

NOTICE OF PROPOSAL INVITATION AND INSTRUCTIONS TO PROPOSERS –

PROPOSAL INVITATION No. 106-26, PHARMACY BENEFITS MANAGER SERVICES

The TASB Benefits Cooperative (“Benefits Cooperative”), 12007 Research Blvd., Austin, Texas 78759, is a statewide cooperative for local governments, including school districts, in the State of Texas. First Public, LLC (First Public) serves as the Benefits Cooperative’s administrator and is a wholly owned subsidiary of the Texas Association of School Boards, Inc. (“TASB”), a Texas nonprofit corporation.

First Public, on behalf of and as the administrator of the Benefits Cooperative, is seeking proposals for pharmacy benefits manager (“PBM”) products and services. PBM proposals should include a robust offering of pharmacy benefits manager solutions and services. . The Benefits Cooperative is tailored to provide local governments, and in particular, Texas school districts and their employees with a variety of employer-paid and employee-paid benefits such as healthcare coverage, group life, group long-term disability, group dental, vision, various worksite products, Section 125 Cafeteria Plan employee benefits products and plan administration. This Proposal Invitation is being issued in an effort to expand upon these employee benefit services. Note: To be considered for award, your company **MUST** be able to provide the services listed under the Requirements Section.

At its sole discretion, the Benefits Cooperative may award to a single Proposer or multiple Proposers. The Benefits Cooperative reserves the right to award more than one Proposer if deemed best value to Benefits Cooperative members.

All Proposers must complete and return all forms in the Proposal Forms section of this Proposal Invitation. If a Proposer fails to complete and return all Proposal Forms by the proposal deadline, the Vendor’s proposal may not be considered.

Unless a different time period is stated in the General Information document for this Proposal Invitation, questions, requests for information or clarification, or comments regarding this Proposal Invitation, including the Proposal Requirements, must be submitted in writing by email, addressed as indicated below, and received by First Public no later than the 10th business day before the Proposal Due Date. First Public will respond only to written questions.

First Public, LLC
Attn: Director of Insurance Operations
E-Mail: customer.service@tasbbenefits.com

PROPOSAL SUBMISSION INSTRUCTIONS

Completed sealed proposals for **Proposal No. 106-26, Pharmacy Benefits Manager Services**, must be delivered to First Public LLC and **must be received on or before September 15 2026, at 2:00 PM CST**. The Proposal must be submitted in electronic, searchable PDF format by submitting by email at customer.service@tasbbenefits.com, or uploading files using the following link: [RFP for Pharmacy benefits manager](#).

Proposals may be withdrawn prior to the opening date and time, but only in accordance with the General Terms and Conditions set out hereinafter in this Proposal Invitation.

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TASB Benefits Cooperative General Information

INTENT AND PURPOSE OF THE CONTRACT

The intent of this Proposal Invitation is to establish a Contract for the procurement by TASB Benefits Cooperative members ("Cooperative members") of pharmacy benefits manager products and services as set forth in the Proposal Invitation documents. Procurement of services from awarded vendors can be made by a Cooperative member at any time within the Contract term.

BACKGROUND

The TASB Benefits Cooperative ("Benefits Cooperative") was created under the Texas Interlocal Cooperation Act in 2002 and is administered by First Public, LLC, ("First Public"), a wholly owned subsidiary of the Texas Association of School Boards, Inc. ("TASB"). First Public is an independent insurance agency licensed with the Texas Department of Insurance. Benefits Cooperative programs are available to local governments, and, in particular, to public school districts, and is overseen by a member-governed board. The Benefits Cooperative is committed to finding best-in-class vendors that provide quality benefits and services for Cooperative members.

This Proposal Invitation is being issued in an effort to expand upon the Benefits Cooperative services by offering pharmacy benefits manager products and services. For this Proposal Invitation, the awarded proposer(s) will agree to offer their products (these products to be detailed in a subsequent part of this invitation) to any Texas local government. Proposer(s) should understand that this Proposal Invitation is intended to be used for Cooperative members seeking new services and is not for the assumption of existing contracts or services with any current members of the Benefits Cooperative.

Please make sure you have either downloaded and/or printed all sections of this Proposal Invitation.

1. Notice of Proposal Invitation and Instructions to Proposers
2. General Information
3. Proposal Invitation Forms
4. Proposal Requirements
5. Proposal Invitation Questionnaire
6. General Terms and Conditions

INCURRED EXPENSES

First Public and the Benefits Cooperative accept no obligation and will not be obligated for costs incurred in preparing and submitting a Proposal, including but not limited to any costs incurred in any interview process conducted under this Proposal Invitation. Proposals shall be submitted at the sole expense of the Proposer. All Proposals shall be prepared simply and economically, providing a straightforward, concise delineation of the Proposer's capabilities to satisfy the requirements of this proposal Invitation.

