsible for presenting pharmacy performance, as well as making any recommendations for area of improvement or collaboration to help drive better outcomes for our patients and company

CVS Health

District Leader

2015 - 2021

- Serve as manager for 30 CVS pharmacies and oversee activities of 165 pharmacists and technicians in multiple states.
- Accelerate business growth through development of a robust specialty pharmacy formulary.
- Advance skills of other pharmacists and leaders through providing timely and critical feedback to grow business opportunities.
- Program Management
- Serve as program lead for CVS's East Division Clinical Outcomes' Program and boosted adherence rates by over 7% in 27 stores through defining the problem, measuring and analyzing the results, improving on operational processes and finally controlling the results to maintain it long term while continuing to improve.
- Supply education to young adults, children and caregivers on opioid abuse and addiction as pharmacy lead for the Pharmacist Teach Program.
- Lead the project management implementation for a drug Overdose Initiative resulting in increased Narcan dispensing by 16% in test site locations in collaboration with local College of Pharmacy; gave clinical presentations in academic, community and health care settings on the pilot program.
- Program manager for initiative aimed to accelerate immunizations in vulnerable patient populations; Implemented strategies for patient counseling and direct marketing resulting in a 112% increase of immunization growth over LY for pneumonia vaccines.

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Target Pharmacy

District Manager

2023 - 2015

- Served as supervisor of 31 pharmacies and >150 pharmacists and technicians in three states.
- Analyzed and implemented various professional standard of care practices couple with developing and implementing strategies to improve overall efficiency.

Pharmacy Manager

2010 - 2012

- Completed drug utilization reviews, checked prescription accuracy, provided patient counseling, and collaborated with physicians to ensure patient safety.
- Delivered strategic coaching for improvements and created a talented team of two pharmacists and four technicians.

Relevant Training and Education

Doctorate of Pharmacy (PharmD) Temple University | Philadelphia, PA | 2009
School of Pharmacy Dean's List

Bachelor of Science in Biology
The College of New Jersey | Ewing, NJ | 2004

New Jersey Athletic Conference All-Academic Team

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3.2.2 Physician, who serves as a Medical Director in good standing with the governing board in the state in which they are employed with three (3) years' experience in supporting a pharmacy benefits program.

Roberta Capp, MD, MHS - Physician Serving as Medical Director

Professional Summary

Dr. Capp has more than three years' experience in supporting a pharmacy benefits program and is in good standing with the governing board in the state in which she is employed.

Dr. Capp is an executive clinical leader with over 12 years of experience driving transformative healthcare strategies across payer, provider, and academic settings. Her expertise spans population health management, utilization management, and value-based care, with a strong focus on obesity medicine and culinary health innovation. Dr. Capp has consistently delivered measurable outcomes—such as multimillion-dollar savings, improved patient engagement, and reduced staff turnover—by leveraging data-driven decision-making and whole-person care models.

She has held senior leadership roles at organizations including Optum Rx, CenterWell, Blue Cross Blue Shield of North Carolina, and Duke University Hospital, where she led initiatives that improved clinical operations, restructured contracts, and enhanced care delivery. Her academic foundation from Harvard Medical School, combined with board certifications and ongoing training in culinary medicine and leadership, positions her as a strategic partner in advancing high-quality, equitable healthcare solutions.

Dr. Capp brings a unique blend of clinical insight, operational acumen, and policy fluency to every engagement, making her an ideal leader for contracts focused on innovation, efficiency, and improved health outcomes.

Experience

Optum Rx

National Medicaid Physician Leader

2024 – Present

- Physician advisor for several Medicaid state GLP-1RA strategies, including leveraging population stratification and UM criteria.
- Evaluated yearly specialty medical utilization trends with a focus on identifying opportunities for leveraging biosimilars.

Duke University Hospital

ED Attending at an Academic, Level 1 Trauma Center

2023 – Present

- Evaluate and treat patients in a busy ED with >90K visit/year

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CenterWell Primary Care

Vice President, Clinical Care Model Innovation

2022 – 2024

- Designed a value creation portfolio yielding 30 million dollars in savings by reducing avoidable utilization by 20%
- Reduced staff turnover from 30% in 2022 to 16% in 2023 via communication activities for a 400+ staff members

Blue Cross, Blue Shield of NC

CMO, Vice President, Clinical Operations

2020 – 2022

- Improved care management transitions of care engagement rates from 33% to 55% by implementing a risk stratification algorithm
- Maintained turnover rates at 11% while managing a team of 800 people through staff reduction efforts
- Yielded 20 million dollars by re-negotiating FFS contracts into value-based contracts
- Lead Medical Director, Health Care Programs
- Pioneered COVID-19 clinical operations and 8 COVID benefit changes across different business segments

University of Colorado

Medical Director, Clinical Program Development, UCHealth Associate Professor, Department of Emergency Medicine

2013 – 2019

- Developed 13 community health needs assessments for each hospital within the UCHealth system
- Designed and managed the operations of an AMA nationally recognized interdisciplinary patient navigation training program
- Led provider and c-suite engagement activities related to Medicaid Hospital Transformation Program

Relevant Training and Education MHS

Yale University | CT | 2013

Harvard Affiliated Emergency Medicine Residency

Harvard University | MA | 2011

MD

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Harvard Medical School | MA | 2007

BA

University of Colorado, Boulder | CO | 2003

Board Certification

American Board of Emergency Medicine

Diplomate of American Obesity Medicine

Certificates

Culinary Medicine Certificate, In Progress

Duke Certificate of Leadership Management, Fuqua Business School

3.2.3 Rebate Manager with a minimum of three (3) years' experience in the administration of a Medicaid Federal drug rebate and supplemental drug rebate program.

Ivona Cookson - Rebate Manager

Professional Summary

Ivona has more than 3 years' experience in the administration of Medicaid Federal drug rebate and supplemental drug rebate programs.

Ivona is a seasoned pharmacy operations professional with over 25 years of experience in the industry. Since joining Optum Rx (formerly Change Healthcare) in 2012, she has advanced to the role of Rebate Operations Manager, where she leads rebate operations for the Sovereign States Drug Consortium (SSDC). Ivona serves as the primary point of contact for contract execution, amendments, meetings, and client communications.

She possesses extensive knowledge of CMS rebate guidelines, supplemental billing, and rebate operational processes. Ivona has collaborated closely with project managers and technical engineers to develop business requirements and standards for technology solutions supporting rebate systems, state contracting, labeler status and demographics, rebate flag determinations, and labeler divestitures.

Renowned for her strong client service orientation, Ivona consistently delivers prompt, effective communication and issue resolution. She is highly skilled in system troubleshooting and proficient across multiple software platforms, ensuring seamless operations and reliable results.

Experience

Optum Rx

SSDC Rebate Operations Manager

2025 – Present

- Manages SSDC contract processing and negotiations administrative staff.
- Acts as a primary point of contact for all SSDC Member States.
- Assists with supplemental rebate dispute resolution.
- Manages the SSDC rebate account, including the following rebate operations applications: Rebate Administration (Rebate Admin), electronic rebate management system (eREBS) and electronic offer management system (eROMS) application administration with a focus on operational functionality.
- Ensure all deliverables are completed and made available to clients timely.
- Manages the supplemental and diabetic pricing file application and works closely with project management and the IT development team on product testing and documentation to maintain current systems and enhancements to systems.
- Assists with business logic requirement gathering and coordinates with account managers and rebate analysts on special projects, as client requests arise and creates client states supplemental and diabetic pricing files on a quarterly basis.

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- Uploads SSDC reports and meeting materials onto secure website and communicate loads and updates to SSDC Member States.
- Help coordinate SSDC quarterly and annual meetings.
- Maintains SSDC web page with updated information and communications.
- Works with Director of Pharmacy Services and supporting staff within each SSDC Member State to ensure the State's requests and requirements are addressed and resolved.

Optum Rx/Change Healthcare

Rebate Operations Supervisor

2016 – 2025

- Managed daily operations for optimal performance, ensuring smooth workflows and timely completion of tasks.
- Administered contractual obligations under the Medicaid Drug Rebate Program and the associated invoicing and reporting obligations, including invoicing rebate claims accurately after a vigorous quality assurance process, providing dispute analysis and resolution reports to state Medicaid program clients, compiling and submitting payment collection reports and trends, complete late payment reporting and invoice variance trending.
- Compiled quarterly rebate summary analysis report and presented during quarterly meeting.
- Oversaw maintenance of programs and business rules in rebate applications.
- Assisted IT with enhancements in functionality and system advancements.
- Communicated effectively with external parties, including CMS, manufacturers and States on rebate contractual obligations.
- Lead audit process, including state and Sarbanes-Oxley (SOX) audits, gathering data and ensuring compliance with regulations.
- Conducted Rebate System demonstrations for new state Medicaid program clients, both on site and virtual.
- Performed regular performance evaluations for direct reports, identifying areas for improvement and setting development goals accordingly.
- Guided staff in company policies and departmental guidelines.
- Attended and helped organize annual SSDC conference to support contracting processes.
- Executed 340B claim and provider exclusion review and dispute resolution, including completing audit reviews.
- Conducted analysis of new CMS file format updates and tested rebate system to ensure compliance with CMS pricing files in a timely manner.

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Goold Health Services

Rebate Contracting Analyst

2014 – 2016

- Assisted with management of quarterly supplemented rebate and durable medical equipment (DME) rebate pricing file creation.
- Worked with solicitation, offer acceptance/review and contract administration for the Georgia Medicaid program.
- Performed quality assurance of manufacturers offer submissions.
- Communicated with manufacturers and state Medicaid program client on offer clarifications, revisions and deadlines.
- Compiled various contracting reports, including new offers and status updates.
- Assisted in resolving supplemental rebate invoice disputes.
- Attended annual SSDC conference

Goold Health Services

Rebate Specialist

2012 – 2014

- Performed rebate invoicing tasks, including quality assurance, dispute resolution and collection processes for federal and supplemental programs.
- Completed account reviews to ensure account balances were agreed upon between state office and manufacturers to facilitate payment of outstanding rebate amounts due.
- Entered 340B provider information from Health Resources and Services Administration (HRSA) Medicaid Exclusion File into rebate system to ensure claims were properly excluded from invoicing.
- Processed new drug product rebate eligibility from CMS and Medi-Span files in rebate system to accurately reflect flag status for inclusion and exclusion from invoicing.
- Posted payments into rebate system, created reports to review account records, provided claim level detail reports to manufacturers and processed late notices.

Omnicare

Pharmacy Client Service Manager

2002 – 2011

- Registered with the New Jersey Board of Pharmacy as a Pharmacy Technician, assisted pharmacists with verification of prescription information and dosage, including processing and submitting insurance claims.
- Enhanced pharmacy client satisfaction by addressing escalated concerns and disputes from over 20 assisted living and nursing home facilities and provided timely solutions and improvement plans.
- Engaged in routine pharmacy audits.
- Managed a team of over 10 pharmacy staff members.

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- Assisted sales team with presentation of diabetic supplies.
- Visited nursing facilities to ensure exceptional client service was provided.

Belmar Hometown Pharmacy and Long-Term Care Pharmacy

Pharmacy Technician

2001 – 2002

- Processed prescriptions and submitted insurance claims.
- Performed exceptional customer service, ensuring all concerns and claim submission issues were promptly addressed and resolved.

Rite Aid Pharmacy

Pharmacy Technician

1998 – 2001

- Processed prescriptions and submitted insurance claims at a busy 24-hour store.
- Performed provider outreach for verification and refill requests.
- Provider excellent customer service to ensure wait times were minimal.
- Performed routine audit of drug products, including removing expired items from inventory.

Education

BS, Biochemistry

Rutgers University | NJ | 2000

Licensure

Pharmacy Technician License Number

28RW00590700 | NJ | 2008-2014

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3.2.4 SMAC pricing manager with a minimum of one (1) year experience in the administration of a Medicaid FFS SMAC pricing program.

Wendy Ogden - SMAC Pricing Manager

Professional Summary

Wendy has more than one year of experience in the administration of Medicaid FFS SMAC pricing programs.

Wendy has over a decade of experience working in different pharmacy roles. Before joining OptumRx in 2025, Wendy held similar positions at Marsh McLennan-Mercer and at Change Healthcare where she worked as a liaison between payor and provider. She helped to resolve inquiries related to reimbursement rates assigned to medications dispensed to Medicaid Members for several different US states. She has helped with drug cost surveys, web list creation, rebasing of SMAC rates, and with the collection and management of acquisition data.

Prior to working at Change Healthcare, she worked- at the bench- as a licensed pharmacy technician for KPH Health Services/Kinney Drugs and in that same role at the Marble Works Pharmacy-in mail order services.

She has a keen eye for detail, is very organized with great communication, problem solving, and decision-making skills and experience working with Microsoft Office: Word, Power Point, Excel, and Outlook.

Pharmacy Experience

Optum Rx – Pharmacy Services

Client Support Specialist-SMAC Team

2025 - Current

- Provide support with drug rate reimbursement appeals/disputes for providers- from six different US states -that dispense medication(s) to Medicaid members. Appeals/Disputes are received via email.
- Process rate research requests and act as a liaison between provider and the state Medicaid Project Manager of each state.
- Other SMAC related responsibilities include monthly rebasing of SMAC rates, the collection and management of acquisition data, and drug cost surveys.

Marsh McLennan-Mercer-Specialty Sector

Government Consultant-Pharmacy Help Desk Support

2023 - 2024

- Provided support with drug reimbursement inquiries, drug cost surveys, COD (Cost of Dispensing) surveys, and attestation surveys for several US states.
- Was responsible for: the review of weekly rate files, the creation and posting of weekly Web Lists, the uploading of adjusted/new drug reimbursement rates, and the creation of monthly reports.

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Change Healthcare

Drug Reimbursement Specialist – SMAC Team

2019 - 2023

- Provided support to providers disputing reimbursement for dispensed medication(s) to Medicaid recipients for nine different states. Disputes received via fax, email, or by telephone.
- Processed and resolved issues that arise regarding reimbursement rates per unit of medication(s) being dispensed by being a liaison between provider and Medicaid Project Managers of each state.
- Other SMAC related projects involved with monthly rebasing of SMAC rates, drug surveys, collection and management of acquisition data, QA Reports, Telephone Call Reports, creation of Incremental Files and Web Lists.

Pharmacy Certified Support Specialist

2016 - 2019

- Provided pharmacy-related product support to providers, pharmacies, or members enrolled in Vermont Medicaid Insurance. Inquires received via telephone, fax, or email.
- Processed and resolved issues that did arise regarding Prior Authorization requests or in retail and specialty pharmacy claim processing and helped callers understand insurance coverage benefits.

KPH Healthcare Services Inc. (Kinney Drugs)

Pharmacy Technician

2012 - 2015

- Filled prescriptions- which included- billing insurance companies electronically, data entry, and customer service- in person and on the telephone.
- Received "Ownership Excellence Award" September 2015.

Marble Works Pharmacy/ Pharmacy Health Services

Pharmacy Technician

2012 - 2012

- Helped in the mail order services of pharmacy- filling prescription medications, data entry, answering client's questions regarding their individual profiles via telephone.

Education

Graduate Course Work: "Educational Leadership" Degree, University of Vermont, Burlington, Vermont. Twelve credits -earned. 2005.

Bachelor of Science in Secondary Education: major- mathematics, minor- science, University of Vermont, Burlington, Vermont. March 1987. Licensed with the state of Vermont thru 2012.

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Champlain Valley Union High School, Hinesburg, Vermont. June 1982. Received the "Robert J. Pepper Memorial Award" for outstanding achievement in science.

Vermont Pharmacy Technician License –expired in 2017.

CONFIDENTIAL, PROPRIETARY AND TRADE SECRET INFORMATION OF OPTUM RX



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Centralized Request for Quote
Service - Prof

Proc Folder: 1902568			Reason for Modification:
Doc Description: PDL/PPL/HCPADL/ SMAC SERVICES			
Proc Type: Central Master Agreement			
Date Issued	Solicitation Closes	Solicitation No	Version
2026-06-10	2026-06-30 13:30	CRFQ 0511 BMS2600000002	1

BID RECEIVING LOCATION

BID CLERK
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON ST E
CHARLESTON WV 25305
US

VENDOR

Vendor Customer Code:
Vendor Name : OptumRx, Inc.
Address : Optum Rx
Street : 1 Optum Circle
City : Eden Prairie
State : MN **Country :** USA **Zip :** 55344
Principal Contact : Joseph Bergondo
Vendor Contact Phone: 732-718-3770 **Extension:**

FOR INFORMATION CONTACT THE BUYER

Crystal G Hustead
(304) 558-2402
crystal.g.hustead@wv.gov

Vendor Signature X  **FEIN#** 33-0441200 **DATE** 06/23/2026
Signed: 06/23/2026 14:53:04 CDT

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION

THE STATE OF WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES (DOHS), BUREAU FOR MEDICAL SERVICES (BMS), IS SOLICITING BIDS TO ESTABLISH AN OPEN-END CONTRACT FOR PREFERRED DRUG LIST (PDL), PREFERRED PRODUCT LIST (PPL), HIGH-COST PHYSICIAN-ADMINISTERED DRUGS LIST (HCPADL), AND STATE MAXIMUM ALLOWABLE COST (SMAC) SERVICES FOR THE WEST VIRGINIA MEDICAID PROGRAM PER THE ATTACHED DOCUMENTS.

QUESTIONS REGARDING THE SOLICITATION MUST BE SUBMITTED IN WRITING TO CRYSTAL.G.HUSTEAD@WV.GOV PRIOR TO THE QUESTION PERIOD DEADLINE CONTAINED IN THE INSTRUCTIONS TO VENDORS SUBMITTING BIDS

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	PDL/PPL/HCPADL/ SMAC Startup Costs-Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Lump Sum Cost for Initial Startup Costs
2 Month Startup.

Service Period: 11/1/2026-12/31/2026

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Annual Not To Exceed Costs - Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Annual Not To Exceed Costs-Year 1 (10 Months)

Service Period: 01/01/2027-10/31/2027

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Additional Services Hourly Rate - Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Additional Services (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26)-I Year One (1) Hourly Rate (10 months).