TERM OF CONTRACT

The term of this contract will be a one-year term with two (2) possible one-year renewal terms, to be exercised at the sole discretion of the Benefits Cooperative.

The successful Proposer(s) has no right to or vested interest in contract renewal. The Benefits Cooperative, through First Public, may evaluate all Contract awards prior to the expiration of the then-current Contract term on the basis of factors that include but are not limited to, the amount of annual business, performance, and continued provision of best value to Cooperative members. The Benefits Cooperative reserves the right to renew any Contract resulting from this Proposal Invitation, at its sole discretion, for up to two (2) additional one-year periods. For purposes of renewal, contract awards for any particular awarded provider shall each be considered separate contracts and the Benefits Cooperative reserves the right to renew the contract with an awarded provider for only one or a portion of awarded items.

PROPOSALS SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT AND CONFIDENTIAL INFORMATION

The Benefits Cooperative is subject to the Texas Public Information Act ("Act") (Tex. Gov't Code Ch. 552). Proposals submitted to the Benefits Cooperative, through First Public, in response to this Proposal Invitation are subject (in their entirety) to release by the Benefits Cooperative as public information. Any information submitted by Proposer that Proposer considers to be confidential must be clearly identified as such on the Confidential/Proprietary Information Form. The Benefits Cooperative will treat such information as confidential only to the extent allowable under the Act or similar disclosure law.

If Proposer fails to properly identify the information on the Confidential/Proprietary Information Form, the Benefits Cooperative shall have no obligation to seek protection of such information from public disclosure should a member of the public or other third-party request access to the information under the Texas Public Information Act or similar disclosure laws. The Benefits Cooperative and First Public will not be responsible for Proposer's failure to clearly identify information Proposer considers confidential or proprietary. As and to the extent required by law, Proposer will be notified of any third-party request for information that Proposer has identified in the Confidential/Proprietary form as proprietary or confidential.

AWARD AND EVALUATION

The Benefits Cooperative may select, at its sole discretion, a list of finalists from all submitted Proposals. Finalists may be required to attend an interview at the Administrator's offices located at 12007 Research Blvd., Austin, Texas 78759.

This Contract will be awarded based on the evaluation and award criteria set out in Section C.2 of the General Terms and Conditions to provide the best value to Benefits Cooperative members.

This Proposal Invitation requires Proposers to provide certain information that the Benefits Cooperative, does not evaluate and is not included in the award criteria set out in General Terms and Conditions, Section C.2. The Benefits Cooperative requests the information, however, because it may be relevant to federal, state, or local procurement law or other legal requirements that apply to various Benefits Cooperative members. The information, which will be made available to Benefits Cooperative members, includes the following:

- a) Whether Proposer or its ultimate parent or majority owner has its principal place of business in Texas or employs at least 500 persons in Texas
- b) Whether Proposer is a Texas resident or a non-resident business

COMPLIANCE WITH APPLICABLE LAWS

By signing this Proposal, the Proposer certifies that Proposer has provided its valid, proper, and correct business entity name and information in its Proposal, that such entity is operating in good standing with the proper authority from whatever state or local jurisdiction is required, and Proposer has obtained and will continue to maintain during the entire term of this contract, all permits, approvals, and/or licenses necessary for lawful performance of its obligations under this contract. Proposer further certifies that, if awarded, Proposer will comply with all applicable state, federal, and local laws, rules, and regulations in regard to awarded products and/or services. Individual Benefits Cooperative members may in certain circumstances request background checks on an awarded provider's employees who will have direct contact with students, or for other reasons, and may require an awarded provider to pay the cost of obtaining criminal history information.

PROPOSER'S ACCEPTANCE AND AGREEMENT

Proposal Invitation Name

Pharmacy Benefits Manager Services

Proposal Invitation Number

106-26

Proposal Submission Deadline Date and Time

September 14, 2026, at 2:00 PM CST

Contract Term

One-year term with two possible one-year renewals

Projected Contract Award Date

October/November 2026

Name of Proposing Company

Date

Street Address

Signature of Authorized Company Official

City, State, Zip

Printed Name of Authorized Company Official

Telephone Number of Authorized Company Official

Position or Title of Authorized Company Official

Federal ID Number

The proposing company (“you” or “your”) hereby acknowledges and agrees as follows:

1. You have carefully examined and understand all Benefits Cooperative information and documentation associated with this Proposal Invitation, including the Instructions to Proposers, General Terms and Conditions, attachments/forms, item specifications, and line items (collectively “Requirements”).
2. By your response (“Proposal”) to this Proposal Invitation, you propose to supply the products or services submitted at the prices quoted in your Proposal and in strict compliance with the Requirements, unless specific deviations or exceptions are noted in the Proposal on the Deviation and Compliance form.
3. Any and all deviations and exceptions to the Requirements have been noted in your Proposal on the Deviations and Compliance form and no others will be claimed.
4. If the Benefits Cooperative accepts any part of your Proposal and awards you a Contract under this Proposal Invitation, you will furnish all awarded services at the prices quoted and in strict compliance with the Requirements (unless specific deviations or exceptions are noted in the Proposal on the Deviation and Compliance form and are expressly accepted in writing by the Benefits Cooperative, through First Public), including without limitation the Requirements related to:
 - a. conducting business with Benefits Cooperative members, including offering pricing to members that is the best you offer compared to similar customers.
 - b. payment of an administrative fee in the amount specified and as provided for in this Proposal Invitation.
5. You have clearly identified on the included Confidential/Proprietary Information form any information in your Proposal that you believe to be confidential or proprietary or that you do not consider to be public information subject to public disclosure under a Texas Public Information Act request or similar public information law.
6. The individual signing this Agreement is duly authorized to enter into the contractual relationship represented by this Proposal Invitation on your behalf and bind you to the Requirements, and such individual (and any individual signing a form) is authorized and has the requisite knowledge to provide the information and make the representations and certifications required in the Requirements.
7. You have carefully reviewed your Proposal, and certify that all information provided is true, complete, and accurate, and you authorize the Benefits Cooperative, through First Public, to take such action as it deems appropriate to verify such information.
8. Any misstatement, falsification, or omission in your Proposal, whenever or however discovered, may disqualify you from consideration for a contract award under this Proposal Invitation or result in

termination of an award or any other remedy or action provided for in the General Terms and Conditions or by law.

9. If you are awarded a contract with the Benefits Cooperative, when a public entity inquires verbally or in writing whether you hold a Benefits Cooperative contract, it is your duty to verify whether the public entity is seeking a Benefits Cooperative purchase of your product(s). Once verified, you must include the TASB Benefits Cooperative contract number on all purchase communications and sales documents exchanged with the Benefits Cooperative member.
10. You (or your authorized agent) must report all Benefits Cooperative sales to First Public by emailing the purchase information (including your name and the Benefits Cooperative contract number) to Laura.Meyers@firstpublic.com with "Sales Confirmation" in the subject line of the email within three business days of your acceptance of the Cooperative member's business. No other method of reporting is acceptable unless agreed to by the parties in writing. Failure to report all sales pursuant to this provision may result in immediate termination of your Benefits Cooperative contract for cause at our sole discretion.
11. Administrative fees are due upon the awarded provider's receipt of payment, including partial payment, for all Benefits Cooperative sales. Awarded providers shall issue to First Public the corresponding administrative fee payment as soon as possible but not later than 45 calendar days following receipt of a payment and will include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Failure to pay all administrative fees pursuant to this provision may result in termination of an awarded provider's contract for cause at the Benefits Cooperative's sole discretion.
12. The Benefits Cooperative shall have the right, upon reasonable written notice, to review records of awarded providers pertaining to purchases under any awarded contract to verify purchase activity under the contract, the accuracy of administrative fees payable to First Public and/or the Benefits Cooperative, or as otherwise reasonably necessary for the administration of the Contract or when required by law.
13. You hereby certify that you will only offer products and services under the auspices of the Benefits Cooperative that are included in your response to this Proposal and have been formally awarded to your company by the Benefits Cooperative under this Proposal Invitation as communicated to you in writing.
14. You agree that all submitted pricing to Cooperative members shall be within the original terms of the pricing, scope, proposed discounts, and other terms as proposed by you in connection with this Proposal and awarded by the Benefits Cooperative.

Felony Conviction Disclosure and Debarment Certification

FELONY CONVICTION DISCLOSURE

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: “A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.”

Section 44.034 further states in Subsection (b): “A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.”

Please check (✓) one of the following:

- ☐ My company is a publicly held corporation. (Advance notice requirement does not apply to publicly held corporation.)
- ☐ My company is not owned or operated by anyone who has been convicted of a felony.
- ☐ My company is owned/operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

By signature below, I certify that the above information is true, complete, and accurate and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

DEBARMENT CERTIFICATION

Neither my company nor an owner or principal of my company has been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations. Neither my company nor an owner or principal of my company is currently listed on the government-wide exclusions in SAM, debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority. My company agrees to immediately notify the Benefits Cooperative and all Cooperative members with pending purchases or seeking to purchase from my company if my company or an owner or principal is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority.

By signature below, I certify that the above is true, complete, and accurate and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

RESIDENT/NONRESIDENT CERTIFICATION

Chapter 2252, Subchapter A, of the Texas Government Code establishes certain requirements applicable to proposers who are not Texas residents. Under the statute, a “resident” proposer is a person whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas. A “nonresident” proposer is a person who is not a Texas resident. Please indicate the status of your company as a “resident” proposer or a “nonresident” proposer under these definitions.