Service Period: 01/01/2027-10/31/2027

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Optional Services (HCPADL) Not to Exceed Costs - Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs-Year 1 (10 Months)

Service Period: 01/01/2027-10/31/2027

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Annual Not To Exceed Costs - Optional Renewal Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Annual Not To Exceed Costs-Year 2 (Optional Renewal Year 1) (12 Months)

Service Period: 11/01/2027-10/31/2028

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Additional Services Hourly Rate - Optional Renewal Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Additional Services Year 2 (Optional Renewal Year 1) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).

Service Period: 11/01/2027-10/31/2028

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Optional Services (HCPADL) - Not to Exceed Costs -OR Year 1				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs-Year 2 (Optional Renewal Year 1)(10 Months)

Service Period: 11/01/2027-10/31/2028

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Annual Not To Exceed Costs - Optional Renewal Year 2				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Annual Not To Exceed Costs-Year 3 (Optional Renewal Year 2) (12 Months)

Service Period: 11/01/2028-10/31/29

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Additional Services Hourly Rate - Optional Renewal Year 2				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Additional Services Year 3 (Optional Renewal Year 2) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).

Service Period: 11/01/2028-10/31/2029

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Optional Services (HCPADL) Not To Exceed Costs - OR Year 2				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List) Not To Exceed Costs - Year 3 (Optional Renewal Year 2) (10 Months)

Service Period: 11/1/2028-10/31/2029

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	Annual Not To Exceed Costs - Optional Renewal Year 3				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Annual Not To Exceed Costs-Year 4 (Optional Renewal Year 3) (12 Months)

Service Period: 11/01/2029-10/31/2030

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	Additional Services Hourly Rate - Optional Renewal Year 3				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Additional Services Year 4 (Optional Renewal Year 3) (all inclusive hourly rate) X 100 (Estimated) (See Section 4.1.26).

Service Period: 11/01/2029-10/31/2030

INVOICE TO		SHIP TO	
HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US		HEALTH AND HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES 350 CAPITOL ST, RM 251 CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	Optional Services HCPADL) Not To Exceed Costs - OR Year 3				

Comm Code	Manufacturer	Specification	Model #
85131701			

Extended Description:

Optional Services (HCPADL - High-Cost Physician Administered Drug List)

Not To Exceed Costs-Year 4 (Optional Renewal 3) (10 Months)

Service Period: 11/01/2029-10/31/2030

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	VENDOR QUESTION DEADLINE	2026-06-19

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. **MANDATORY TERMS:** The Solicitation may contain **mandatory** provisions identified by the use of the words "**must**," "**will**," and "**shall**." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. **PRE-BID MEETING:** The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A **MANDATORY PRE-BID** meeting will be held at the following place and time:

****No pre-bid meeting will be held**

All Vendors submitting a bid must attend the **mandatory** pre-bid meeting. Failure to attend the **mandatory** pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in but are charged with knowing all matters discussed at the pre-bid.

Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions **must be submitted on or before the date listed below and to the address listed below to be considered.** A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Submitted emails should have the solicitation number in the subject line. Question

Submission Deadline: June 19, 2026 at 10:00 AM ET

Submit Questions to: Crystal Hustead
2019 Washington Street, East Charleston, WV 25305
Fax: (304) 558-3970
Email: crystal.g.hustead@wv.gov

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. The Purchasing Division will not accept bids or modification of bids via email.

Bids submitted in paper, facsimile, or via wvOASIS must contain a signature. Failure to submit a bid in any form without a signature will result in rejection of your bid.

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:

BUYER: Crystal Hustead

SOLICITATION NO.: CRFQ BMS2600000002

BID OPENING DATE: June 30, 2026

BID OPENING TIME: 1:30 PM ET

FAX NUMBER: 304-558-3970

Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason.

Bid Delivery Address and Fax Number:

Department of Administration, Purchasing Division 2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery or via delivery by mail).

Bid Opening Date and Time: June 30, 2026 at 1:30 PM ET

Bid Opening Location:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgement Form. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand **shall** clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items **may** be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6.2, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

12. REGISTRATION: Prior to Contract award, the apparent successful Vendor **must** be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

13. UNIT PRICE: Unit prices **shall** prevail in cases of a discrepancy in the Vendor's bid.

14. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:

For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37 and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors.

16. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.7.

17. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

18. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.”

19. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.6. and § 148-1-6.3.”

20. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.7. This authority does not apply to instances where state law mandates receipt with the bid.

21. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or the Purchasing Division's website to determine when a contract has been awarded.

22. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that **shall** form the basis of a contractual agreement. **Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid.** Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of one (1) year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☒ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

Pharmacists (RPh or Pharm D)



Physicians (MD or DO)



The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \$1,000,000.00 per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$1,000,000.00 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☐

☐

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9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications.

☒ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in www.state.wv.us/admin/purchase/privacy.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☒ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Joseph Bergondo, Pharmacy Account Manager

(Address) 1 Optum Circle, Eden Prairie, MN 55344

(Phone Number) / (Fax Number) 732-718-3770 / N/A

(email address) joseph.bergondo@optum.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

OptumRx, Inc.

(Company) 

Sarah D. King 06/23/2026 14:53:04 CDT

(Signature of Authorized Representative)

Sarah D. King, President, Employer Services 06/23/2026

(Printed Name and Title of Authorized Representative) (Date)

800-282-3232 | N/A

(Phone Number) (Fax Number)

orxsalesproposals@optum.com

(Email Address)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ BMS2600000002

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| ☒ Addendum No. 1 | ☐ Addendum No. 6 |
| ☐ Addendum No. 2 | ☐ Addendum No. 7 |
| ☐ Addendum No. 3 | ☐ Addendum No. 8 |
| ☐ Addendum No. 4 | ☐ Addendum No. 9 |
| ☐ Addendum No. 5 | ☐ Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

OptumRx, Inc.

Company


Signed: 06/23/2026 14:53:04 CDT

Authorized Signature

06/23/2026

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

REQUEST FOR QUOTATION
CRFQ BMS2600000002
Preferred Drug/Product List/ High-Cost Physician-Administered Drugs List
and
State Maximum Allowable Cost Services

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Human Services (DoHS), Bureau for Medical Services (BMS), which includes both the West Virginia Medicaid and West Virginia Children's Health Insurance Programs (WV CHIP) herein referred to as Agency to establish an open-end contract for Preferred Drug List (PDL), Preferred Product List (PPL), State Maximum Allowable Cost (SMAC) services for the West Virginia Medicaid Program, in addition to an optional service for High Cost Physician-Administered Drug List (HCPADL) (Optional). The contract awarded pursuant to this RFQ will apply to both fee-for-service (FFS) and managed care organization (MCO) programs for PDL/PPL/SMAC services and optional HCPADL (Optional). Currently, pharmacy benefits are provided under the FFS Program, but medical/dental services are provided both by MCOs and the FFS Program. The Agency reserves the right to include the MCO populations in these services if pharmacy or medical/dental benefits should be provided by MCOs during the life of the contract awarded pursuant to this RFQ.

As of March 22, 2026 there were 497,854 members enrolled in the Medicaid FFS pharmacy program.

The Agency is currently a member of the Sovereign States Drug Consortium (SSDC). The SSDC (<https://www.rxssdc.org/>) negotiates supplemental drug rebates and rebates for non-drug products. The status of drugs on the PDL is determined by considering the clinical effectiveness and cost of drugs net of the rebates afforded by membership in the SSDC. The Agency and/or the Agency Fiscal Agent invoices and collects Federal, non-drug, and/or supplemental drug rebates.

This solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment1: Federal Funds Addendum.

NOTE: THE AGENCY HAS DEVELOPED AN EEOP UTILIZATION REPORT AND IT IS AVAILABLE AT:

<http://www.wvdhhr.org/pdfs/H1.5%20Utilization%20Report%20and%20EEO%20policy.pdf>

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

2.1 "Contract Services" means PDL, PPL, High-Cost Physician-Administered Drugs, and SMAC services including clinical review services, contract administration, supplemental drug and product rebate support, reporting, pharmacy newsletter, and

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Preferred Drug/Product List/ High-Cost Physician-Administered Drugs List
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other services required to support the Agency, PDL, PPL, SMAC and HCPADL(Optional) pricing for drugs and products as more fully described in these specifications.

2.2 “Pricing Page” means the page, contained in wvOASIS upon which Vendor should list its proposed price for the Contract Services.

2.3 “Solicitation” means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.4 “Rebate Agreement” or “Rebate Contract” are used interchangeably and mean the signed contract/agreement between the State of West Virginia and manufacturers of drugs or products for the manufacturer to pay a state supplemental rebate (current rate file attached). In return, the drug or product receives a “preferred” status in terms of claims processing.

3. QUALIFICATIONS: Vendor, or Vendor’s staff, if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

Note: Vendor shall provide documentation to indicate they have the capability to provide staff meeting these qualifications. This documentation should be included with the bid but must be provided prior to award.

3.1 A minimum of three (3) years of experience, within the last ten (10) years in implementing and managing PDL and SMAC services, for a minimum of three (3) individual state Medicaid pharmacy programs. Documentation to support meeting the requirement includes, but is not limited to, listing of contracted States where this service is provided.

3.2 Vendor shall provide staff with experience in the administration of a PDL, PPL, and SMAC programs. The Bureau reserves the right to approve or deny any staffing changes upon contract award.

3.2.1 Account manager who is a registered pharmacist with a minimum of three (3) years’ experience as a registered pharmacist, actively licensed with the Board of Pharmacy for the state in which they are employed and in good standing, and including a minimum of one (1) year experience in the administration of Medicaid FFS and/or Medicaid MCO services included in 3.2.

3.2.2 Physician, who serves as a Medical Director in good standing with the governing board in the state in which they are employed with three (3) years’ experience in supporting a pharmacy benefits program.

REQUEST FOR QUOTATION
CRFQ BMS2600000002
Preferred Drug/Product List/ High-Cost Physician-Administered Drugs List
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3.2.3 Rebate Manager with a minimum of three (3) years' experience in the administration of a Medicaid Federal drug rebate and supplemental drug rebate program.

3.2.4 SMAC pricing manager with a minimum of one (1) year experience in the administration of a Medicaid FFS SMAC pricing program.

4. MANDATORY REQUIREMENTS:

4.1 Mandatory Contract Service Requirements and Deliverables: Contract Services must meet or exceed the mandatory requirements listed below.

4.1.1 Vendor shall provide program management and coordination by meeting on a schedule to be mutually agreed upon by all parties, as referenced in Section 4.1.4 and 4.1.5 below, or at the Agency's request, and providing the data files required for the management and coordination of Contract Services with the Agency and/or the Agency FFS fiscal agent, the Medicaid MCO vendors (if applicable), the Pharmaceutical and Therapeutics (P&T) Committee, the SSDC and its Vendor, the prior authorization Vendor, and any other business partner associated with PDL, PPL, SMAC and HCPADL (Optional) programs. The data files will be loaded in the Claims Processing System and pertinent information will be posted on the Agency Pharmacy website.

4.1.2 Vendor shall comply with all federal regulations, including confidentiality of rebate related data which can be found at https://www.ssa.gov/OP_Home/ssact/title19/1927.htm and the State Plan filed and approved by the Centers for Medicare and Medicaid Services (CMS) as stated in <https://bms.wv.gov/bms-cms/state-medicaid-plan>.

4.1.3 Vendor shall assist the Agency with writing State Plan Amendments related to the Contract Services programs.

4.1.4 Vendor shall be available for physical and/or virtual appearances, at no additional cost to the Agency before the West Virginia Legislature or other interested parties as requested by the Agency at a maximum of six (6) times per calendar year.

4.1.5 Vendor shall facilitate status meetings with the Agency including meeting agendas and minutes. Meeting minutes must be provided to the Agency within ten (10) business days of each meeting by email, including the P&T Committee meetings, which are to be held quarterly. Status meetings will

REQUEST FOR QUOTATION
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Preferred Drug/Product List/ High-Cost Physician-Administered Drugs List
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be held on an agreed upon schedule, currently bi-weekly, by the Agency and the Vendor via conference call.

4.1.6 Vendor shall provide staff to meet the needs of the Agency and Agency partners to assist in managing Contract Services programs via phone, email, and face to face meetings as needed at no additional cost to the Agency.

4.1.6.1 Vendor should include with the bid but must be provided prior to award, the names and resumes for staff assigned to this contract including, but not limited to account manager, clinical pharmacist, physicians, rebate manager, and SMAC pricing manager.

4.1.6.2 Vendor shall provide an account manager that will be available during business hours of 8:00 A.M. to 5:00 P.M. Eastern Standard Time (EST), Monday through Friday, excluding West Virginia (WV) state holidays.

<https://personnel.wv.gov/media/21626> This person is responsible for the overall operations of the contracted deliverables included in this contract.

4.1.6.3 Vendor shall provide an account manager who shall attend P&T Committee and Drug Utilization Review (DUR) Board Meetings to offer advice to the Agency on clinical and financial issues relating to the Contract Services. The P&T Committee and DUR Board are each scheduled to meet four (4) times annually in Charleston, WV or virtually as deemed necessary.

4.1.6.4 Vendor shall provide for the services of a Physician who serves as the Medical Director as outlined in Sections 3.2.2. of this RFQ. The physician shall be actively licensed with the Board of Medicine or Osteopathic Medicine for the state in which they are employed. The physician shall attend the quarterly P&T Committee meetings and DUR Board Meetings in-person or virtually to offer advice to the Agency on clinical issues relating to Contract Services. The physician shall be available by telephone and/or email to the Agency during business hours of 8:00 A.M. to 5:00 P.M. EST, Monday through Friday, excluding WV state holidays.

4.1.6.5 Vendor shall provide for the services of a rebate manager. This individual shall be available to the Agency by telephone and email during business hours of 8:00 A.M. to 5:00 P.M. EST, Monday through Friday, excluding WV state <https://personnel.wv.gov/media/21626>. This individual is

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responsible for, at a minimum, completion and management of rebate contract, reporting of contract status, contract disputes, and pricing and contract files and reports for rebate invoicing.

- 4.1.6.6** Vendor shall provide for the services of a SMAC pricing manager. This individual shall be available to the Agency by telephone and email during business hours of 8:00 A.M. to 5:00 P.M. EST, Monday through Friday, excluding WV state holidays, <https://personnel.wv.gov/media/21626>. This individual is responsible, at a minimum, for management of the SMAC program, oversight of the selection of generics, other drugs, and products to which SMAC prices will be applied, calculation and reporting of SMAC pricing as well as savings, providing documentation for price posting, and advising and resolving SMAC pricing disputes. The Vendor shall provide the Agency by email with weekly pricing disputes and recommendations at a schedule to be mutually agreed upon by the Vendor and the Agency.
- 4.1.6.7** Vendor shall complete background checks <http://www.gpo.gov/fdsys/pkg/FR-2011-02-02/pdf/2011-1686.pdf> for current and potential employees to ensure that staff meets the minimum requirement under state and federal statute and/or regulations. See Attachment A (West Virginia Business Rules) and B (West Virginia Medicaid State Plan) for State Requirements. Vendor shall not employ persons who are excluded from Medicare or Medicaid participation by the Federal Office of the Inspector General or any state Medicaid program. The exclusion database can be found at: <https://exclusions.oig.hhs.gov/>.
- 4.1.6.8** Changes in staff positions of account manager, clinical pharmacist, physicians, rebate manager and SMAC pricing manager shall be approved by the Agency prior to the change.
- 4.1.6.9** Vendor participation changes for any given meeting shall be approved by the Agency at least five (5) business days prior to the scheduled meeting date.
- 4.1.6.10** If contracted positions are not readily available, the Vendor shall provide a qualified backup to address any immediate needs requested by the state at no additional cost to Agency.

- 4.1.7** Vendor shall agree that any and all data provided to the Vendor by the Agency or the Agency's partners, and any and all data collected, created,

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summarized, and/or aggregated, deliverables submitted to the Agency or the Agency's partners, and reports created under the contract pursuant to this RFQ, are the sole property of the Agency, intended for the purposes of supporting the Medicaid and Pharmacy programs in any manner deemed appropriate by the Agency. None of these materials may be used by the Vendor at any time or in any manner without express written Agency approval.

- 4.1.8** Vendor shall develop and provide support for clinically sound and cost-effective recommendations to the Agency and the Agency P&T Committee to refine and manage the PDL and PPL.
- 4.1.9** Vendor shall facilitate meetings, present clinical and accurate cost information, develop, and distribute meeting materials including but not limited to, agendas, minutes, reports, and handouts for all P&T Committee meetings and provide ad hoc reports or other requested clinical and/or financial information as requested for the DUR Board meetings throughout the year as approved by the Agency. P&T Committee meeting materials shall be made available electronically to a minimum of seven (7) and a maximum of fifteen (15) P&T Committee members and a minimum of six (6) Agency staff members, two (2) weeks prior to the meeting.
- 4.1.9.1** The Vendor shall coordinate with the agency to ensure the use of the most current PDL and PPL.
- 4.1.10** Vendor shall develop and provide to a minimum of six (6) Agency staff members, Quarterly P&T Committee meeting agendas electronically for each P&T Committee meeting at a minimum of thirty-five (35) calendar days prior to meetings. Content shall be approved by Agency in advance for release. Vendor shall also send the draft version of the PDL to the Agency for review and comment with "Draft" status clearly marked thirty-five (35) calendar days prior to meeting electronically.
- 4.1.11** Vendor physician(s) and registered pharmacist(s) shall review therapeutic classes including new medications or indications as approved by the Food and Drug Administration (FDA) and present recommendations to the P&T Committee and Agency for appropriate revisions to the PDL in a live format to be mutually agreed upon by Vendor and the Agency, currently on a quarterly basis.
- 4.1.12** Vendor shall provide meeting documents, including but not limited to agenda, clinical monographs, cost sheets, therapeutic drug reviews, pricing

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information and other pertinent information electronically to the Agency and P&T Committee members fourteen (14) calendar days prior to meetings.

- 4.1.13** Vendor shall provide meeting minutes electronically for all P&T Committee meetings. Meeting minutes will follow the current format as found on the Agency website, which can be found at: <https://bms.wv.gov/page/pharmaceutical-and-therapeutics-pt-committee-meetings>. Minutes are due to the Agency for review no later than ten (10) business days after each P&T Committee meeting.
- 4.1.14** Vendor shall provide the Agency and the P&T Committee with therapeutic class reviews that compare drugs and products, at a minimum, for efficacy, safety, side effects, dosing, indications, prescribing trends, and cost efficiencies of each drug or product class. These reviews will be delivered as monographs. Vendor should submit a monograph example with their quotation and must be submitted prior to award electronically or on paper.
- 4.1.14.1** Vendor shall provide to the Agency and the P&T Committee members concise and systematic reviews of each therapeutic drug or product class or specific drugs or products to be presented for review by the Agency or P&T Committee, including monographs, pricing information, and other pertinent information, no later than fourteen (14) calendar days prior to each P&T Committee meeting electronically.
- 4.1.14.2** Vendor shall recommend preferred or non-preferred status for each drug or product within each class to the Agency and the P&T Committee based on current clinical and cost data.
- 4.1.14.3** Vendor shall update and keep current all therapeutic drug and product class monographs using peer-reviewed reference materials and must grade the strength of evidence used. Monographs shall be updated annually, at minimum.
- 4.1.14.4** Vendor shall review new drugs, new drug formulations, or products using a schedule agreed upon by the Vendor and the Agency quarterly at minimum.
- 4.1.14.5** Vendor shall advise the Agency, as needed, and the P&T Committee at regularly scheduled meetings, on comparative value of new drugs or drug formulations or products that fall into categories already established on the PDL, HCPADL (Optional), and PPL.

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- 4.1.14.6** Vendor shall incorporate multisource drugs into the PDL, maximizing the use of the most cost-effective drugs for inclusion on the PDL.
- 4.1.14.7** Vendor shall advise the Agency of new drugs appearing on the weekly reference drug data file including, but not limited to, the drug name, PDL category (if applicable), its indication, the overall value of the drug and its impact to the Agency pharmacy program.
- 4.1.14.8** Vendor will provide to the Agency and the members of the P&T Committee SSDC-negotiated supplemental rebates and financial analysis information for each therapeutic class or specific drugs or products under review by the Agency and the P&T Committee. Drug and product rebate information shall be kept confidential as required by 42 USC 1396r-8(b)(3)(D) <https://www.govinfo.gov/app/details/USCODE-2023-title42/USCODE-2023-title42-chap7-subchapXIX-sec1396r-8> or future update(s).
- 4.1.14.8.1** Vendor will provide financial information for the P&T Committee for each drug or therapeutic product class at least annually, and new drugs or products as they are reviewed by the Agency or P&T Committee at least quarterly, in a format that contains at a minimum, drug or product class, drug or product name, brand or generic status, current PDL or PPL status, average quantity dispensed per prescription, net cost after all rebates per prescription.
- 4.1.14.8.2** Vendor shall incorporate SSDC negotiated pricing into its PDL and PPL business models, analyze SSDC pricing, and produce recommendations for a PDL and PPL using SSDC negotiated pricing on an annual basis for review of the entire PDL and any incremental pricing information as it becomes available.
- 4.1.14.8.3** Vendor shall keep SSDC pricing information confidential and SSDC pricing information separate from the Vendor's other lines of business.
- 4.1.14.9** Vendor shall manage the Agency PDL and PPL, including but not limited to, the production of documents and data, including PDL and PPL status files needed for claims processing and PDL updates as recommended by the P&T Committee that are approved by the Agency and the Secretary of the Agency or PPL updates as approved by the Agency.

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- 4.1.14.10** Vendor must ensure that PDL and PPL are in compliance with all applicable Federal Regulations which can be found at Federal <https://www.medicaid.gov/medicaid/prescription-drugs/drug-utilization-review/index.html> and State Regulations which can be found at <https://www.govinfo.gov/content/pkg/CFR-2021-title42-vol4/pdf/CFR-2021-title42-vol4-sec456-703.pdf> statutes and regulations and the State Plan (Attachment B,) approved by CMS.
- 4.1.14.11** Vendor shall prepare the PDL and PPL documents electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11 which are subject to change during the life of this contract. to be displayed on the Agency's <https://bms.wv.gov/page/drug-utilization-review-dur> website for interested parties.
- 4.1.14.12** Vendor shall comply with the standards of the Agency and Agency's business partners for drug and product data-file maintenance including, but not limited to, the use of therapeutic class codes, generic sequence numbers, prior authorization requirements, injectable or other dosage form indicators, replacement or change files as desired, catch-up files, or any other drug and product data file standards required by the Agency and the Agency's business partners.
- 4.1.14.13** Vendor shall comply with the requirements no later than twenty-four (24) hours after the request is made by the Agency's business partners for weekly, monthly, and quarterly file deliveries.
- 4.1.14.14** Vendor shall establish and maintain an interface with the Agency and/or the Agency fiscal agent for secure document and file exchanges weekly at minimum. The Agency nor the Agency's fiscal agent will be responsible for any charges relating to this.
- 4.1.14.15** Vendor shall comply with any the requirements of the Agency and the Agency's business partners as needed relating to the method of file exchanges, i.e., "pushing" or "pulling" data.
- 4.1.14.16** Vendor shall apply an effective date and a unique version number for each PDL, PPL, and other business documents.

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- 4.1.14.17** Vendor shall ensure the quality of all files delivered to the Agency and the Agency's business partners to provide error-free data.
- 4.1.14.18** Vendor shall update the PDL and PPL document after each P&T Committee meeting and when changes are made to the PDL and PPL as requested by the Agency, no later than twenty-four (24) hours after the request is made.
- 4.1.14.19** Vendor shall assist in development of step-care therapy and prior authorization (PA) criteria by making suggestions for step care and PA criteria to promote appropriate utilization and to enhance PDL and PPL compliance and achieve optimal savings.
- 4.1.14.20** Vendor will update the PDL and PPL document when PA criteria is changed or updated by the Agency and/or the DUR (Drug Utilization Review) Board and issue an updated version for web posting as requested by the Agency and on an as needed basis, no later than one (1) business day after request is made.
- 4.1.14.21** Vendor shall provide the PDL and PPL data files no later than twenty-four (24) hours after request is made in an electronic file format as specified by the Agency.
- 4.1.14.22** Vendor will provide PDL and PPL data files in accordance with a schedule agreed upon by the Agency and the Vendor, weekly at minimum.
- 4.1.14.23** Vendor shall assist the Agency by providing information and responding to inquiries regarding the PDL and PPL in a mutually agreed upon timeframe in a format requested by the Agency.
- 4.1.14.24** Vendor will draft letters and/or make telephone calls that respond to inquiries from providers and other interested parties concerning the PDL and PPL within five (5) business days of the receipt of the inquiry.
- 4.1.15** Vendor shall work with the Agency and/or the Agency fiscal agent and the SSDC to assist in drug supplemental and product rebate contract/agreement administration.
- 4.1.15.1** All rebate contract/agreements shall be made between the Agency and manufacturers using the Agency and/or CMS approved templates which will be provided by the Agency. Current templates being utilized can be found in the following: Special Product Rebate Contract/Agreement (Attachment D), and Supplemental Drug Rebate Contract/Agreement (Attachment E).

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- 4.1.15.2** Rebate contracts must be electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11 (which are subject to change during the life of this contract) to be displayed on the Agency's website for interested parties which can be found at <https://bms.wv.gov/>.
- 4.1.15.3** Vendor shall work with the SSDC to accurately determine supplemental drug or product rebate contract/agreement data.
- 4.1.15.4** Vendor shall produce and facilitate the signing of supplemental drug rebate or product rebate contracts with manufacturers and the Agency representatives within the quarter that the rebate offer is accepted.
- 4.1.15.5** Vendor shall be responsible for oversight and tracking of all contracts and documents at all points from origin to completion.
- 4.1.15.6** Vendor shall assume administration of existing supplemental drug and product rebate contract/agreements.
- 4.1.15.7** Vendor shall maintain the Agency supplemental drug and product rebate agreements separately from its other clients, ensuring strict confidentiality and controls that meet Federal Requirements, which can be found at: https://www.ssa.gov/OP_Home/ssact/title19/1927.htm.
- 4.1.15.8** Vendor shall ensure that both the Agency and manufacturers receive original and/or electronically signed contract/agreement.
- 4.1.15.9** Vendor shall provide electronic files in both Excel-compatible or equal (.xls) and text (.txt) as specified by the Agency containing calculated drug supplemental unit rebate amounts (SURA) and non-drug unit rebate amounts (NDURA), along with additional specified information to the Agency and/or the Agency fiscal agent. See current Supplement Rate File Data Field information (Attachment C). Any work related to the data exchange will be provided at no additional cost to the Agency or Agency designee.
- 4.1.15.10** Vendor shall provide SURA and NDURA files, and contract/agreement files, and any other requested documents, to the Agency and/or the Agency fiscal agent within fifty (50) calendar days of the end of a quarter, electronically in a file format that is compatible with Google Workspace (G-Suite) and Microsoft Office365 or equal. Must be compatible with the West Virginia Office of Technology's current operating system, Windows

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10 and Windows 11 (which are subject to change during the life of this contract).

4.1.15.10.1 Reports with the following information shall accompany these files and be due within the same timeframe. Vendor shall provide report data, including but not limited to, current and prior quarter adjustment data; historical data; rebate contract/agreement and amendment data necessary for the Agency to invoice manufacturers on a quarterly basis for supplemental drug rebates and product rebates electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11 which are subject to change during the life of this contract.

4.1.15.11 Vendor must coordinate quarterly supplemental drug rebate and product rebate submissions with submission of traditional federal drug rebates.

4.1.15.12 Vendor shall provide quarterly documentation to the Agency and/or its designee to support supplemental drug rebate and product rebate invoicing at National Drug Code (NDC) level electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Quarterly documentation must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.

4.1.15.13 Vendor shall ensure the accuracy of all rebate files delivered to the Agency and the Agency's business partners. If any corrections are requested after the files are sent, the Vendor must send a corrected file within one (1) business day of request.

4.1.15.14 Vendor shall assist the Agency and/or its designee in dispute resolution activities with manufacturers as they pertain to supplemental drug rebate or product rebate calculations and contract/agreement.

4.1.15.15 Vendor shall communicate with Agency and manufacturers to resolve disputes arising from supplemental drug rebate or product rebate calculations or contract/agreement issues within three (3) business days of receipt of the dispute.

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- 4.1.15.16** Vendor shall communicate directly with manufacturers regarding unpaid supplemental drug rebates or product rebates upon request by the Agency.
- 4.1.15.17** Vendor shall communicate the resolution of disputes in a written document to the Agency within one (1) business day of resolution.
- 4.1.16** Vendor shall assume administration of the current SMAC program as defined in section 4.1.16.1 through 4.1.16.12.4.
- 4.1.16.1** Vendor shall create, refine, and maintain the SMAC program for multiple source drug products or other drug products such as specialty drugs, and non-drug products tailored to the marketplace in West Virginia.
- 4.1.16.2** Vendor shall submit the SMAC data electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. SMAC data must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.
- 4.1.16.3** Vendor agrees to comply with the Agency business rules, as seen in West Virginia Business Rules (Attachment F) relating to file formats (i.e., NDC level data), schedules of delivery, type of files (i.e., change only, full files) for the SMAC program.
- 4.1.16.4** Vendor shall ensure the accuracy of all SMAC files delivered to the Agency and the Agency business partners.
- 4.1.16.5** Vendor shall provide SMAC lists for public viewing on the Agency website and maintain archived versions that are available to the Agency upon request within twenty-four (24) hours of request. The format for these files can be found on the Agency website
- 4.1.16.6** Vendor shall ensure that each SMAC list submitted has an effective date and a unique version number.
- 4.1.16.7** Vendor shall update the SMAC list weekly at minimum and as SMAC changes are approved by the Agency.
- 4.1.16.8** Vendor shall coordinate activities with the Agency and/or the Agency fiscal agent to support the implementation and updates of the SMAC list.
- 4.1.16.9** Vendor shall actively pursue opportunities for expansion of the SMAC pricing list and regularly report the Vendor's SMAC activities in a schedule to be determined by the Agency monthly at minimum.

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- 4.1.16.10** Vendor shall collect acquisition cost data and other source information to support SMAC pricing.
- 4.1.16.11** Vendor shall coordinate the addition of drugs for SMAC pricing, based on availability of generic drugs, with drugs in the same therapeutic category on the PDL and PPL to ensure that the PDL, PPL and SMAC activities result in the most cost-effective results.
- 4.1.16.12** Vendor shall provide outreach services to the WV Medicaid providers with an Agency representative present regarding Medicaid pharmacy pricing issues and the SMAC program .
- 4.1.16.12.1** Vendor shall establish and staff a toll-free telephone line and email address to be responsible for logging and responding to inquiries from providers regarding pricing issues. The toll-free telephone line must be available, at a minimum, of 8:00 A.M. to 5:00 P.M. EST, Monday through Friday. Vendor shall be the primary contact for all drug and product pricing inquiries.
- 4.1.16.12.2** The Vendor shall answer, log, and respond to telephone calls and/or other communicated messages from pharmacy providers and resolve disputes related to pricing.
- 4.1.16.12.3** Responses to providers acknowledging disputes must occur within one (1) business day of receipt.
- 4.1.16.12.4** Resolution of pricing disputes must be submitted to the Agency and reported to the inquiring provider within ten (10) business days of the date of the complaint.
- 4.1.17** Vendor shall provide a suite of reports for the Agency which reflects the components necessary to manage the PDL, HCPADL (Optional), PPL, and SMAC programs and to support the supplemental drug and product rebate invoicing. All reports must be formatted for printing.
- 4.1.17.1** Vendor shall develop standard reports as requested by the Agency. For purposes of cost estimation, Vendors may assume a maximum of forty (40) standard reports. All reports shall be electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.

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4.1.17.2 Vendor shall work with the Agency to develop standard reports including but not limited to initial release notes with calculation methodologies and when appropriate.

4.1.17.3 Vendor shall deliver standard reports monthly on the fifteenth of the month or as requested by the Agency within ten (10) business days of the request.

4.1.18 Vendor shall provide report analyses to the Agency that will assist the Agency in making program adjustments to improve the cost efficiency of the pharmacy program. Vendor shall host regularly scheduled meetings by conference call to discuss reports provided by the Vendor. These meetings will be held at a quarterly minimum and an Agency representative must be in attendance for all meetings.

4.1.19 Vendor shall submit standard reports per the terms of the contract when requested by the Agency.

4.1.19.1 Reports shall include, but not be limited to: Monthly, Quarterly, and Annual Pharmacy Utilization for PDL and PPL and/or All Drugs
Categories: Based on a rolling twenty-four (24) months of pre-rebate expenditures in graph or chart format, shall be delivered electronically monthly, quarterly, and annually, based on report.

4.1.19.2 Average dollars paid amount per member user;

4.1.19.3 Total dollars paid;

4.1.19.4 Total dollars paid by brand and by generic;

4.1.19.5 Average generic drug prescription cost;

4.1.19.6 Average brand drug prescription cost;

4.1.19.7 Percent of generic drugs by number of prescriptions;

4.1.19.8 Average paid amount per prescription.

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4.1.19.9 Summary Monthly, Quarterly, and Annual Reports to be delivered electronically, monthly, quarterly, and annually, based on report.

4.1.19.9.1 Monthly and State Fiscal Year Statistics - Compares the current month to the same month for the previous year. Summarizes the calendar year-to-date for the current month and previous calendar year-to-date; shall contain the total amount paid, number of users, total number of prescriptions, average prescriptions per member user, average cost per prescription; number of generic prescriptions, percentage of generic prescriptions paid compared to the overall amount paid for all prescriptions, total amount paid for generic prescriptions, average generic prescription cost, average days' supply for generic prescriptions, number of brand prescriptions, percentage of brand prescriptions paid compared to the overall amount paid for all prescriptions, total amount paid for brand prescriptions, average brand prescription cost, average days' supply for brand prescriptions. At a minimum, this report shall be delivered monthly, by the fifteenth of the month.

4.1.19.10 Top Twenty (20) Drugs by Dollars - Lists the drug description, ranking based on amount paid, comparison from the previous year for the same period, and the percentage change from the previous year period, the percent of the overall pharmacy expenditures for the period and the percent of the overall pharmacy expenditures for the previous year period. At a minimum, this report shall be delivered quarterly on the last day of the last month in the quarter and annually, by the last day in the calendar year.

4.1.19.11 Top Twenty (20) Therapeutic Classes by Utilization - Lists the therapeutic class description, ranking based on number of prescriptions, comparison from the previous year of the same period, and the percentage change from the previous year period, the percent of the overall number of prescriptions for the period and the percent of the overall number of prescriptions for the previous year period. At a minimum, this report shall be delivered quarterly by the last day of the last month in the quarter and annually by the last day in the calendar year.

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- 4.1.19.12** Top Twenty (20) Drugs by Utilization - Lists the drug descriptions, ranking based on number of prescriptions, comparison from the previous year for the same period, and the percentage change from the previous year period, the percent of the overall number of prescriptions for the period and the percent of the overall number of prescriptions for the previous year period. At a minimum, this report shall be delivered quarterly by the last day of the last month in the quarter and annually, by the last day in the calendar year.
- 4.1.19.13** Top Twenty (20) Prescribing Providers – Report including data for both numbers of prescriptions prescribed and by amount paid for prescriptions prescribed: the prescriber National Provider Identifier (NPI), prescriber name, total amount of prescription costs for prescribed drugs, total number of paid prescriptions prescribed, number of members for which prescriptions were prescribed, average price of paid prescriptions prescribed. At a minimum, this report shall be delivered quarterly, by the last day of the last month in the quarter and annually, by the last day in the calendar year.
- 4.1.19.14** Market share Summary Report - Lists the PDL and PPL therapeutic classes individually and unmanaged products collectively. This report shall provide the number of prescriptions for managed drugs and products within a therapeutic class, market share percentage for managed drugs and products within a therapeutic class, number of prescriptions for unmanaged drugs and products within a therapeutic class, and market share percentage for unmanaged drugs and products within a therapeutic class. At a minimum, this report must be provided quarterly by the last day of the last month in the quarter.
- 4.1.19.15** Therapeutic Class Market Share Report - This report shall display within each therapeutic class, the drug or product name, brand, or generic status, PDL or PPL status, number of dispensed, number of paid prescriptions for the period, percentage of prescription market share within the therapeutic class, average units per prescription, pre-rebate paid amount, and average expenditures per prescription. At a minimum, this report must be provided quarterly, by the last day of the last month in the quarter.