Please check (✓) one of the following:

☐ I certify that my company is a **Resident Proposer**.

☐ I certify that my company is a **Nonresident Proposer**.

If your company is a Nonresident Proposer, you must provide the following information for your resident state (the state in which your company’s principal place of business is located).

Company Name

Address

City

State

Zip Code

A. Does your resident state require a proposer whose principal place of business is in Texas to underprice proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract?

☐ Yes ☐ No

B. What is the prescribed amount or percentage? \$ _____ or _____ %

VENDOR EMPLOYMENT CERTIFICATION

Section 44.031(b) of the Texas Education Code establishes certain criteria that a school district must consider when determining to whom to award a contract. Among the criteria for certain contracts is whether the vendor or the vendor's ultimate parent or majority owner (i) has its principal place of business in Texas; or (ii) employs at least 500 people in Texas.

If neither your company nor the ultimate parent company or majority owner has its principal place of business in Texas, does your company, ultimate parent company, or majority owner employ at least 500 people in Texas?

Please check (✓) one of the following:

☐ Yes

☐ No

By signature below, I certify that the information in the *Resident/Nonresident Certification* form and *Vendor Employment Certification* form above is true, complete, and accurate and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

NO BOYCOTT VERIFICATION

A Texas governmental entity may not enter into a contract with a value of \$100,000 or more that is to be paid wholly or partly from public funds with a company (excluding a sole proprietorship) that has 10 or more full-time employees for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel and will not boycott Israel during the term of the contract (TEX. GOV'T CODE Ch. 2271), (2) does not boycott energy companies and will not boycott energy companies during the term of the contract (TEX. GOV'T CODE Ch. 2276), and (3) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association (TEX. GOV'T CODE Ch. 2274). Accordingly, this certification form is included to the extent required by law.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. TEX. GOV'T CODE §808.001(1).

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by Paragraph (A). TEX. GOV'T CODE §809.001(1).

"Discriminate against a firearm entity or firearm trade association" means, (A) with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. TEX. GOV'T CODE §2274.001(3).

By signature below, I certify and verify that Vendor does not boycott Israel, boycott energy companies, or discriminate against a firearm entity or firearm trade association and will not do so during the term of any contract awarded under this Proposal Invitation, that this certification is true, complete, and accurate, and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

NO EXCLUDED NATION OR FOREIGN TERRORIST ORGANIZATION CERTIFICATION

Chapter 2252 of the Texas Government Code provides that a Texas governmental entity may not enter into a contract with a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

By signature below, I certify and verify that Vendor is not on the Texas Comptroller's list identified above; that this certification is true, complete, and accurate; and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

DEVIATION AND COMPLIANCE

If your company intends to deviate from the General Terms and Conditions, Proposal Specifications or other requirements associated with this Proposal Invitation, you **MUST** list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form or an attachment to this form. The Benefits Cooperative will consider any deviations in its contract award decision, and reserves the right to accept or reject a Proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Proposal Specifications and all other requirements associated with this Proposal Invitation if awarded a contract under this Proposal Invitation. A deviation will not be effective unless it is expressly accepted in writing by the Benefits Cooperative, through First Public. The Benefits Cooperative, through First Public, may, in its sole discretion, seek clarification from and/or communicate with Proposer(s) regarding any submitted deviation, consistent with general procurement principles of fair competition. The Benefits Cooperative reserves the right to accept or reject a Proposal based upon any submitted deviation.

Please check (✓) one of the following:

- ☐ **No;** Deviations
☐ **Yes;** Deviations

List and fully explain any deviations you are submitting:

Company Name

Signature of Authorized Company Official

Printed Name

CONFIDENTIAL/PROPRIETARY INFORMATION

A. Public Disclosure Laws

All Proposals, forms, documentation, or other materials submitted by Proposer to the Benefits Cooperative in response to this Proposal Invitation, including catalogs and pricelists, may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Benefits Cooperative shall have no obligation to notify Proposer or seek protection of such information from public disclosure should a member of the public or other third-party request access to the information under the Texas Public Information Act or similar disclosure law. When required by the Texas Public Information Act or other disclosure law, Proposer may be notified of any third-party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain information which Proposer considers proprietary or confidential?

Please check (✓) one of the following:

- ☐ **NO**, I certify that none of the information included with this Proposal is considered confidential or proprietary.
- ☐ **YES**, I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES," you must identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Benefits Cooperative and First Public shall not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Benefits Cooperative and First Public will disclose information when required by law, even if such information has been identified herein as information the Vendor considers confidential or proprietary.

Confidential / Proprietary Information:

(Attach additional sheets if needed.)