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- 4.1.19.16** Generic Compliance Report - This report will show the total number of prescriptions of brand versus generic drugs for a specific timeframe. This report shall display the PDL managed therapeutic classes and report the number of prescriptions, number of units paid, total paid amount, generic percentage for the therapeutic class, and the generic percentage for the previous quarter. In addition, this report shall report the overall generic percentage of managed and unmanaged products. At a minimum, this report shall be provided quarterly, by the last day of the last month in the quarter.
- 4.1.19.17** PDL and PPL Compliance Report - This report will show the percent compliance with the PDL and PPL. It shall display the PDL and PPL managed therapeutic classes and report the number of prescriptions, number of units paid, total paid amount, percentage of preferred products paid for the therapeutic class, and the percentage of preferred products paid for the previous quarter. In addition, this report shall report the overall preferred percentage of managed and unmanaged products collectively. At a minimum, this report must be provided quarterly by the last day of the last month in the quarter.
- 4.1.19.18** Weekly NDC Update Report - This report will summarize new additions to the drug reference file. At a minimum, this report shall display the PDL or PPL category, drug or product name, generic name, NDC or product code, date of FDA approval, date of database entry, and comments. Shall be provided weekly on Wednesday by close of business.
- 4.1.19.19** Rebate Dispute Status Report - The Vendor will submit a written report detailing the status of any disputes the Agency has requested the Vendor to assist in resolving. At a minimum, this report shall be provided monthly, by the fifteenth of the subsequent month.
- 4.1.19.20** SMAC Savings Report - This report shall document savings generated from the SMAC pricing program. At a minimum, this report must be provided quarterly by the last day of the last month in the quarter.
- 4.1.19.21** PDL and PPL Savings Report - This report shall document savings generated from the PDL and PPL. At a minimum, this report must be provided quarterly by the last day of the last month in the quarter.

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- 4.1.19.22** SMAC Savings Beyond Aggregate Federal Upper Limit (FUL) Cap - This report will document assurances that multisource drug pricing is in compliance with federal regulations . (See Section 447.512). At a minimum, this report shall be provided quarterly by the last day of the last month in the quarter.
- 4.1.19.23** WV Provider Pricing Support and SMAC Dispute Resolution Report - This report shall log all pricing issues from providers and resolutions reached. This report must detail the dispute and log both approved and resolved issues during the state fiscal year, July 1-June 30, as well as open disputes still being considered. This report shall include, but not be limited to product name, NDC, prescription number, inquiry date, date of service, National Average Drug Acquisition Cost (NADAC), Wholesale Acquisition Cost (WAC), FUL, SMAC, provider acquisition cost, dispensing fee, quantity, reviewer identifier, date of outcome returned, recommendation, final outcome, comments, new SMAC, effective date, provider name, and removal of FUL effective date shall be provided weekly on Wednesday by close of business.
- 4.1.19.24** New GSN SMAC Report - Vendor shall provide a report of new products for which a SMAC is recommended. This report shall include, but not be limited to, the Generic Sequence Number (GSN), product name, SMAC, effective date, and comments. This report shall be delivered weekly on Wednesday by close of business.
- 4.1.19.25** PDL and PPL Changes Report - This report will highlight changes to the PDL and /or PPL approved by the P&T Committee and/or the Agency and must be provided no later than fourteen (14) calendar days after each P&T Committee meeting.
- 4.1.19.26** Supplemental Drug Rebate contract/agreement and Product Rebate Contract/agreement Tracking Report - This report will track all supplemental drug rebate and product rebate contract/agreement between the Agency and manufacturers in the process of being finalized. This report must include the status of each contract/agreement at all points toward completion. The report shall contain, at a minimum: labeler identifier, manufacturer name, labeler number, date contract/agreement mailed, date returned form the

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manufacturer, date sent to state, date sent to manufacturer, contract/agreement term, contract/agreement end date, contract/agreement year. This report shall be provided monthly by the fifteenth of the month and more often if requested, and no later than seventy-two (72) hours after request.

- 4.1.19.27** Supplemental Drug and Product Rebate Contract/Agreement Details Report - This report will document all contract/agreements finalized between the Agency and manufacturers, and must include contract/agreement details such as, but not limited to: product description, NDC, labeler, contracted guaranteed net price (GNP) or contracted percent of price and contract/agreement type. This report shall be provided monthly, by the fifteenth of the month.
- 4.1.19.28** Supplemental Drug Rebate and Product Rebate Pricing Files Quality Assurance Checklists - These reports will track the steps that are taken by the Vendor to ensure that supplemental drug rebate and product rebate pricing files are correct and accurately contain contract/agreement data. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.29** Supplemental Drug Rebate and Product Rebate Contract/Agreement Files Quality Assurance Checklists - These reports will track the steps that are taken by the Vendor to ensure that supplemental drug rebate and product rebate contract/agreement files are correct and accurately contain contract/agreement data. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.30** Supplemental Drug Rebate and Product Rebate Pricing Files — Additions and Corrections Reports: These reports will track adjustments that are included on the supplemental drug rebate and product rebate pricing files and the reasons for the adjustments. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.31** Supplemental Drug Rebate and Product Rebate Contract/Agreement Files—Additions and Corrections Reports - These reports will track adjustments that are on the supplemental drug rebate and product rebate contract/agreement files and the reasons for the adjustments. These

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reports must be provided within fifty (50) calendar days of the end of the quarter.

- 4.1.19.32** Supplemental Drug Rebate and Product Rebate Pricing Files
Spreadsheets - These reports will contain all the data for each NDC included on the supplemental drug rebate and product rebate pricing files, along with any other pertinent rebate contract/agreement or pricing information. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.33** Supplemental Drug Rebate and Product Rebate contract/agreement Files Spreadsheets - These reports will contain all the data for each NDC included on the supplemental drug rebate and product rebate contract/agreement files, along with any other pertinent rebate contract/agreement information. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.34** NDC Conversion Factor Report - This report will track the drugs and products that require a unit of measure conversion factor in the rate calculation. These reports must be provided within fifty (50) calendar days of the end of the quarter.
- 4.1.19.35** Ad Hoc Reports - Vendor shall provide, at no additional cost to the Agency, responses to ad hoc reporting requests by the Agency within five (5) business days of the request throughout the duration of the contract. For cost estimation purposes, assume twenty-five (25) ad hoc reports per year. Ad hoc reports shall include the report methodology and parameters used in developing the reports.
- 4.1.19.36** Business Rules Document - Within two (2) months of contract/agreement award, Vendor shall provide a document that details all business rules that apply to the PDL, PPL, HCPADL (Optional) and SMAC programs, as well as to the supplemental drug and product rebate invoicing, in an electronic format. This document shall contain at a minimum: processes, standard operational procedures, details regarding data file layouts, delivery schedules and maintenance of reports, management of NDCs, prior authorization requirements,

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contracting deliverables, pricing methodologies, telephone line processes, and all details of other business rules and procedures.

4.1.20 Vendor shall create data files to be shared with the Agency and the Agency partners relating to the PDL, PPL, HCPADL (Optional) and SMAC programs.

4.1.21 Vendor shall, at a minimum, create and distribute to the Agency or the Agency designee the following electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. The files listed below must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.

Weekly files are due by close of business on Wednesdays. Quarterly files are due by last day of the last month in the quarter. As needed files are due within seventy-two (72) hours of request. Quarterly files and reports for support of rebate invoicing are due within fifty (50) calendar days past the end of the quarter.

4.1.21.1 Weekly SMAC update file;

4.1.21.2 Weekly SMAC web list for posting on the Agency website, which can be found at: <https://bms.wv.gov/page/state-maximum-allowable-costs-smac>

4.1.21.3 Weekly PDL/PPL/SMAC files. These files shall contain all available NDCs regardless of their rebate status;

4.1.21.4 Quarterly supplemental rebate rate (current rate file attached) and contract/agreement files; See Attachment C;

4.1.21.5 PDL and PPL reconciliation files when needed;

4.1.21.6 Complete PDL and PPL files when needed;

4.1.21.7 PDL and PPL file updates or complete files to be delivered to the Agency, or the Agency designees as needed;

4.1.21.8 Other data files when identified that support the PDL, PPL, and SMAC programs quarterly

4.1.22 Vendor shall develop and create quarterly newsletters containing information relating to changes to the PDL, PPL and other pharmacy program matters electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Quarterly newsletters must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11 (which are subject to change during the life of this contract) to be displayed on the Agency's <https://bms.wv.gov/bms->

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[pharmacy/newsletters](#) website for interested parties. Vendor shall provide the electronic final version that will be displayed on the Agency website.

- 4.1.23** Vendor shall assist and fully cooperate with the Agency in the implementation of the contract executed from this RFQ upon effective date of the contract.
- 4.1.23.1** Vendor should submit with their quotation and must be submitted prior to award an Implementation Plan that demonstrates the Vendor's ability to assume the responsibilities for the Agency PDL, PPL, and SMAC programs upon award of this contract. There will be a two (2) month implementation period.
- 4.1.23.2** Vendor's Implementation Plan must describe major task assignments considered to meet PDL, PPL, and SMAC program services, including, but not limited to: project start-up, project status, project updates, and project reassignments.
- 4.1.23.3** Vendor shall attend a meeting, scheduled by the Agency within five (5) business days of contract award, with the Agency staff and Vendor's key staff and other support staff to initiate the contract deliverables and services. This meeting shall be conducted either in person or virtually, as agreed upon by Vendor and the Agency.
- 4.1.24** Vendor shall assist and fully cooperate with the Agency when transitioning to a new Vendor at the end of the contract executed from this RFQ.
- 4.1.24.1** Vendor shall provide a Close-Out and Turnover Plan electronically that identifies the Vendor's approach, tasks, staffing, and schedule for turnover of contract responsibilities.
- 4.1.24.2** Vendor will submit the Close-Out and Turnover Plan to the Agency for approval within thirty (30) calendar days of receiving the Agency notification to initiate the Close-Out and Turnover Phase of the expiring contract.
- 4.1.24.3** Vendor shall dedicate resources consistent with the approved Close-Out and Turnover Plan.
- 4.1.24.4** Upon request, Vendor shall transfer to the Agency ownership all data collected, created, summarized, and/or aggregated, and all deliverables and reports created specifically for the Agency during the contract period.
- 4.1.24.4.1** Data, deliverables, and reports shall be transferred electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Data, deliveries and reports must be

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compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.

4.1.24.4.2 Data, deliverables, and reports will be transferred in accordance with a schedule and in an electronic format, no longer than thirty (30) calendar days prior to the end of the contract.

4.1.24.4.3 Vendor shall provide a Turnover Results Report which documents the completion and results of each task identified in the Turnover Plan.

4.1.24.4.4 The Turnover Results Report shall be submitted electronically in a file format that is compatible with Google Workspace (G-Suite) or equal and Microsoft Office365 or equal. Turnover Results Report must be compatible with the West Virginia Office of Technology's current operating system, Windows 10 and Windows 11, which are subject to change during the life of this contract.

4.1.24.4.5 The Turnover Results Report shall be submitted in accordance with a schedule approved by the Agency, no later than thirty (30) calendar days prior to the end of the contract.

OPTIONAL HCPADL SERVICE

4.1.25 Vendor shall assist the Agency in managing a list of HCPADL (Optional) exempted from MCO capitation.

4.1.25.1 This list shall include drugs selected by the Agency according to, but not limited to, the following criteria:

4.1.25.1.1 Must be approved by the Federal Drug Administration (FDA) with orphan status.

4.1.25.1.2 Must exceed a Wholesale Acquisition Cost (WAC) of \$350,000.00 per member, annualized.

4.1.25.2 Vendor shall assist in the formulation of HCPADL (Optional) drug utilization criteria as required by the Agency. Vendor may be requested to provide a summary of the drug, its indication, and any therapeutic management considerations.

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4.1.26 Additional Services- Vendor shall provide a pool of hours annually that can be used by the Agency for assistance, advice, and consultation for Medicaid pharmacy activities, such as additional clinical consultation, reports related to the PDL, PPL, HCPADL (Optional), and SMAC, or pricing of a complex nature, direct contact by telephone or by other agreed upon means to prescribers regarding appropriate drug utilization. Vendor shall provide on the Pricing Page the all-inclusive hourly rate for additional services requested by the Agency during each of the contract years. The one hundred (100) hour pool is an estimate only; actual quantities requested by the Agency during the life of contract may vary. Vendor shall include in the Pricing Page the cost of additional services. This will be computed by multiplying the all-inclusive hourly rate by one hundred (100) [Estimated] as per section 4.1.26.

4.1.27 Vendor shall agree to be bound by all Service Level Agreements listed in Exhibit B, Service Level Agreements.

5. CONTRACT AWARD:

5.1 Contract/Agreement Award: The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Page.

5.2 Pricing Page: Vendor should complete the Commodity Lines in wvOASIS by submitting pricing for the following items: Startup Costs; Annual Not To Exceed Costs; Optional Services and Additional Services. Vendor should complete the Commodity Lines in full as failure to complete the pricing in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Commodity Lines through wvOASIS, if available, or as an electronic document. Instructions for completing the Commodity Lines in wvOASIS can be found in Exhibit A.

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

7. PAYMENT: Agency shall pay monthly in arrears, as shown on the Commodity Lines in wvOASIS, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. In

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- 8. TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
- 9. FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
- 9.1** Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
 - 9.2** Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
 - 9.3** Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
 - 9.4** Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
 - 9.5** Vendor shall inform all staff of Agency's security protocol and procedures.

10 VENDOR DEFAULT:

- 10.1** The following shall be considered a Vendor default under this Contract.
- 10.1.1** Failure to perform Contract Services in accordance with the requirements contained herein.
 - 10.1.2** Failure to comply with other specifications and requirements contained herein.
 - 10.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

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10.1.4 Failure to remedy deficient performance upon request.

10.2 The following remedies shall be available to Agency upon default.

10.2.1 Immediate cancellation of the Contract.

10.2.2 Immediate cancellation of one or more release orders issued under this Contract.

10.2.3 Any other remedies available in law or equity.

11 MISCELLANEOUS:

11.1 Contract Manager: During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Joeseeph Bergondo
Telephone Number: 732-718-3770
Fax Number: N/A
Email Address: joseph.bergondo@optum.com

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EXHIBIT A

INSTRUCTIONS FOR COMMODITY LINES

Commodity Line 1: Provide a lump sum cost for any required Start Up Costs, to be billed only once during the first year of the Contract (two [2] month startup)

Commodity Line 2: Annual Not To Exceed Costs-Year 1. Provide Annual Not to exceed costs for combined program deliverables for the Preferred Drug List, Preferred Product List and State Maximum Allowable Cost programs for Base Year One (Ten [10] months operations). Billing and payment will be broken up in ten (10) equal installments.

Commodity Line 3: Additional Services-Enter Hourly rate X 100 Hours – Year 1.

Commodity Line 4: Optional Services (HCPADL – High-Cost Physician Administered Drugs List) – Not to Exceed Costs – Year 1.

Commodity Line 5: Provide Annual Not to exceed costs for combined program deliverables for the Preferred Drug List, Preferred Product List and State Maximum Allowable Cost programs for Year Two (Optional Renewal Year 1) (Twelve [12] months operations). Billing and payment will be broken up in twelve (12) equal installments.

Commodity Line 6: Additional Services-Enter Hourly rate X 100 Hours – Year Two (Optional Renewal Year 1)

Commodity Line 7: Optional Services (HCPADL – High-Cost Physician Administered Drugs List) - Not to Exceed Costs – Year Two (Optional Renewal Year 1).

Commodity Line 8: Provide Annual Not to exceed costs for combined program deliverables for the Preferred Drug List, Preferred Product List and State Maximum Allowable Cost programs for Year Three (Optional Renewal Year 2) (Twelve [12] months operations). Billing and payment will be broken up in twelve (12) equal installments.

Commodity Line 9: Additional Services-Enter Hourly rate X 100 Hours – Year Three (Optional Renewal Year 2).

Commodity Line 10: Optional Services (HCPADL – High-Cost Physician Administered Drugs List) - Not to Exceed Costs – Year Three (Optional Renewal Year 2).

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Commodity Line 11: Provide Annual Not to exceed costs for combined program deliverables for the Preferred Drug List, Preferred Product List and State Maximum Allowable Cost programs for Year Four (Optional Renewal Year 3) (Twelve [12] months operations). Billing and payment will be broken up in twelve (12) equal installments.

Commodity Line 12: Additional Services-Enter Hourly rate X 100 Hours – Year Four (Optional Renewal year 3)

Commodity Line 13: Optional Services (HCPADL – High-Cost Physician Administered Drugs List) - Not to Exceed Costs – Year Four (Optional Renewal Year 3).

Notes:

- 1.) Annual Not-to-Exceed Cost will be invoiced in arrears in ten (10) equal installments for the base year one and twelve (12) equal monthly installments in Optional Renewal Year One through three (1 – 3).
- 2.) Additional Services will be invoiced in arrears upon receipt of services by the Bureau.
- 3.) Basis for award will be lowest Grand Total Estimated Annual Cost.
- 4.) The Vendors Total Not to Exceed Cost will include all general and administrative staffing (secretarial, clerical, etc.), travel, supplies and other resource costs necessary to perform all services within the scope of this procurement.
- 5.) Vendor will not be eligible to invoice any operational or programmatic costs while invoicing for start-up costs.