B. Copyrighted Information

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain copyrighted information?

Please check (√) one of the following:

☐ **NO**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does not contain copyrighted information.

☐ **YES**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does contain copyrighted information.

If you responded "YES," identify below the specific documents or pages containing copyrighted information.

Copyrighted Information:

(Attach additional sheets if needed.)

C. Consent to Release Confidential/Proprietary/Copyrighted Information to Benefits Cooperative Members

Benefits Cooperative members seeking to obtain services through the Benefits Cooperative may wish to view information included in the Proposals of Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a Contract under this Proposal Invitation, your acceptance of the Contract award constitutes your consent to the disclosure of such information to Benefits Cooperative members. Note: Neither the Benefits Cooperative nor First Public will be responsible for the use or distribution of information by Benefits Cooperative members or any other party.

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Company Name

Date

Signature of Authorized Company Official

Printed Name

VENDOR BUSINESS NAME

By submitting a Proposal, Proposer is seeking to enter into a legal contract. As such, a Proposer must be an individual or legal business entity capable of entering into a binding contract. Proposers must completely and accurately provide the information requested below or your Proposal may be deemed non-responsive.

Name of Proposing Company: _____

*(List the **legal** name of the company submitting the Proposal. Do **NOT** list an assumed name, dba, aka, etc. here. Such information may be provided below. If you are submitting a joint proposal with another entity to provide the same proposed goods or services, each submitting entity should complete a separate vendor information form. Separately operating legal business entities, even if affiliated entities, which propose to provide goods or services separately must submit their own Proposals.)*

Please check (✓) one of the following:

Type of Business

☐ Individual/Sole Proprietor

☐ Corporation

☐ Limited Liability Company

☐ Partnership

☐ Other

If other, identify _____

State of Incorporation (if applicable): _____

Federal Employer Identification Number: _____

(Vendor must include a completed IRS W-9 form with their proposal)

GOVERNMENTAL REFERENCES

For your Proposal to be considered, you must supply a minimum of five (5) individual governmental entity references. The Benefits Cooperative, through First Public, may contact any and all references provided as part of the Proposal evaluation.

1. Entity Name _____

Contact _____

Phone# _____ Email Address _____

2. Entity Name _____

Contact _____

Phone _____ Email Address _____

3. Entity Name _____

Contact _____

Phone _____ Email Address _____

4. Entity Name _____

Contact _____

Phone _____ Email Address _____

5. Entity Name _____

Contact _____

Phone _____ Email Address _____

By signature below, I certify that the above is true and correct and that I am authorized by my company to make this certification.

Company Name

Signature of Authorized Company Official

Printed Name

MARKETING STRATEGY

For your Proposal to be considered, you must submit the Marketing Strategy you will use if the Benefits Cooperative accepts your Proposal. (Example: *Explain how your company will initially inform Cooperative members of your contract, and how you will educate and market to Cooperative members that choose to use your services.*)

(Attach additional sheets if needed.)

Company Name

Signature of Authorized Company Official

Printed Name

REQUIRED FORMS CHECKLIST

Please check (✓) you've completed the following:

- ☐ Completed: **Proposer's Agreement and Signature**
- ☐ Completed: **Felony Conviction Disclosure and Debarment Certification**
- ☐ Completed: **Resident/Nonresident Certification**
- ☐ Completed: **No Israel Boycott Certification**
- ☐ Completed: **No Excluded Nation or Foreign Terrorist Organization Certification**
- ☐ Completed: **Deviation/Compliance**
- ☐ Completed: **Confidential/Proprietary Information**
- ☐ Completed: **Vendor Business Name with IRS Form with W-9**
- ☐ Completed: **Governmental References**
- ☐ Completed: **Marketing Strategy**
- ☐ Completed: **Proposal Requirements and Questionnaires, License/Certificates**
- ☐ Completed: **Required Forms Checklist**

TASB BENEFITS COOPERATIVE PROPOSAL REQUIREMENTS

PROPOSAL REQUIREMENTS

If a Proposer cannot meet any of the following qualifications, such exceptions must be notated on the Proposer's cover letter and referenced on the Deviation and Compliance Form.

Awarded Proposers must agree to the following:

1. Provide pharmacy benefits manager products and services to members of the TASB Benefits Cooperative as set forth in Vendor's Proposal and as may be awarded by the Benefits Cooperative.
2. Complete the questionnaire (found at the end of the packet), stating all pertinent information. Failure to do so may disqualify the Proposer's responses.
3. Pay an administrative fee to the Cooperative's administrator, First Public, as further described below.

PBM QUESTIONNAIRE

The Benefits Cooperative will use your responses to the questions below in evaluating your Proposal and technical and financial resources to provide the services (“Work”) under the contract contemplated by this Proposal Invitation (“Contract”). Proposers must fully answer each question, numbering your responses to correspond to the questions/numbers below. Proposers must complete below or attach your responses to this questionnaire and submit in one document with your Proposal. You must submit the questionnaire and responses with your Proposal, or the Proposal will not be considered.

A. COMPANY/ENTITY OVERVIEW:

1. Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested products and services.
2. What are your company's expectations in the event of an award?
3. Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload or email supporting documents.
4. What is your US market share for the solutions that you are proposing?
5. If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this Proposal Invitation.
6. What percentage of your sales are to the governmental sector in the past three years?
7. What percentage of your sales are to the education sector in the past three years?
8. List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?

B. GENERAL PRODUCT INFORMATION

1. Please describe the PBM products and services that you offer?
2. What do you consider to be your top three competitive differentiators?
3. Are there any special product features that makes your product unique in the market?
4. How long have you been offering this product in the marketplace?
?
5. What other products do you offer for groups? Which are your most popular offerings?

Describe in detail your performance standards or guarantees.

1. How do your current business model and pharmacy benefit management strategies for self-insured employers differ from that of others in the marketplace?
2. What do you do to manage specialty cost and utilization that is differentiated or unique compared to other PBM?
3. Explain your current strategies for early identification and management of instances for hyper-inflation, AWP price spikes, and other pricing anomalies for pharmaceutical companies.
4. Briefly describe your approach to Fraud, Waste and Abuse for large, self-insured employer plans.
5. Describe any existing programs that you have that promote evidence-based pricing, outcomes-based pricing on value-based pricing for pharmaceutical products.
6. Please provide your organization's most recent Net Promoter Score (NPS) and explain how it reflects the satisfaction and loyalty of your clients. Additionally, include the following details:
 - The methodology used to calculate your NPS, including the time frame and sample size.
 - A breakdown of the key drivers influencing your NPS (e.g., customer service, cost management, member experience).
 - Any initiatives or strategies you have implemented to improve your NPS over time.
 - How does your NPS compare to industry benchmarks or competitors?
7. Please describe the strategies you use to manage drug costs while ensuring access to high-quality medications for members, including but not limited to describing the programs or tools you offer to promote the use of generics and biosimilars?
8. Compliance with PBM Reform Laws: Please provide a detailed explanation of how your organization is ensuring compliance with the recently enacted PBM reform laws. Specifically, address the following:
 - 8.1 Transparency Requirements: How does your organization plan to meet the transparency and reporting obligations in the new regulations?
 - 8.2 Rebate and Fee Disclosures: Describe your approach to disclosing rebates, fees, and other financial arrangements to clients and regulatory bodies.
 - 8.3 Patient-Centric Practices: What measures are being implemented to align your practices with the patient-first focus emphasized in reform laws?
 - 8.4 Operational Adjustments: Outline any operational or procedural changes your organization has made or plans to make to adhere to the new legal requirements.
 - 8.5 Compliance Monitoring: What systems or processes are in place to monitor ongoing compliance with these laws?

8.6 Training and Education: How is your organization educating staff and stakeholders about the implications of the PBM Reform laws and ensuring adherence?

8.7 Please include specific examples, timelines, and any supporting documentation that demonstrates your commitment to compliance and alignment with the new regulatory landscape.

I. SALES, MARKETING, DELIVERY, AND CUSTOMER SERVICE:

1. Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable).
2. Describe your use of technology (e.g., social media, metadata usage) to enhance marketing effectiveness.
3. In your view, what is the Benefits Cooperative and/or First Public's role in promoting contracts arising out of this Proposal Invitation? How will you integrate a Benefits Cooperative-awarded contract into your sales process?
4. Describe in detail the process and procedure of your customer service program. Include your response-time capabilities and commitments.
- 5.

J. ADMINISTRATIVE FEE:

Awarded providers receive intangible collateral benefits from being associated with the goodwill and reputation of the TASB Benefits Cooperative and First Public. In consideration of these benefits and for the procurement services and support provided by the Cooperative, an awarded provider under this Proposal Invitation must pay an administrative service fee ("Administrative Fee") in the amount of **\$0.75 per script annually** generated from any contract awarded under this proposal invitation and the Administrative Fee is to be included in the awarded pricing. Awarded providers agree and understand that for each contract held with a member of the Benefits Cooperative, the administrative fee will not be added as an additional charge or line item.

1. Provide the name and contact information for the person responsible for handling the Administrative Fee payment, accounting, and other related matters.

GENERAL TERMS AND CONDITIONS

A. GENERAL PROVISIONS

1. Statement of Inclusion/Applicability

These General Terms and Conditions (“Terms and Conditions”) apply to this Proposal Invitation and the proposing company’s response to this Proposal Invitation. These Terms and Conditions are an integral part of any Contract that is awarded in association with this Proposal Invitation and are incorporated into any such contract in their entirety.