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Exhibit B:
Service Level Agreements

Service Level Agreements	Penalty
4.1.13 Vendor shall provide meeting minutes electronically for all P&T Committee meetings. Meeting minutes will follow the current format as found on the Agency website https://bms.wv.gov/pharmaceutical-and-therapeutics-pt-committee-meetings Minutes are due to the Agency for review no later than ten (10) business days after each P&T Committee meeting.	\$50.00 per business day
4.1.15.10 Vendor shall provide SURA and NDURA files, and contract files, and any other requested documents, to the Agency and/or the Agency fiscal agent within fifty (50) calendar days of the end of a quarter.	\$250.00 per calendar day
4.1.15.13 Vendor shall ensure the accuracy of all rebate files delivered to the Agency and the Agency business partners. If any corrections are requested after the files are sent, the Vendor must send a corrected file within one (1) business day of request.	\$250.00 per business day
4.1.22.1 Weekly SMAC update file.	\$250.00 per business day
4.1.22.3 Weekly PDL/PPL/SMAC files. These files shall contain all available NDCs regardless of their rebate status.	\$250.00 per business day
Full Contract: Failure to provide any other deliverable under this procurement within the defined timeframes, unless an extension is mutually agreed upon between parties, shall result in an assessment of service level contract deduction until the satisfactory fulfillment of the deliverable.	\$250.00 per business day

Attachment A

Contract Management Business Rules for the State of West Virginia: CY2026 Contracts

Receiving and Processing Contracts

Item	Standard Required
Contract Timeline	All contracts must start on the first day of a quarter and end on the last day of a quarter .
Deadline	Manufacturers will be given fourteen (14) calendar days from the date the contract is received via email through Adobe Sign to partially execute the contract.
Handwriting on contracts	<u>Not allowed.</u> No handwriting is permitted on contracts with the exception signing the signature field and date.
Requests for changes to the contract outside of corrections to name, address etc.	<u>None permitted.</u> Changes requested will be logged and presented to BMS after all SRAs are returned for their consideration when drafting a new SRA.
Attachment B Comment Field	Manufacturer offer comments will be used on all contracts unless a State comment is provided.
Requests for changes to the comments field on Attachment B	No comment changes permitted without the express permission of BMS.
Parity & Enhanced Offers	Vendor will automatically accept or reject parity or enhanced offers, depending on the State's previous decision on the products(s) affected. Vendor will send out an email to the State notifying them of the action taken.
Contracts sent to State for signature	If mailing, contracts are sent to State for signature on a weekly basis, or as otherwise requested by BMS. Electronic signatures will be acquired through Adobe Sign. Director of Pharmacy Services will be assigned to delegate to the Commissioner and Richard (Doug) Sorvig will be assigned to the delegate to the Cabinet Secretary.
Contract Tracking/Reporting	Vendor will maintain PDF copies of all Supplemental Rebate Agreements and Amendments to be used for reference. Vendor will track contracts on a Contract Status Update Report to be submitted to the State every Monday of each week.
Delinquent Contracts	Vendor will send a Follow-Up Request to delinquent manufacturers on the fourteenth day of delinquency . At twenty-one (21) days' delinquency, Vendor will request a decision from BMS on how to proceed.
Contract Signatories	Cabinet Secretary – WV Dept. of Human Services and Commissioner – Bureau for Medical Services
If mailing Contracts, send to	West Virginia Bureau for Medical Services Director of Pharmacy Services

	350 Capitol Street, Room 251 Charleston, WV 25301
Fully Executed Agreements Upload to Egnyte	No later than March 31st , Vendor will upload, onto the State established Egnyte, pdf copies of all Fully Executed Agreements for the current calendar year. Once all signatures are complete, Vendor will send an email notification to the State.
Fully Executed Agreements and Amendments for previous Contract Year	By the second week in June , Vendor will update the State established Egnyte for the previous year to ensure it contains a pdf copy of all the Agreements and Amendments to date. Once all uploads are complete, Vendor will send an email notification to the State

Amendments, Assignments and Termination

Item	Clause in contract	Procedure
Amendment	9.9	As required, Vendor will draft a new SRA or an Amendment to the assignee's existing SRA.
Amendment Time Frame		Amendment Return Time Frame – Ten (10) calendar days following receipt of Amendment. All Amendments must start on the first day of a quarter and end on the last day of a quarter.
Assignment of contract	9.13	Agreements are not assignable by the manufacturer either in whole or in part without the written consent of the Department, which will not be unreasonably withheld.
CMS termination of NDC		As requested by the department, a letter is to be drafted by Vendor for the Department signature informing the manufacturer that the drug will be removed from the PDL effective on the term date.
Covered Product transferred or licensed to a new company	4.8	In the case of a manufacturer transferring responsibility for a drug(s) to a different company (assignor) for any reason, the assignor is required to provide BMS notice of the change per <i>Section 4.8</i> of the SRA. Upon receipt of manufacturer's notification regarding the sale or transfer of rights for a product, Vendor will draft an Amendment to remove affected NDC(s) from "Covered Products" of the current contract at the end of the quarter in which sale/transfer is complete. Vendor will solicit an offer from the manufacturer and forward it to BMS. BMS will provide Vendor with the offer response, and Vendor will draft an Agreement for the new owner effective the first day of the quarter after the sale/transfer was complete
NDC move to non-preferred		As requested by the Department, Vendor is to draft an Amendment terming the NDC, as of the change date, to Non-Preferred.
NDC/labeler acquired by a new company	9.6	

		In the event of a transfer in ownership of the Manufacturer, the Agreement is automatically assigned to the new owner subject to the conditions of this Agreement.
Termination by Amendment	9.9	Amendment drafted and sent by Vendor, as per Department's requirements.
Termination by breach		Agreement is terminated immediately if the manufacturer breaches the Agreement. Vendor is to draft a letter for Departmental signature notifying the manufacturer of the termination. Letter to be sent by Certified Mail, Return Receipt Requested.
Termination without cause	8.1	Notice sent at giving the other party thirty (30) days written notice prior to the end of the calendar quarter. Vendor is to draft a letter or Amendment as requested by the Department. Letter to be sent by Certified Mail, Return Receipt Requested

The above is provided as a general guideline to the supplemental rebate contract process. In the event of any discrepancy between this document and the actual language in the supplemental rebate contract, the contract supersedes.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

3.1 AMOUNT, DURATION AND SCOPE OF ASSISTANCE

C. Quantities and Duration

1. Covered outpatient drugs are reimbursed up to 34-day supply per prescription. The number of refills per prescription will be in accordance with state and federal law and regulations.
2. Certain drugs are limited by quantity, number of allowable refills of duration or use.

D. Drug Rebate Agreements

The State is in compliance with §1927 of the Social Security Act. The state will cover drugs of federal rebate participating manufacturers. The state is in compliance with reporting requirements for utilization and restrictions to coverage. Pharmaceutical manufacturers can audit utilization data. The unit rebate amount is confidential and cannot be disclosed for purposes other than rebate invoicing and verification.

The state will be negotiating supplemental rebates in addition to the federal rebates provided for in Title XIX. Rebate agreements between the state and a pharmaceutical manufacturer will be separate from the federal rebates.

A rebate agreement between the state and a drug manufacturer for drugs provided to the Medicaid program, submitted to CMS on January 1, 2008 and entitled "West Virginia Medicaid Supplemental Drug Rebate Agreement" has been authorized by CMS.

CMS has authorized the state of West Virginia to enter into the Sovereign States Drug Consortium (SSDC) multi-state pool. This Supplemental Drug Rebate Agreement was submitted to CMS in September 30, 2008 and has been authorized by CMS effective August 1, 2008. A revised SSDC Supplemental Rebate Agreement was authorized by CMS, effective January 1, 2015, for any renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid recipients.

Supplemental rebates received by the State in excess of those required under the national drug rebate agreement will be shared with the Federal government on the same percentage basis as applied under the national rebate agreement.

All drugs covered by the program, irrespective of a prior authorization requirement, will comply with the provision of the national drug rebate agreement.

E. Preferred Drug List with Prior Authorization

1. Pursuant to 42 U.S.C. §1396r-8 and WV Code §9-5-15, the state is establishing a preferred drug list with prior authorization for drugs not included on the preferred drug list. Prior authorization will be provided with a 24-hour turn-around from receipt of request and a 72-hour supply of drugs in emergency circumstances.
2. Prior authorization will be established for certain drug classes, particular drugs or medically accepted indication for uses and doses.
3. The state will appoint a Pharmaceutical and Therapeutic Committee or utilize the drug utilization review committee in accordance with federal law.

Attachment C: Supplemental Rebate Rate File

FIELD NAME 5.0	DESCRIPTION 5.0
CMS_RUA	Latest CMS Rate
DRUG_NAME	Drug name from contract
MANUFACTURER	Manufacturer name from contract
NDC	National Drug Code
PPU_GUARANTEED	Value from contract for GNUP contract type Guaranteed net unit price from contract, decimal supplied This field is populated when the Formula Code value = GNUP
QUARTER	Rebate Quarter
REBATE_UNIT_AMOUNT	State rebate unit amount Should be stated in same unit type as CMS Unit Type
REPORTED_QUARTER	Reported Quarter
REPORTED_YEAR	Reported Year
TOTAL_REBATE_PERCENT (TRP)	Value from contract for TRP contract type. Total percent of contract value, decimal supplied. This field is populated when the Formula Code value = TRP
UNIT_PRICE	Drug unit price. The value used this period that is used in the SURA calculation as state in the Price_type
UNIT_TYPE	Unit type as stated from the CMS file
YEAR	Rebate Year

ADJ_REASON	Prior period adjustment reason i.e. PRICE CHANGE, CMS RATE CHANGE, CONTRACT AMENDED Current Adjustment Reasons are: Retroactive CMS price change, Amended Contract, Contracted NDC Transferred to new labeler, Contracted NDC DESI code change, Contracted NDC Terminated, State decision to remove NDC from PDL, Pricing File Correction, Conversion Factor added to price
CMS_ADJ	Value used to appropriately state the CMS RUA when applicable Optional multiplier for the CMS pricing source Represents multiplier of CMS price. Blank if N/A
CONTRACT_EFF_DT	Contract start date from system at the time the SURA data is calculated YYYYMMDD
CONTRACT_EXP_DT	Contract end date from system at the time the SURA data is calculated YYYYMMDD
FORMULA_CD	Type of formula used from contract. Valid values are GNUP or TRP
FORMULA_EFF_DT	Formula start date. Start date that the formula represented in the Formula_CD field was effective YYYYMMDD
FORMULA_EXP_DT	Formula end date. End date that the formula represented in the Formula_CD field was effective YYYYMMDD
FORMULA_STRING	Formula used to generate rate. This is the actual values used to calculate the supplemental rate reported on this file. This string is placed on the manufacturers supplemental rebate invoice for each NDC billed.
PRICE_TYPE	Drug price type from contract. AWP, WAC AMP etc

PRICING_SOURCE_ADJ	Value used to appropriately state the unit price when applicable Optional multiplier for the drug reference pricing source (ex: WAC, AWP) Represents multiplier of drug reference price. This will be Blank if N/A to NDC. Some NDCs need a conversion to state the source price appropriately
SPECIAL_RATE_CONDITIONS	Notes/comments when special rate conditions apply. When applicable.
TYPE_CD	Indicates which rebate program this record belongs to: SR = supplemental rebate DME = Durable Medical Equipment, i.e. Non-Drug
CALCULATED_REBATE_UNIT_AMOUNT	Calculated rate prior to applied business rules i.e. negative rates set to zero. This value is the result of the math formula reflected in the FORMULA_STRING field. This can calculate to be negative. Negative value should be passed to State when calculates to negative number
QUARTER_FACTOR	Indicates if the contract was in effect for only part of the invoice quarter. 1 when contracted for one month out of quarter, 2 when contracted for two months out of quarter, or 3 when contracted for three months out of quarter

**STATE OF WEST VIRGINIA
DEPARTMENT OF HUMAN SERVICES
BUREAU FOR MEDICAL SERVICES
SPECIAL PRODUCT REBATE AGREEMENT**

1. PARTIES/PERIOD

This Agreement is made and entered into this 1st day of January, [YYYY], by and between the State of West Virginia (State), represented by the Department of Human Services (Department) and the Bureau for Medical Services (Bureau) and [MANUFACTURER NAME] (Manufacturer), Labeler Code [#####]. This Agreement shall be effective on [MONTH DD, YYYY] and shall continue in force until [MONTH DD, YYYY]. The parties, in consideration of the covenants, conditions, agreements, and stipulations expressed in this Agreement, do agree as follows:

2. PURPOSE

It is the intent of this Agreement that the Department will receive a Special Product Rebate for the Medicaid population, for the Manufacturer's Covered Product(s) quarterly utilization in the West Virginia Medicaid Program.

3. DEFINITIONS

- 3.1 Contract Quarter** means the quarters ending on March 31, June 30, September 30 and December 31 of each calendar year during the term of the Agreement.
- 3.2 Covered Product(s)** means any product listed in Attachment A.
- 3.3 Medicaid Members** shall mean all persons enrolled in a Participating Medicaid Program and eligible to receive Covered Products.
- 3.4 Preferred Product List** shall mean a list of preferred products, such as diabetic supplies, recommended and maintained by the Bureau for Medical Services.

- 3.5 Special Product Rebate** means, with respect to the Covered Product(s), the quarterly payment by the Manufacturer pursuant to Section 4.1 of this Agreement. In no case may the Special Product Rebate amount be a negative amount.
- 3.6 State Utilization Data** means the claims level data under the West Virginia Medicaid Program.
- 3.7 Unit** means product unit in the lowest identifiable amount (e.g. diabetic testing strip, lancet, etc.).
- 3.8 Wholesale Acquisition Cost or WAC** shall mean the Direct Manufacturer Wholesale Unit Price as of the last day of a Contract Quarter published in the National Drug Data File by First Data Bank, Incorporated.

4. MANUFACTURER'S RESPONSIBILITIES

- 4.1** Manufacturer will remit to the Department a Special Product Rebate for Covered Product(s) included on the Preferred Product List for each Contract Quarter or portion thereof. The Manufacturer shall pay to the Department the Special Product Rebate amount in accordance with the formula set forth in Attachment A.
- 4.2** The quarters to be used for calculating the Rebates in Sections 4.1 of this Agreement will be those ending on March 31, June 30, September 30 and December 31 of each calendar year during the term of this Agreement, or any portion thereof.
- 4.3** Each participating Manufacturer will be required to submit the Special Product Rebate payment within thirty-seven (37) days of the Special Product Rebate Invoice postmark date from the Department. The Department shall submit the Special Product Rebate invoice to the Manufacturer within ninety (90) days after the Contract Quarter in which the Product was paid by the Department. Manufacturer shall notify the Department or its designee of any incomplete submission or dispute within thirty-seven (37) days of the invoice postmark date. Rebate payments mailed more than thirty-seven (37) days from the date of the postmark date of the Department's invoice shall include interest, calculated in accordance with Federal guidelines.

- 4.4** The Manufacturer will pay the Special Product Rebate, including any applicable interest in accordance with Section 1903(d)(5) of the Social Security Act (the “Act”). Interest on the Rebates payable under Section 4.1 of this Agreement begins accruing 38 calendar days from postmark date of the Department’s invoice sent to the Manufacturer and interest will continue to accrue until the postmark date of the Manufacturer’s payment.
- 4.5** If any party discovers an error in the payment of Special Product Rebates by Manufacturer, it shall notify the other affected parties of such error. The Manufacturer may deduct any overpayment from subsequent Special Product Rebates payable under this Agreement. In the event that no subsequent Special Product Rebates are payable, the Department will refund any such overpayment to the Manufacturer within thirty (30) days after an acknowledgement or final determination that the overpayment has been made. The Manufacturer will remit any underpayment to the Department within thirty (30) days after an acknowledgement or final determination that an underpayment has been made.
- 4.6** Manufacturer’s failure to remit the Special Product Rebate amount in a timely manner may result in the removal of the relevant Product or Products from the Preferred Product List, pursuant to the application of the dispute resolution process set forth in Section 6.
- 4.7** Nothing in this Agreement shall be construed to prohibit the Manufacturer from discontinuing production, marketing or distribution of any Covered Product or from transferring or licensing any Covered Product to a third party. If the Manufacturer elects to discontinue production, marketing or distribution of any Covered Product or to transfer or license any Covered Product to a third party, the Manufacturer shall make every reasonable effort to notify the Department prior to such action so that the Department can negotiate with such third party for Special Product Rebates on such Covered Product or remove such Covered Product from the Preferred Product List. The Department has the right to terminate this Agreement without cause upon such notification. If Manufacturer fails to notify the Department, Manufacturer shall continue to be responsible for all Special Product Rebates until such notification is given. Upon notification of the Manufacturer’s election to discontinue production, marketing or distribution of any Covered Product or to

transfer or license any Covered Product to a third party, the Covered Product shall be removed from the definition of “Covered Products” on the Preferred Product List.

- 4.8 Unless notified otherwise, the Manufacturer will send Rebate payments to the following address.

**West Virginia Department of Human Services
Special Product Rebate Program
PO Box 40209
Charleston, WV 25364**

5. DEPARTMENT RESPONSIBILITIES

5.1 Preferred Product List:

- (a) The products contained in the covered category(s) shall be reviewed by the Department for their overall value. Non-preferred products will require prior authorization. Criteria for approving the prior authorization will be the responsibility of the Department.
- (b) The Department shall place Covered Products in an advantaged position relative to non-preferred Products regarding Preferred Product List status.

- 5.2 The Department shall communicate the inclusion of Covered Product on the Preferred Product List to State Medicaid Program providers through the standard notification process.

- 5.3 The Department will provide State Utilization Data to the Manufacturer upon request to validate the Special Product Rebate Invoice for dispute resolution. This data will be based on paid claims data for the West Virginia Medicaid Program.

- 5.4 The Department will maintain the data systems and audits as are necessary to ensure the accuracy of the data used to calculate the Special Product Rebates. In the event material discrepancies are discovered, the Department will promptly justify its data or make an appropriate adjustment, which may include a credit as to the amount of the Rebates, a refund to the Manufacturer as the parties may agree, or a prior period adjustment.

- 5.5 The Department warrants that it has informed CMS of its intention to receive Special Product Rebates as provided under this Agreement.

- 5.6** The Department shall remit the federal share of Special Product Rebate payments made under this Agreement to CMS as required under its approved state plan. As with the required sharing of Special Product Rebate payments, so shall the State share any applicable interest received from manufacturers in accordance with Section 1903(d)(5) of the Act.

6. DISPUTE RESOLUTION

- 6.1** Utilization disputes and interest calculations will be handled in the same manner as the Federal Drug Rebate program.
- 6.2** In the event that in any quarter a discrepancy in calculation of the Special Product Rebate is noted by the Manufacturer, that the Manufacturer and the Department or its designee in good faith are unable to resolve, the Manufacturer will provide written notice of the discrepancy to the Department within thirty-seven (37) days of the postmark of the Department's invoice.