2. Organization and Section Titles

The provisions of these General Terms and Conditions are generally organized according to the stages of the procurement process: proposal, evaluation, award, and performance. This organization of and the section titles used in these General Terms and Conditions are for convenience and reference only, and in no way define, describe, extend, or limit the scope or intent of the provisions of any section of this document. Unless otherwise stated, any listing of factors or criteria in these Terms and Conditions does not constitute an order of preference or importance.

3. Definitions

As used in this Proposal Invitation and associated documentation, the following terms have the meanings set out below unless the context requires otherwise, regardless of whether initial capitalization is consistently used. Words used in the singular include the plural, and words used in the plural include the singular. To the extent terms are defined or used differently in different Proposal Invitation documents, substance prevails over form:

“Administrator” means First Public, LLC (“First Public”), the TASB Benefits Cooperative’s administrator.

“Contract” means a contract awarded by the Benefits Cooperative to a successful Proposer (“Vendor”), which gives Vendor the opportunity to serve TASB Benefits Cooperative (“Benefits Cooperative”) members based on the Benefits Cooperative’s acceptance of all or part of the Proposer’s Proposal, and is comprised collectively of the following, listed in order of precedence in the event of a conflict among the documents:

- a) Notice of Award issued to Proposer by the Benefits Cooperative, through First Public,
- b) This Proposal Invitation, including these Terms and Conditions, and
- c) Proposer’s Proposal.

“Benefits Cooperative” or **“Cooperative”** means, collectively, the TASB Benefits Cooperative including when acting by and through its administrator, First Public, unless a distinction is made otherwise.

“Benefits Cooperative member,” “Cooperative member” or **“member”** means a local governmental entity (such as a school district,) that is a member of the Benefits Cooperative and is eligible to purchase through a governmental purchasing cooperative or interlocal contract.

“Member Agreement” means the agreement, purchase order, or other document by which a Cooperative member purchases products or services from Vendor under a Contract.

“Proposal Invitation” means this Proposal Invitation and all associated documentation, including without limitation, these Terms and Conditions and any amendments hereto, additional terms and conditions specific to this Proposal Invitation, instructions, requirements, exhibits or attachments, forms, agreements, certifications, item specifications, addenda, and supplements and/or clarifications.

“Proposal” means Proposer’s complete and correct response to this Proposal Invitation, including all information, forms, agreements, certifications, and other documentation required by this Proposal Invitation, properly signed by Proposer’s duly authorized representative.

“Proposal Due Date” means the date and time specified in the Proposal Invitation, or any addenda thereto, by which Proposers are required to submit Proposals for this Proposal Invitation.

“Proposer” or **“Vendor”** means the company or firm that submits a Proposal or, depending on the context, the proposing company to which the Benefits Cooperative, awards a contract under this Proposal Invitation. (For purposes of the forms associated with this Proposal Invitation, “you,” “your,” “I,” or “my” refer to Proposer or Vendor, as applicable.)

B. PROPOSAL REQUIREMENTS

1. Deviations from Item Specifications or Terms and Conditions

Proposer must clearly note and explain in detail any and all limitations, exceptions, qualifications, special conditions, or other deviations (collectively “deviations”) from these Terms and Conditions or any of the item specifications in the Proposal on the Deviation and Compliance form (or an attachment thereto) at the time the Proposal is submitted. Deviations must be specific to these Terms and Conditions or the item specifications and clearly identify the specific section or item to which the deviation applies. The Cooperative shall not be deemed to have accepted, and a Contract shall not be subject to, any term or condition included in Vendor’s Proposal which differs from these Terms and Conditions unless Vendor has specifically identified the deviation on the Deviation and Compliance form and the deviation is accepted by the Cooperative.

The submission of any such deviation may place Proposer at a competitive disadvantage or otherwise prevent the Benefits Cooperative from considering the Proposal on the affected item(s).

The Benefits Cooperative, through First Public, may, in its sole discretion, seek clarification from and/or communicate with Proposer(s) regarding any submitted deviation, consistent with general procurement principles of fair competition. The Benefits Cooperative reserves the right to accept or reject a proposal based upon any submitted deviation.

Other than deviations submitted in writing with the Proposal and **expressly accepted in writing by the Benefits Cooperative, through First Public**, the Benefits Cooperative will hold Proposer accountable to the Benefits Cooperative and Benefits Cooperative members to perform in strict accordance with these Terms and Conditions and the item specifications as written, and Proposer agrees to be bound by these Terms and Conditions and the item specifications as written.