7. CONFIDENTIALITY PROVISIONS

- 7.1** The parties agree that information disclosed by the Manufacturer under this Agreement in a form which discloses the identity of a specific Manufacturer or the prices charged for products by the Manufacturer is confidential and shall not be disclosed except as necessary to carry out the Agreement or as may be required by judicial order. To the extent that the Department utilizes the services of a third-party to develop and maintain the Preferred Product List, or to administer any part of this Agreement, all provisions of this section shall apply to the third-party, and the Department shall have the third-party sign a written agreement ensuring the third-party will comply with all aspects of this section. In the event that the Department is required by law to disclose any provision of this Agreement or pricing information to any person other than as provided above, the Department shall provide advance written notice to the Manufacturer sufficiently in advance of the proposed disclosure to allow the Manufacturer to seek a protective order or other relief.

- 7.2** The parties agree that information revealing the identity of Medicaid Members is confidential and shall not be disclosed except as necessary to carry out this Agreement or as may be required by judicial order. The foregoing shall not prevent the disclosure by the Manufacturer to the Department of information regarding the Special Product Rebate for Covered Products.
- 7.3** The Manufacturer will hold the State Utilization Data confidential. If the Manufacturer audits this information or receives further information on such data, that information shall also be held confidential. The Manufacturer shall have the right to disclose Utilization Information to auditors who agree to keep such information confidential.
- 7.4** Manufacturer shall ensure that all information, records, data, and data elements pertaining to applicants for Medicaid and Medicaid beneficiaries, or to providers, facilities, and associations, shall be protected from unauthorized disclosure by Manufacturer and Manufacturer's employees, by Manufacturer's corporate affiliates and their employees, and by Manufacturer's subcontractors and their employees, pursuant to 42 CFR Part 431, Subpart F and any other applicable federal or state law and the Health Insurance Portability and Accountability Act of 1995 (HIPAA), 45 CFR Part 164.512 (i).
- 7.5** The provisions of this section and any confidentiality agreement executed pursuant to this section shall survive termination or expiration of this Agreement.

8. NONRENEWAL OR TERMINATION

8.1 This Agreement may be terminated by either party by giving written notice to the other party at least thirty (30) days prior to the end of a calendar quarter. Up until the effective date of termination, the Manufacturer's Covered Product(s) will remain in an advantaged position relative to non-preferred Products regarding Preferred Product List status or in accordance with other terms as defined by this agreement. After the effective date of the termination, the Manufacturer's Covered Product(s) may be available to the West Virginia Medicaid Program members only through prior authorization, and the Manufacturer's obligation to pay Special Product Rebates will terminate. Manufacturer is still obligated to pay State Special Product Rebates for Manufacturer's Covered Product(s) for dates of service up to the termination date.

8.2 This Agreement may be immediately terminated upon the occurrence of the following event:

(a) A determination by any court or any authorized governmental authority that the arrangements and transactions under this Agreement or any similar agreement constitute a violation of any law or regulation including without limitation (42 USC 1320a-7b(b)) prohibiting illegal remunerations. (For the purposes of this Section, 8.2, "authorized governmental authority" shall mean any officer or agency of the Federal Government (e.g., Office of Inspector General, Department of Justice, Department of Health and Human Services) or the State of West Virginia (e.g., West Virginia Attorney General) having substantive jurisdiction over the subject matter of this Agreement; any state or federal program with which this Agreement is connected; any actions which must be taken by either party hereto in order to perform its obligations under this Agreement or any laws or regulations affecting the legality of this Agreement).

8.3 Any renewal or termination will not affect rebates due or owing for claims with dates of service on or before the effective date of termination.

9. GENERAL PROVISIONS

9.1 This Agreement will be governed and construed in accordance with all applicable federal and state law and regulations.

9.2 Any notice required to be given pursuant to the terms and provisions of this Agreement will be in writing and will be: (i) delivered in person, obtaining a signature indicating successful delivery; (ii) sent by a recognized overnight delivery service, obtaining a signature indicating successful delivery; (iii) sent by certified mail, obtaining a signature indicating successful delivery; or (iv) transmitted by telefacsimile, producing a document indicating the date and time of successful transmission, to the address or telefacsimile number set forth below. Notice to the Department will be sent to:

**West Virginia Bureau for Medical Services
Commissioner
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3707
Telefacsimile: 304-558-1542**

Notice to the Manufacturer will be sent to:

**Name: [NOTICE CONTACT NAME]
Title: [TITLE]
Company Name: [COMPANY NAME]
Address: [COMPANY ADDRESS]
Address: [COMPANY ADDRESS]
Phone: [(###) ###-####] FAX#: [(###) ###-####]**

9.3 The Manufacturer agrees to be bound by the laws of the State of West Virginia and agrees that this Agreement shall be construed and interpreted in accordance with West Virginia law.

9.4 Nothing herein shall be construed or interpreted as limiting or otherwise affecting the Department's or the Manufacturer's ability to pursue its rights arising out of the terms and conditions of the Agreement in the event that a dispute between the parties is not otherwise resolved.

- 9.5** The Manufacturer and the agents and employees of the Manufacturer in the performance of this Agreement, will act in an independent capacity and not as officers, employees or agents of the State of West Virginia.
- 9.6** In the event of a transfer in ownership of the Manufacturer, the Agreement is automatically assigned to the new owner subject to the conditions of this Agreement.
- 9.7** Nothing in this Agreement will be construed so as to require the commission of any act contrary to law. If any provision of this Agreement is found to be invalid or illegal by a court of law, or inconsistent with federal requirements, this Agreement will be construed in all respects as if any invalid, unenforceable, or inconsistent provision were eliminated, and without any effect on any other provision. The parties agree to negotiate replacement provisions, to afford the parties as much of the benefit of their original bargain as is possible.
- 9.8** The Department and the Manufacturer declare that this Agreement, including attachments, contains a total integration of all rights and obligations of both parties. There are no extrinsic conditions, collateral agreements or undertakings of any kind. In regarding this Agreement as the full and final expression of their contract, it is the express intention of both parties that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter and period of time governed by this Agreement which are not expressly set forth herein are to have no force, effect, or legal consequences of any kind.
- 9.9** The following provisions of this Agreement may be altered by an amendment in writing signed by both parties and approved by the appropriate State control:
- Notice Provision
 - Effective Dates
 - Attachment A (Covered Products)

The remainder of this Agreement will not be altered except by an amendment in writing signed by both parties and approved by the appropriate State control agencies. Any modification of the formula to include non-Medicaid population groups must be authorized by CMS.

- 9.10** Manufacturer shall, upon request by the Department and upon receipt of a proposed amendment to this Agreement, negotiate in good faith to amend this Agreement if and when required to comply with Federal or State laws or regulations. If the parties are unable to agree upon an amendment within sixty (60) days, or such shorter time required by Federal or State law or regulation, the Department may terminate this Agreement.
- 9.11** For Agreements that cover more than one agreement year, the State reserves the right to solicit annually more favorable Special Product Rebates from Manufacturer by giving written notice thereof no less than ninety (90) days prior to the yearly anniversary of the effective date of this Agreement.
- 9.12** Neither party contemplates any circumstances under which indemnification of the other party would arise. Nevertheless, should such circumstances arise, the Manufacturer agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Manufacturer in the performance of this Agreement.
- 9.13** Except as provided for under 9.6, this Agreement is not assignable by Manufacturer either in whole or in part without the written consent of the Department, which will not unreasonably be withheld.
- 9.14** Failure of Manufacturer or the Department to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- 9.15** Unless the context otherwise requires or unless otherwise specified, the following rules of construction apply to this Agreement:
- (a)** Provisions apply to successive events and transactions;
 - (b)** "Or" is not exclusive;
 - (c)** References to statutes and rules include subsequent amendments and successors thereto;

- (d) The various headings of this Agreement are provided for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof;
 - (e) "Days" shall mean calendar days.
 - (f) Words in the plural which should be singular by context shall be so read, and vice versa.
- 9.16** No party shall use the registered or claimed mark of another in any type of promotional or advertising material without the express written consent of the other party except that Manufacturer agrees that the Department may use a Manufacturer claimed or registered trade name and/or trademark to communicate the inclusion of a Manufacturer Product in a Preferred Product List to the Department's prescribing clinicians, pharmacies and Medicaid Members.
- 9.17** The effectiveness of this Agreement shall be contingent on CMS' valid authorization of the West Virginia Special Product Rebate Program of which this Agreement forms a part.
- 9.18** In the event that the Department determines, as a result of a category review, a Covered Product(s) of the Manufacturer included on the West Virginia Medicaid Preferred Product List should require prior authorization for appropriateness of therapy using best practice standards, the parties agree that the terms of Section 8.1 shall apply.
- 9.19** It is the Department's belief that the business arrangement contemplated by this Agreement is not subject to the provisions of 42 USC 1320a-7b(b) prohibiting illegal remuneration. Should the above provisions apply, it is the Department's belief that the business arrangement contemplated by this Agreement meets the discount exception found in 42 USC 1320a-7b(b)(3)(A), which excludes from prohibited activities the practice of discounting or other reductions in price obtained by a provider of services or other entity under a Federal health care program, if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a Federal health care program. The Department currently provides CMS full and unfettered access to all information held by the Department regarding the implementation of the West

Virginia Medicaid Program, and shall continue to do so throughout the implementation of the State Special Product Rebate and West Virginia Medicaid Preferred Product List.

- 9.20** This Agreement, and all books, records, and supporting documents related thereto, shall be available for review or audit by the Department, the Office of Inspector General for West Virginia, the Medicaid Fraud Control Unit of the Department, the United States Department of Health and Human Services, the state legislative branch or state executive branch auditor or other auditor and other state and federal agencies with monitoring authority related to the subject matter of this Agreement (“Authorized Persons”), and Manufacturer agree to cooperate fully with any such review or audit. Upon reasonable notice by any Authorized Person, Manufacturer shall provide, in the appropriate venue for the Department or at any other location designated by the Authorized Person, during normal business hours, full and complete access to the relevant portions of Manufacturer's books and billing records as they relate to payments under this Agreement. If the audit findings indicate overpayment(s) to the Department, Manufacturer shall adjust future or final payments otherwise due to the Department. If no payments are due and owing to the Department, or if the overpayment(s) exceed the amount otherwise due to the Department, the Department shall refund all amounts, which may be due to the Manufacturer.
- 9.21** Manufacturer shall maintain, during the term of this Agreement in accordance with 42 C.F.R. § 447.510(f) and other applicable law, all business, professional and other records in accordance with applicable law, the specific terms and conditions of this Agreement, and pursuant to generally accepted accounting practice. Failure to maintain books, records, and supporting documents required by this Agreement shall establish a presumption in favor of the Department for the recovery of any funds owed to the Department under the Agreement for which adequate books, records, and other documents are not available to support the purported disbursement.
- 9.22** Noncompliance with any obligations hereunder due to force majeure, such as acts of God, laws or regulations of any government, war, terrorism, civil commotion, destruction of production facilities and materials, fire, earthquake, storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.

9.23 Those obligations under this Agreement that, by their nature, are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement. This includes any outstanding rebate and interest amounts for Manufacturer's Covered Product(s) with dates of service covered by this Agreement.

IN WITNESS WHEREOF, the Department and Manufacturer have caused this Agreement to be executed on the dates shown below by representatives authorized to bind the respective parties.

[MANUFACTURER NAME]

**West Virginia Department of
Human Services**

By:

By:

Title:

Title: Cabinet Secretary

Date: _____

Date: _____

Bureau for Medical Services

By: Christy D. Donohue, CMC

Title: Commissioner

Date: _____

ATTACHMENT A

Covered Products

The products to which the Special Product Rebate Agreement shall apply are the following:

Manufacturer Name	Product Code	Product Description	Tier	Comments
No COST METERS- Meters will not process through State POS system for payment. Directly supplied/reimbursed by <Manufacturer>				

Award Specifications

ATTACHMENT A (Continued)

Award Specifications: Acceptance of the bid is in good faith and the state effective date of the agreement will be [MONTH DD, YYYY]. [MANUFACTURER NAME] will execute the State Special Product Rebate Agreement with the effective date of [MONTH DD, YYYY] and return it to West Virginia Medicaid. [MANUFACTURER NAME] further agrees to remit payment back to [MONTH DD, YYYY] upon receipt of the fully executed contract or upon receipt of the quarterly invoice if contracts are fully executed prior to 4th quarter invoice generation. It is further understood and agreed [MANUFACTURER NAME] has the capability and capacity to accept the full burden of meter costs. [MANUFACTURER NAME] will provide meters at retail that will be indirectly reimbursed by [MANUFACTURER NAME]. Free meters will also be available for shipment to members through [MANUFACTURER NAME] customer service, which can be reached with a toll-free number and email address. [MANUFACTURER NAME] further agrees this will be operational by the [MONTH DD, YYYY] start date of the new contract. It is understood and agreed that Rebates shall be paid on utilization for fee-for-service and managed care Medicaid members that follows the West Virginia Medicaid Preferred Product List for diabetic supplies.

ATTACHMENT B

Rebate Formula

Manufacturer	NDC	Product Description	Tier	Formula	GNP

Formula 1: Percentage of WAC. Formula for rebate calculation: $WAC \times \% \text{ Off WAC} = \text{Rebate Amount per unit}$

Formula 2: Guaranteed Net Price. Formula for rebate calculation: $WAC - \text{Guaranteed Net Price} = \text{Rebate Amount per unit}$.

**STATE OF WEST VIRGINIA
DEPARTMENT OF HUMAN SERVICES
BUREAU FOR MEDICAL SERVICES
SUPPLEMENTAL DRUG REBATE AGREEMENT**

1. PARTIES/PERIOD

This Agreement is made and entered into this _____ day of _ (YEAR), by and between the State of West Virginia (State), represented by the Department of Human Services (Department) and the Bureau for Medical Services (Bureau) and

_____ (Manufacturer), Labeler Code _____. This Agreement shall be effective on _____ (MONTH, DAY, YEAR) and shall continue in force until _____ (MONTH, DAY, YEAR). The parties, in consideration of the covenants, conditions, agreements, and stipulations expressed in this Agreement, do agree as follows:

2. PURPOSE

It is the intent of this Agreement that the Department will receive a Supplemental Rebate for the Medicaid population, as authorized pursuant to West Virginia Code § 9-5-15, in addition to rebates received under the CMS Rebate Agreement, pursuant to Section 1927 of the Social Security Act (42 USC 1396r-8), for the Manufacturer's Covered Product(s) quarterly utilization in the West Virginia Medicaid Program. The parties also intend for this Agreement to meet the requirements of federal law at Section 1927 of the Social Security Act (42 USC 1396r-8).

3. DEFINITIONS

3.1 Average Manufacturer Price or AMP shall mean the Average Manufacturer Price as set forth in 42 USC 1396r-8; as such statute may be amended from time to time.

3.2 Best Price shall mean Best Price as set forth in 42 USC 1396r-8; as such statute may be amended from time to time, excluding State Supplemental Rebate amounts.

- 3.3 CMS** shall mean the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, or any successor or renamed agency carrying out the functions and duties heretofore carried out by such office.
- 3.4 CMS Agreement** means the Manufacturer's drug rebate contract with the CMS entered pursuant to Section 1927 of the Social Security Act (42 USC 1396r-8).
- 3.5 CMS Basic Rebate** means, with respect to the Covered Product(s), the quarterly payment by the Manufacturer pursuant to the Manufacturer's CMS Agreement, made in accordance with Section 1927(c)(1) or Section 1927(c)(3) of the Social Security Act [42 USC 1396r-8(c)(1) and 42 USC 1396r-8(c)(3)].
- 3.6 CMS CPI Rebate** means, with respect to the Covered Product(s), the quarterly payment by the Manufacturer pursuant to the Manufacturer's CMS Agreement, made in accordance with Section 1927(c)(2) of the Social Security Act [42 USC 1396r-8(c)(2)].
- 3.7 Contract Quarter** means the quarters ending on March 31, June 30, September 30 and December 31 of each calendar year during the term of the Agreement.
- 3.8 Covered Product(s)** means any prescription drug product listed in Attachment A, pursuant to section 1927 of the SSA (42 USC 1396r8).
- 3.9 Guaranteed Net Price (GNP)** shall mean the final fixed price of the drug assured by the Manufacturer to the State. It shall be calculated as WAC minus the National rebate (as defined in 3.11) minus the State Supplemental Rebate necessary to equal the guaranteed net price to the State by the Manufacturer for the Covered Product for the contract quarter.
- 3.10 Medicaid Member** shall mean any person enrolled in a Participating Medicaid Program and eligible to receive prescription drug benefits.
- 3.11 Managed Care Organization**-An organization that agrees to provide Medicaid benefits to Medicaid members in exchange for a monthly payment from the state.
- 3.12 National Rebate** shall mean the CMS Basic and the CMS CPI rebates collectively.

- 3.13 P&T Committee or Pharmaceutical & Therapeutics Committee** shall mean the group of health care professionals and other individuals maintained by the Department for the purpose of developing a Preferred Drug List for the West Virginia Medicaid Program.
- 3.14 Preferred Drug List (PDL)** shall mean the list recommended by the Pharmaceutical and Therapeutics Committee (P & T Committee) and adopted by the Department pursuant to West Virginia Code § 9-5-15.
- 3.15 State Supplemental Rebate** means, with respect to the Covered Product(s), the quarterly payment by the Manufacturer pursuant to Section 4.2 of this Agreement. In no case may the State Supplemental Rebate amount be a negative amount.
- 3.16 State Utilization Data** means the claims level data under the West Virginia Medicaid Program. State Utilization Data excludes data from covered entities identified in Title 42 USC 256b(a)(4) in accordance with Title 42 USC 256b(a)(4)(A).
- 3.17 Step Therapy** shall mean a defined order of therapeutic choices within either the preferred or non-preferred drug list categories.
- 3.18 Unit** means drug unit in the lowest identifiable amount (e.g. tablet or capsule for solid dosage forms, milliliter for liquid forms, gram for ointments or creams, etc.).
- 3.19 Wholesale Acquisition Cost or WAC** shall mean the Direct Manufacturer Wholesale Unit Price as of the last day of a Contract Quarter published in the National Drug Data File by First Data Bank, Incorporated.

4. MANUFACTURER'S RESPONSIBILITIES

- 4.1** Nothing in this agreement shall be construed to relieve the Manufacturer from its obligation to provide the Department a National Rebate for the Covered Product(s).
- 4.2** In addition to the National Rebate, the Manufacturer will remit to the Department a State Supplemental Rebate for Covered Product(s) included on the Preferred Drug List for each Contract Quarter or portion thereof. The supplemental rebates shall be paid based on utilization data for both fee-for-service and managed care Medicaid members. The

Manufacturer shall pay to the Department the State Supplemental Rebate amount in accordance with the formula set forth in Attachment B. This State Supplemental Rebate is in addition to the National Rebate.

- 4.3** The quarters to be used for calculating the Rebates in Sections 4.1 and 4.2 of this Agreement will be those ending on March 31, June 30, September 30 and December 31 of each calendar year during the term of this Agreement, or any portion thereof.
- 4.4** Each participating Manufacturer will be required to submit the supplemental rebate payment within thirty-seven (37) days of the Supplemental Rebate Invoice postmark date from the Department. The Department shall submit the State Supplemental Rebate invoice to the Manufacturer within ninety (90) days after the Contract Quarter in which the Product was paid by the Department. Manufacturer shall notify the Department or its designee of any incomplete submission or dispute within thirty-seven (37) days of the invoice postmark date. Rebate payments mailed more than thirty-seven (37) days from the date of the postmark date of the Department's invoice shall include interest, calculated in accordance with Federal guidelines.
- 4.5** The Manufacturer will pay the State Supplemental Rebate, including any applicable interest in accordance with Section 1903(d)(5)(42 USC 1396b(d)) of the Act. Interest on the Rebates payable under Section 4.1 and 4.2 of this Agreement begins accruing 38 calendar days from postmark date of the Department's invoice sent to the Manufacturer and interest will continue to accrue until the postmark date of the Manufacturer's payment.
- 4.6** If any party discovers an error in the payment of State Supplemental Rebates by Manufacturer, it shall notify the other affected parties of such error. The Manufacturer may deduct any overpayment from subsequent State Supplemental Rebates payable under this Agreement. In the event that no subsequent State Supplemental Rebates are payable, the Department will refund any such overpayment to the Manufacturer within thirty (30) days after an acknowledgement or final determination that the overpayment has been made. The Manufacturer will remit any underpayment to the Department within thirty

(30) days after an acknowledgement or final determination that an underpayment has been made.

- 4.7 Manufacturer's failure to remit the State Supplemental Rebate amount in a timely manner may result in the removal of the relevant Product or Products from the Preferred Drug List, pursuant to the application of the dispute resolution process set forth in Section 6.
- 4.8 Nothing in this Agreement shall be construed to prohibit the Manufacturer from discontinuing production, marketing or distribution of any Covered Product or from transferring or licensing any Covered Product to a third party. If the Manufacturer elects to discontinue production, marketing or distribution of any Covered Product or to transfer or license any Covered Product to a third party, the Manufacturer shall make every reasonable effort to notify the Department prior to such action so that the Department can negotiate with such third party for State Supplemental Rebates on such Covered Product or remove such Covered Product from the Preferred Drug List. The Department has the right to terminate this Agreement without cause upon such notification. If Manufacturer fails to notify the Department, Manufacturer shall continue to be responsible for all State Supplemental Rebates until such notification is given. Upon notification of the Manufacturer's election to discontinue production, marketing or distribution of any Covered Product or to transfer or license any Covered Product to a third party, the Covered Product shall be removed from the definition of "Covered Products" on the Preferred Drug List.
- 4.9 Unless notified otherwise, the Manufacturer will send Rebate payments to the following address.

**West Virginia Department of Human Services
Supplemental Drug Rebate Program
PO Box 40209
Charleston, WV 25364**

5. DEPARTMENT RESPONSIBILITIES

5.1 Preferred Drug List:

- (a) The Department shall provide for a Pharmaceutical and Therapeutics (P & T) Committee to review drugs within therapeutic categories. These drugs shall be reviewed for their safety, effectiveness, and overall value. Non-preferred drugs

will require prior authorization. Criteria for approving the prior authorization will be the responsibility of the Drug Utilization Review (DUR) Board. These criteria will meet generally accepted clinical standards of practice for the proper use of drugs. A 72-hour emergency supply of all drugs requiring prior authorization will be available to allow for the submission of appropriate documentation.

- (b) The Department shall place Covered Products in an advantaged position relative to non-preferred Products regarding Preferred Drug List status, and depending on the designated preferred tier, the Department may place Covered products in an advantaged position relative to other preferred products (Step Therapy). Certain Preferred drugs, including Step Therapy drugs may be subject to prior authorization, i.e., preferred but with prior authorization. The established Preferred Drug List shall be state run and utilized for both the Medicaid fee-for- service and managed care populations. The Department will comply with all provisions of Section 1927(d) (42 USC 1396r-8(d)).

- 5.2 The Department shall communicate the inclusion of Covered Product on the preferred Drug List to State Medicaid Program providers through the standard notification process.
- 5.3 The Department will provide State Utilization Data for fee-for-service and managed care Medicaid members to the Manufacturer upon request to validate the Supplemental Rebate Invoice for dispute resolution. This data will be based on paid claims data for the West Virginia Medicaid Program.
- 5.4 The Department will maintain the data systems and audits as are necessary to ensure the accuracy of the data used to calculate the State Supplemental Drug Rebates. In the event material discrepancies are discovered, the Department will promptly justify its data or make an appropriate adjustment, which may include a credit as to the amount of the Rebates, a refund to the Manufacturer as the parties may agree, or a prior period adjustment.
- 5.5 The Department warrants that it received CMS authorization to receive State Supplemental Rebates for fee-for-service and managed care Medicaid members as provided under this Agreement and that the Manufacturer's participation in the West

Virginia Supplemental Drug Rebate Program will not affect the Manufacturer's Best Price and the AMP. Changes to this Agreement must be authorized by CMS.

- 5.6** The Department shall remit the federal share of State Supplemental Rebate payments for fee-for-service and managed care Medicaid members made under this Agreement to CMS as required under its approved state plan. As with the required sharing of Supplemental Rebate payments, so shall the State share any applicable interest received from manufacturers in accordance with Section 1903 (d)(5) of the Act.

6. DISPUTE RESOLUTION

- 6.1** Utilization disputes and interest calculations will be handled in the same manner as the Federal Drug Rebate program.
- 6.2** In the event that in any quarter a discrepancy in calculation of the State Supplemental Rebate is noted by the Manufacturer, that the Manufacturer and the Department or its designee in good faith are unable to resolve, the Manufacturer will provide written notice of the discrepancy to the Department within thirty-seven (37) days of the postmark of the Department's invoice.

7. CONFIDENTIALITY PROVISIONS

- 7.1** Pursuant to 42 USC 1396r-8(b)(3)(D), the parties agree that information disclosed by the Manufacturer under this Agreement in a form which discloses the identity of a specific Manufacturer or the prices charged for drugs by the Manufacturer is confidential and shall not be disclosed except as necessary to carry out the Agreement or as may be required by judicial order. Therefore, the Department agrees that confidential information provided to the Department under this Agreement, including the Agreement itself is exempted from disclosure by statute. To the extent that the Department utilizes the services of a third-party to develop and maintain the PDL, or to administer any part of this Agreement, all provisions of this section shall apply to the third-party, and the Department shall have the third-party sign a written agreement ensuring the third-party will comply with all aspects of this section. In the event that the Department is required

by law to disclose any provision of this Agreement or pricing information to any person other than as provided above, the Department shall provide advance written notice to the

Manufacturer sufficiently in advance of the proposed disclosure to allow the Manufacturer to seek a protective order or other relief.

- 7.2** The parties agree that information revealing the identity of Medicaid members is confidential and shall not be disclosed except as necessary to carry out this Agreement or as may be required by judicial order. The foregoing shall not prevent the disclosure by the Manufacturer to the Department of information regarding the National Rebate for Covered Products.
- 7.3** The Manufacturer will hold the State Utilization Data confidential. If the Manufacturer audits this information or receives further information on such data, that information shall also be held confidential. The Manufacturer shall have the right to disclose Utilization Information to auditors who agree to keep such information confidential.
- 7.4** Manufacturer shall ensure that all information, records, data, and data elements pertaining to applicants for Medicaid and Medicaid beneficiaries, or to providers, facilities, and associations, shall be protected from unauthorized disclosure by Manufacturer and Manufacturer's employees, by Manufacturer's corporate affiliates and their employees, and by Manufacturer's subcontractors and their employees, pursuant to 42 CFR Part 431, Subpart F and any other applicable federal or state law and the Health Insurance Portability and Accountability Act of 1995 (HIPAA), 45 CFR Part 164.512 (i).
- 7.5** The provisions of this section and any confidentiality agreement executed pursuant to this section shall survive termination or expiration of this Agreement.

8. NONRENEWAL OR TERMINATION

- 8.1** This Agreement may be terminated by either party by giving written notice to the other party at least thirty (30) days prior to the end of a calendar quarter. Up until the effective date of termination, the Manufacturer's Covered Product(s) will remain in an advantaged position relative to non-preferred Products regarding Preferred Drug List status or in accordance with other terms as defined by this agreement. After the effective date of the termination, the Manufacturer's Covered Product(s) may be available to the West Virginia Medicaid Program members only through prior authorization, and the Manufacturer's obligation to pay State Supplemental Rebates will terminate.

Manufacturer is still obligated to pay State Supplemental Rebates for Manufacturer's Covered Product(s) for dates of service up to the termination date. **8.2** This Agreement may be immediately terminated upon the occurrence of any one of the following events:

- (a) A determination by any court or any authorized governmental authority that the arrangements and transactions under this Agreement or any similar agreement constitute a violation of any law or regulation including without limitation Section 1128B of the Act (42 USC 1320a-7b(b)) prohibiting illegal remunerations. (For the purposes of this Section, 8.3, "authorized governmental authority" shall mean any officer or agency of the Federal Government (e.g., Office of Inspector General, Department of Justice, Department of Health and Human Services) or the State of West Virginia (e.g., West Virginia Attorney General) having substantive jurisdiction over the subject matter of this Agreement; any state or federal program with which this Agreement is connected; any actions which must be taken by either party hereto in order to perform its obligations under this Agreement or any laws or regulations affecting the legality of this Agreement); or
- (b) A determination by CMS that the State Supplemental Rebates paid or payable by the Manufacturer under this Agreement will affect or be included in Best Price or AMP calculations for determining rebates paid pursuant to 42 USC 1396r-8.

8.3 Any renewal or termination will not affect rebates due or owing for claims with dates of service on or before the effective date of termination.

9. GENERAL PROVISIONS

- 9.1** This Agreement will be governed and construed in accordance with Title 42 USC Section 1396r-8; Title 42 of the Code of Federal Regulations; and all other applicable federal and state law and regulations.
- 9.2** Any notice required to be given pursuant to the terms and provisions of this Agreement will be in writing and will be: (i) delivered in person, obtaining a signature indicating successful delivery; (ii) sent by a recognized overnight delivery service, obtaining a signature indicating successful delivery; (iii) sent by certified mail, obtaining a signature

indicating successful delivery; or (iv) transmitted by telefacsimile, producing a document indicating the date and time of successful transmission, to the address or telefacsimile number set forth below. Notice to the Department will be sent to:

**West Virginia Bureau for Medical Services
Commissioner
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3707
Telefacsimile: 304-558-1542**

Notice to the Manufacturer will be sent to:

Name

Title

Company Name

Address

Address

Phone #

FAX#

- 9.3** The Manufacturer agrees to be bound by the laws of the State of West Virginia and agrees that this Agreement shall be construed and interpreted in accordance with West Virginia law.
- 9.4** Nothing herein shall be construed or interpreted as limiting or otherwise affecting the Department's or the Manufacturer's ability to pursue its rights arising out of the terms and conditions of the Agreement in the event that a dispute between the parties is not otherwise resolved.
- 9.5** The Manufacturer and the agents and employees of the Manufacturer in the performance of this Agreement, will act in an independent capacity and not as officers, employees or agents of the State of West Virginia.

- 9.6 In the event of a transfer in ownership of the Manufacturer, the Agreement is automatically assigned to the new owner subject to the conditions of this Agreement.
- 9.7 Nothing in this Agreement will be construed so as to require the commission of any act contrary to law. If any provision of this Agreement is found to be invalid or illegal by a court of law, or inconsistent with federal requirements, this Agreement will be construed in all respects as if any invalid, unenforceable, or inconsistent provision were eliminated, and without any effect on any other provision. The parties agree to negotiate replacement provisions, to afford the parties as much of the benefit of their original bargain as is possible.
- 9.8 The Department and the Manufacturer declare that this Agreement, including attachments, contains a total integration of all rights and obligations of both parties. There are no extrinsic conditions, collateral agreements or undertakings of any kind. In regarding this Agreement as the full and final expression of their contract, it is the express intention of both parties that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter and period of time governed by this Agreement which are not expressly set forth herein are to have no force, effect, or legal consequences of any kind.
- 9.9 The following provisions of this Agreement may be altered by an amendment in writing signed by both parties and approved by the appropriate State control:
- Notice Provision
 - Effective Dates
 - Attachment A (Covered Products)
 - Attachment B (Rebate Formula)

The remainder of this Agreement will not be altered except by an amendment in writing signed by both parties and approved by CMS and the appropriate State control agencies. Any modification of the formula to include non-Medicaid population groups must be authorized by CMS.

- 9.10** Manufacturer shall, upon request by the Department and upon receipt of a proposed amendment to this Agreement, negotiate in good faith to amend this Agreement if and when required to comply with Federal or State laws or regulations. If the parties are unable to agree upon an amendment within sixty (60) days, or such shorter time required by Federal or State law or regulation, the Department may terminate this Agreement.
- 9.11** For Agreements that cover more than one agreement year, the State reserves the right to solicit annually more favorable State Supplemental Rebates from Manufacturer by giving written notice thereof no less than ninety (90) days prior to the yearly anniversary of the effective date of this Agreement.
- 9.12** Neither party contemplates any circumstances under which indemnification of the other party would arise. Nevertheless, should such circumstances arise, the Manufacturer agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Manufacturer in the performance of this Agreement.
- 9.13** This Agreement is not assignable by Manufacturer either in whole or in part without the written consent of the Department, which will not unreasonably be withheld.
- 9.14** Failure of Manufacturer or the Department to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- 9.15** Unless the context otherwise requires or unless otherwise specified, the following rules of construction apply to this Agreement:
- (a)** Provisions apply to successive events and transactions;
 - (b)** "Or" is not exclusive;
 - (c)** References to statutes and rules include subsequent amendments and successors thereto;

- (d) The various headings of this Agreement are provided for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof;
 - (e) "Days" shall mean calendar days; "business day" shall mean a weekday (Monday through Friday), excepting State holidays, between the hours of 8:00 a.m. Eastern Standard Time and 5:00 p.m. Eastern Standard Time;
 - (f) Use of the male gender (*e.g.*, "he", "him", "his") shall be construed to include the female gender (*e.g.*, "she", "her"), and vice versa; and
 - (g) Words in the plural which should be singular by context shall be so read, and vice versa.
- 9.16** No party shall use the registered or claimed mark of another in any type of promotional or advertising material without the express written consent of the other party except that Manufacturer agrees that the Department may use a Manufacturer claimed or registered trade name and/or trademark to communicate the inclusion of a Manufacturer Product in a Preferred Drug List to the Department's prescribing clinicians, pharmacies and Medicaid members.
- 9.17** The effectiveness of this Agreement shall be contingent on _____'s Best Price and AMP not being affected by State Supplemental Rebates. Performance under this Agreement shall be contingent on the non-occurrence of the event described in Section 8.2(b) of this Agreement, and on CMS's valid authorization of the West Virginia Supplemental Rebate Program of which this Agreement forms a part.
- 9.18** In the event that the Department determines, as a result of a therapeutic category review, a Covered Product(s) of the Manufacturer included on the West Virginia Medicaid Preferred Drug List should require prior authorization for appropriateness of therapy using best practice standards, the parties agree that the terms of Section 8.1 shall apply.
- 9.19** If during the duration of this Agreement a generic equivalent of any Covered Product should become available, the Department will allow Covered Product to remain on the

Preferred Drug List so long as the net cost to the State, as defined in Attachment B, is not more than the lowest reimbursement cost for a generic equivalent.

- 9.20** It is the Department's belief that the business arrangement contemplated by this Agreement is not subject to the provisions of 42 USC 1320a-7b(b) prohibiting illegal remuneration. Should the above provisions apply, it is the Department's belief that the business arrangement contemplated by this Agreement meets the discount exception found in 42 USC 1320a-7b(b)(3)(A), which excludes from prohibited activities the practice of discounting or other reductions in price obtained by a provider of services or other entity under a Federal health care program, if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a Federal health care program. The Department currently provides CMS full and unfettered access to all information held by the Department regarding the implementation of the West Virginia Medicaid Program, and shall continue to do so throughout the implementation of the State Supplemental Rebate and West Virginia Medicaid Preferred Drug List.
- 9.21** This Agreement, and all books, records, and supporting documents related thereto, shall be available for review or audit by the Department, the Office of Inspector General for West Virginia, the Medicaid Fraud Control Unit of the Department, the United States Department of Health and Human Services, the state legislative branch or state executive branch auditor or other auditor and other state and federal agencies with monitoring authority related to the subject matter of this Agreement ("Authorized Persons"), and Manufacturer agree to cooperate fully with any such review or audit. Upon reasonable notice by any Authorized Person, Manufacturer shall provide, in the appropriate venue for the Department or at any other location designated by the Authorized Person, during normal business hours, full and complete access to the relevant portions of Manufacturer's books and billing records as they relate to payments under this Agreement. If the audit findings indicate overpayment(s) to the Department, Manufacturer shall adjust future or final payments otherwise due to the Department. If no payments are due and owing to the Department, or if the overpayment(s) exceed the amount otherwise due to the Department, the Department shall refund all amounts, which may be due to the Manufacturer.

- 9.22** Manufacturer shall maintain, during the term of this Agreement in accordance with 42 C.F.R. § 447.510(f) and other applicable law, all business, professional and other records in accordance with applicable law, the specific terms and conditions of this Agreement, and pursuant to generally accepted accounting practice. Failure to maintain books, records, and supporting documents required by this Agreement shall establish a presumption in favor of the Department for the recovery of any funds owed to the Department under the Agreement for which adequate books, records, and other documents are not available to support the purported disbursement.
- 9.23** Noncompliance with any obligations hereunder due to force majeure, such as acts of God, laws or regulations of any government, war, terrorism, civil commotion, destruction of production facilities and materials, fire, earthquake, storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.
- 9.24** Those obligations under this Agreement that, by their nature, are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement. This includes any outstanding rebate and interest amounts for Manufacturer's Covered Product(s) with dates of service covered by this Agreement.

IN WITNESS WHEREOF, the Department and Manufacturer have caused this Agreement to be executed on the dates shown below by representatives authorized to bind the respective parties.

[Manufacturer]

West Virginia Department of Human Services

By:

By:

Title:

Title: Cabinet Secretary

Date:

Date:

Bureau for Medical Services

By: Christy D. Donohue, CMC

Title: Commissioner

Date:

ATTACHMENT A

Covered Products

The products to which the Supplemental Rebate Agreement shall apply are the following:

Manufacturer Name	NDC	Product Description	Formula

ATTACHMENT B

Rebate Formula

Manufacturer	NDC	Product Description	WAC	National Rebate	Tier	Formula	GNP	Comments

The Tier represents the number of brand drugs that may be preferred in the Therapeutic category. Manufacturers may submit offers for any or all Tiers.

- Tier 1 - The covered product will be the only preferred brand product in the PDL category.
- Tier 2 - The covered product will be one of no more than two preferred brand products in the PDL category.
- Tier 3 - The covered product will be one of no more than three preferred brand products in the PDL category.
- Tier 4 - The covered product will be preferred (offer places no limitation on the number of preferred brand products in the PDL category).

Formula 1: Percentage of WAC. Formula for Supplemental Rebate calculation: $WAC \times \% \text{ off } WAC$

Formula 2: Guaranteed Net Price. Formula for Supplemental Rebate calculation: $WAC - \text{National Rebate} - \text{Guaranteed Net Price}$

Note: Invoices will be calculated using WAC & National Rebate for the current invoice quarter

Attachment F

SMAC Business Rules

1.	SMAC	The Vendor will provide a full list with SMAC updates incorporated weekly at the onset to capture/maximize savings opportunities within the SMAC program. BMS will advise if changes to the frequency of receiving the SMAC updates need to be adjusted.
2.	SMAC	The Vendor will provide a SMAC Cost Avoidance/Savings Report monthly.
3.	SMAC	When provider SMAC disputes/inquiries surface, the Vendor will conduct an analysis to determine if a SMAC adjustment is warranted. BMS will be notified of provider inquiries received within a provider dispute tracking log. BMS must approve any SMAC adjustment recommended by the Vendor. Retroactive changes will be applied no later than 30 days from the date the POS vendor applied the SMAC file, unless the date of dispute is less. BMS will post any changes to the web.
4.	SMAC	The Vendor will produce a report comparing the SMAC to the current federal upper limit (FUL) in an effort to ensure SMAC pricing is at or below the FUL in the aggregate for those products involved. The Vendor will provide the FUL aggregate reporting quarterly.
5.	SMAC	The Vendor will establish a provider helpline for SMAC-related inquiries. The Vendor will provide the toll free SMAC phone number
6.	SMAC	The Vendor will collaborate with BMS's POS Vendor to submit the SMAC file in the specified format and ensure it is processed successfully into production. The specified format to BMS's POS Vendor includes the GCNSEQNO, Generic_Name, Price Group ID, Price Type, Current_SMAC_Price, Price, and Effective Date and any other fields identified by BMS in conjunction with the BMS POS Vendor.
7.	SMAC	In determining SMAC pricing, FUL rates could be subject to removal as SMAC prices are determined in the future.
8.	SMAC	SMACs remain regardless of changes in FUL price fluctuations.

9.	SMAC	SMAC price adjustments will be entered for a date no earlier than one day after the date of a previously entered SMAC price.
10.	SMAC	The SMAC pricing process consists of three components/modules: 1) MAC pricing (determining which NDCs will be used in calculating a MAC and collecting relevant data about those NDCs) 2) GSN MAC selection and assignment back out to NDCs 3) Reporting and analysis
11.	SMAC	Products subject to a MAC are subdivided into client-defined categories; specific constraints or pricing logic may differ among the categories.
12.	SMAC	NDCs that have zero values for all of WAC, AWP, and FUL will be dropped from the MAC pricing calculation.
13.	SMAC	NDCs that are lowest-price outliers (>40 percent lower than the second-lowest) <i>and</i> which have no utilization <i>and</i> are older than 1 year since introduction will not be included in the MAC pricing calculation.
14.	SMAC	SMAC pricing for GSNs that include both OTC and prescription products will be calculated based on the lower of the two options, but MAC pricing will be applied to both OTC and Rx products within the GSN.
15.	SMAC	SMAC will not be priced from NDCs that are obsolete > one year.
16.	SMAC	SMAC will not be priced from NDCs that are CMS termed as of the current date.
17.	SMAC	SMAC prices will be applied to terminated and obsolete NDCs.
18.	SMAC	SMAC is not calculated from “B-rated” products per the Orange Book.
19.	SMAC	NDCs that are current but are missing a WAC value will use 80 percent of Medispan AWP as a replacement for the missing WAC.

20.	SMAC	GSNs in which all NDCs are single-source brands are excluded from MAC.
21.	SMAC	SMAC is calculated from generic products, but is applied to both brands and generics in the GSN. Preferred brands are excluded from the MAC rate set on the generic product.
22.	SMAC	SMAC pricing is not calculated using private labeler (store brand) products, but is applied to all NDCs in the GSN.
23.	SMAC	SMAC pricing is not calculated using repackaged products, but is applied to all NDCs in the GSN.
24.	SMAC	SMAC is calculated based upon products from manufacturers participating in the Medicaid Rebate Program. BMS's POS Vendor will apply and the PDL Vendor will provide MAC pricing at the GSN level. PDL Vendor will explode pricing at the NDC level where appropriate.
25.	SMAC	Selected categories of drugs will be excluded from the SMAC program, based upon list(s) agreed upon.
26.	SMAC	SMAC is calculated at GSN level, using actual acquisition cost or a weighted average of the lowest WAC price. "Number of manufacturers" is irrespective of brand/generic status.
27.	SMAC	GSNs that are determined to be temporarily ineligible for SMAC pricing (as in supply disruptions) will be maintained in a separate list and excluded from the MAC program until such a time as the eligibility issues are resolved. Re-review dates will be maintained in that list to facilitate timely reviews.
28.	SMAC	The Vendor will provide a SMAC price list for web posting and a SMAC file to BMS's POS Vendor for claims adjudication based on 5 numerical digits to the right of the decimal.
29.	SMAC	GSNs that require special, non-standard pricing due to unique circumstances will be maintained in a separate table. Re-review dates will be maintained in that list to facilitate timely reviews.

30.	SMAC	SMAC pricing is not applied to branded products under current PDL contract. The Vendor will coordinate with BMS's POS Vendor in maintaining the list of blocked NDCs.
31.	SMAC	Generic NDCs in selected GSNs may also be blocked from MAC pricing, because of price advantages due to brand rebates.
32.	SMAC	The final SMAC list will be provided weekly to BMS's POS Vendor at the NDC level in specified format, no later than Wednesday of any given week. The Vendor will provide the weekly updates file by noon on Thursdays. The updates file will include any adjustments from provider inquiries received, new additions, price changes, or terminations. The effective date applied for products applicable will be the Friday in which the weekly file is received by BMS's POS Vendor. SMAC updates approved from provider disputes received will be sent to BMS's POS Vendor the following week and will have an effective date of the Friday in which the file is submitted and received by BMS's POS Vendor. The file name includes the following format: "WV SMAC Updates MM/DD/YYYY" and the tab within the file must be labeled "Price".
33.	SMAC	Weekly updates will be incorporated within the web posting that will include any additions, changes, or terminations. Terminations within the web posting will reflect a zero price with an effective date deemed appropriate.
34.	SMAC	Additional summarized reports of price load/change activity will be provided weekly immediately following submission to BMS's POS Vendor.
35.	SMAC	An NDC correction file will be sent by the Vendor within the 24-hour period following confirmation from any appropriate party of an incorrect or incorrectly applied SMAC values. Other requested updates with the SMAC values will be communicated within the weekly SMAC file update process or as the Vendor is available to make the changes.
36.	SMAC	SMAC rates are to be applied to all NDCs, including inactive and obsolete NDCSs.

37.	SMAC	A new business rule will be applied to suppress the adding of SMAC rates to new generics for 60 days as they first get reported available by FDB according to the published date of their WAC price. This suppression applies to all new GSNs that meet SMAC eligibility criteria for 60 days. Following the 60 day period, a SMAC will be applied to all non-preferred brand and generic NDCs within the GSN. The proposed new GSN process expands on the existing when we consider generics. Each new GSN will now get a proposed Implementation Date. The new GSN list will continue to be submitted to the client weekly for approval. If approved, the new GSN remains in the New GSN's table with its proposed implementation date; if not approved, the GSN's will go to the exclusions table. The pricing procedure will read the new GSN's table on each execution, and if the implementation date has past or is equal to the current date, the new GSN will be allowed to get a SMAC and the GSN will appear in the New GSN's tab with the notation "approved". If the implementation date is still in the future, the GSN will remain on hold status.
38.	SMAC	SMAC prices will be reported with five digits to the right of the decimal place, (e.g. 0.12345).

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

- a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
- b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
- c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
- d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
- e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111th Congress (2009).

- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
- h. **Security Incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

2. Permitted Uses and Disclosures.

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
- c. **Further Uses and Disclosures.** Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (i) the disclosure is required by law, or (ii) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (iii) an agreement to notify the Associate and Agency of any instances of which it (the third party) is aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

3. Obligations of Associate.

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
 - i. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
 - ii. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
 - iii. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
 - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.
- e. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum, and report its mitigation activity back to the Agency.

f. Support of Individual Rights.

- i. **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. **Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. **Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR §164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. **Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. **Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyli.htm and,

unless otherwise directed by the Agency in writing, the Office of Technology at incident@wv.gov or <https://apps.wv.gov/ot/ir/Default.aspx>.

The Associate shall immediately investigate such Security Incident, Breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved in the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- m. **Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is a named as an adverse party.

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

- c. **Termination for Cause.** Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.
- d. **Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.
- e. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

5. General Provisions/Ownership of PHI.

- a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within section 4.b. above.
- b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.
- c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.
- d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.
- e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.
- g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.
- h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

AGREED:

Name of Agency: _____

Name of Associate: OptumRx, Inc.

Signature: _____

Signature:  06/23/2026 14:53:04 CDT

Title: _____

Title: President, Employer Services, Optum Rx

Date: _____

Date: 06/23/2026

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF June 20 26
 Patrick Morrissey
Attorney General
BY _____

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. PHI not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Associate: OptumRx, Inc.

Name of Agency: WV DOTS / BMS

Describe the PHI (do not include any actual PHI). If not applicable, please indicate the same.

Member and Provider Claims and Profiles.

FEDERAL FUNDS ADDENDUM

2 C.F.R. §§ 200.317 – 200.327

Purpose: This addendum is intended to modify the solicitation in an attempt to make the contract compliant with the requirements of 2 C.F.R. §§ 200.317 through 200.327 relating to the expenditure of certain federal funds. This solicitation will allow the State to obtain one or more contracts that satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

Instructions: Vendors who are willing to extend their contract to procurements with federal funds and the requirements that go along with doing so, should sign the attached document identified as: “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)”

Should the awarded vendor be unwilling to extend the contract to federal funds procurement, the State reserves the right to award additional contracts to vendors that can and are willing to meet federal funds procurement requirements.

Changes to Specifications: Vendors should consider this solicitation as containing two separate solicitations, one for state level procurement and one for county/local procurement.

State Level: In the first solicitation, bid responses will be evaluated with applicable preferences identified in sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” to establish a contract for both standard state procurements and state federal funds procurements.

County Level: In the second solicitation, bid responses will be evaluated with applicable preferences identified in Sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” omitted to establish a contract for County/Local federal funds procurement.

Award: If the two evaluations result in the same vendor being identified as the winning bidder, the two solicitations will be combined into a single contract award. If the evaluations result in a different bidder being identified as the winning bidder, multiple contracts may be awarded. The State reserves the right to award to multiple different entities should it be required to satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

State Government Use Caution: State agencies planning to utilize this contract for procurements subject to the above identified federal regulations should first consult with the federal agency providing the applicable funding to ensure the contract is compliant.

County/Local Government Use Caution: County and Local government entities planning to utilize this contract for procurements subject to the above identified federal regulation should first consult with the federal agency providing the applicable funding to ensure the contract is compliant. For purposes of County/Local government use, the solicitation resulting in this contract was conducted in accordance with the procurement laws, rules, and procedures governing the West Virginia Department of Administration, Purchasing Division, except that vendor preference has been omitted for County/Local use purposes and the contract terms contained in the document entitled “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)” have been added.

FEDERAL FUNDS ADDENDUM

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

The State of West Virginia Department of Administration, Purchasing Division, and the Vendor awarded this Contract intend that this Contract be compliant with the requirements of the Procurement Standards contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 C.F.R. § 200.317, et seq. for procurements conducted by a Non-Federal Entity. Accordingly, the Parties agree that the following provisions are included in the Contract.

1. MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:

(2 C.F.R. § 200.321)

- a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.
- b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

2. DOMESTIC PREFERENCES:

(2 C.F.R. § 200.322)

- a. The State confirms that as appropriate and to the extent consistent with law, it has, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. Vendor confirms that will include the requirements of this Section 2. Domestic Preference in all subawards including all contracts and purchase orders for work or products under this award.

c. Definitions: For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. BREACH OF CONTRACT REMEDIES AND PENALTIES:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 provide for breach of contract remedies, and penalties. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

4. TERMINATION FOR CAUSE AND CONVENIENCE:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 govern Contract termination. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

5. EQUAL EMPLOYMENT OPPORTUNITY:

(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, this contract includes the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

6. DAVIS-BACON WAGE RATES:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this Contract includes construction, all construction work in excess of \$2,000 will be completed and paid for in compliance with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must:

- (a) pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (b) pay wages not less than once a week.

A copy of the current prevailing wage determination issued by the Department of Labor is attached hereto as Exhibit B. The decision to award a contract or subcontract is conditioned upon the acceptance of the wage determination. The State will report all suspected or reported violations to the Federal awarding agency.

7. ANTI-KICKBACK ACT:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The State must report all suspected or reported violations to the Federal awarding agency.

8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
(2 C.F.R. § 200.327 and Appendix II)

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.
(2 C.F.R. § 200.327 and Appendix II)

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

10. CLEAN AIR ACT
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this contract exceeds \$150,000, Vendor is to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

11. DEBARMENT AND SUSPENSION
(2 C.F.R. § 200.327 and Appendix II)

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

12. BYRD ANTI-LOBBYING AMENDMENT
(2 C.F.R. § 200.327 and Appendix II)

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

13. PROCUREMENT OF RECOVERED MATERIALS

(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

(2 C.F.R. § 200.327 and Appendix II; 2 CFR § 200.216)

Vendor and State agree that both are prohibited from obligating or expending funds under this Contract to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

State of West Virginia

Vendor Name: OptumRx, Inc.

By: _____

By:  Sarah D. King 06/23/2026 14:53:04 CDT

Printed Name: _____

Printed Name: Sarah D. King

Title: _____

Title: President, Employer Services, Optum Rx

Date: _____

Date: 06/23/2026

EXHIBIT A To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

W. Va. CSR § 148-1-5

West Virginia Code of State Rules
Title 148. Department of Administration
Legislative Rule (Ser. 1)
Series 1. Purchasing

W. Va. Code St. R. § 148-1-5
§ 148-1-5. Remedies.
Currentness

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

5.2. Contract Cancellation.

5.2.1. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.1.a. The vendor agrees to the cancellation;

5.2.1.b. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.1.c. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.1.d. The existence of an organizational conflict of interest is identified;

5.2.1.e. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition;

5.2.1.f. Violation of any federal, state, or local law, regulation, or ordinance, and

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing

the vendor with 30 days' notice of the cancellation.

5.2.3. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.4. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.4.a. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.4.b. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.1. The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on

procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.1.a. The vendor has submitted a bid and then requested that its bid be withdrawn after bids have been publicly opened.

5.4.1.b. The vendor has exhibited poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; or failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.1.c. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.1.d. The vendor's actions have given rise to one or more of the grounds for debarment listed in W. Va. Code § 5A-3-33d.

5.4.2. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.2.a. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.2.b. A notice of suspension must inform the vendor:

5.4.2.b.1. Of the grounds for the suspension;

5.4.2.b.2. Of the duration of the suspension;

5.4.2.b.3. Of the right to request a hearing contesting the suspension;

5.4.2.b.4. That a request for a hearing must be served on the Director no later than 5 working days of the vendor's receipt of the notice of suspension;

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of

the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.2.b.6. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.2.c. A vendor's failure to serve a request for hearing on the Director no later than 5 working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.

5.4.2.d. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.2.e. Within 5 working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.2.f. The hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.3. A vendor may appeal a decision of the Director to the Secretary of the Department of Administration. The appeal must be in writing and served on the Secretary no later than 5 working days of receipt of the Director's decision.

5.4.4. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.5. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in W. Va. Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.1. Debarment proceedings shall be conducted in accordance with W. Va. Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.2. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.3. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor, including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated.

5.5.4. Pursuant to W.Va. Code § 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.5. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.5.6. Related Party Debarment. The Director may pursue debarment of a related party at the same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party

status will be presumed to be a related party subject to debarment.

5.6. Damages.

5.6.1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.2. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.3. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

Credits

History: Filed 4-1-19, eff. 4-1-19; Filed 4-16-21, eff. 5-1-21.

Current through register dated May 7, 2021. Some sections may be more current. See credits for details.

W. Va. C.S.R. § 148-1-5, WV ADC § 148-1-5

End of Document

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EXHIBIT B To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

Prevailing Wage Determination

☐ – Not Applicable Because Contract Not for Construction

☐ – Federal Prevailing Wage Determination on Next Page