2. Addenda

Any interpretation, correction or change to this Proposal Invitation will be made by written addendum only, and updated information contained in an addendum will prevail over the information contained in the original Proposal Invitation or a previous addendum. The Benefits Cooperative, through First Public, is the sole authority for the issuance of any addendum, and any communication related to this Proposal Invitation

that is not from the Benefits Cooperative, through First Public, is invalid. Although the Benefits Cooperative, through First Public, may provide electronic notification when an addendum has been issued and the changes will be flagged, it is Proposer's responsibility to monitor the First Public website for possible addenda and incorporate any posted addendum into the Proposal. Proposer must acknowledge each addendum in accordance with the instructions accompanying the addendum.

3. "All or Nothing" Awards

Unless otherwise indicated in this Proposal Invitation, "all or nothing" Proposals are **not** acceptable and will be rejected. Proposer must be willing to accept a partial award for any combination of the items or services proposed and must be willing to share the business with any other successful Proposers.

4. Requirements of the Texas Public Information Act; **Confidential Information**

(a) Vendor Compliance

The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Proposal Invitation and any awarded Contract, and Vendor agrees that the Contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

Pursuant to Texas Government Code Sections 552.371 and 552.372, to the extent the Contract or any agreement with a Cooperative member thereunder ("Member Agreement") has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by a governmental body or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by a governmental body in a fiscal year of the governmental body, Vendor shall:

- 1) preserve all contracting information, as defined in Texas Government Code Section 552.003 ("Contracting Information"), related to the Contract or any Member Agreement as provided by the records retention requirements applicable to the governmental body for the duration of the Contract (including any Member Agreement).
- 2) promptly provide to the Cooperative or Cooperative member, as applicable, any Contracting Information related to the Contract that is in the custody or possession of Vendor on request of the Cooperative or Cooperative member.
- 3) on completion of the Contract (including any Member Agreement), either:
 - (A) provide at no cost to the Cooperative or Cooperative member, as applicable, all Contracting Information related to the Contract (including any Member Agreement) that is in the custody or possession of Vendor; or
 - (B) preserve the Contracting Information related to the Contract (including any Member Agreement thereunder) as provided by the record retention requirements applicable to the Cooperative or Cooperative member, as applicable.

The Cooperative may not accept a Proposal or award a Contract to a Vendor that the Cooperative has determined has knowingly or intentionally failed to comply with Texas Government Code Chapter 552, Subchapter J, in a previous Proposal or Contract unless the Cooperative determines and documents that Vendor has taken adequate steps to ensure future compliance with the requirements of said Subchapter.

(b) Confidential/Proprietary Information

Proposer must clearly identify information in the Proposal that Proposer considers proprietary or confidential by completing the Confidential/Proprietary Information form. Further, for any other information provided by Vendor to the Cooperative after Contract award (updated catalogs or pricelists, Vendor information, etc.), Vendor shall clearly mark and identify any information that Vendor considers proprietary or confidential. The Cooperative will treat such information as confidential only to the extent allowable under the Texas Public Information Act (Chapter 552 of the Texas Government Code) or similar disclosure law.

If Vendor fails to properly identify information that the Vendor considers proprietary or confidential, the Cooperative shall have no obligation to seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure laws. **The Cooperative and its Administrator will not be responsible for Vendor's failure to clearly identify information Vendor considers confidential or proprietary.** Vendor may be notified of a third-party request for information that Proposer has identified in the Confidential/Proprietary Information form as proprietary or confidential when required by the Texas Public Information Act or similar disclosure law.

By submitting a Proposal, Vendor acknowledges that the Cooperative and the Cooperative Administrator will disclose information when required by law, even if such information has been identified herein as information Vendor considers confidential or proprietary.

5. Withdrawal or Modification of Proposal

Proposer may withdraw or modify a submitted Proposal **prior to the Proposal Due Date and time** specified in this Proposal Invitation. A Proposal may be withdrawn only in strict accordance with this section.

Proposer must submit a written request to First Public to withdraw the Proposal. The request to withdraw must be signed by an individual authorized to enter into contracts on Proposer's behalf and indicate the individual's title. If First Public has any question or doubt regarding Proposer's identity or the identity of its Proposal, withdrawal will not be allowed. If the Benefits Cooperative, through First Public, decides to allow the withdrawal, Proposer's duly authorized representative will be required to complete and sign a written receipt satisfactory to First Public before the Proposal will be released. The decision of First Public relating to matters concerning withdrawal of a Proposal is final.

Proposer may resubmit the withdrawn Proposal, or submit a new Proposal, up until the Proposal Due Date and time, provided any new submission meets the requirements of this Proposal Invitation. If Proposer resubmits a Proposal that was withdrawn and makes any change to any document in the proposal package, the change must be made in accordance with the Benefits Cooperative's instructions for Proposal submissions, and Proposer will be deemed to have authorized such change.

Proposals that are in First Public's possession at the Proposal Due Date and time shall be deemed final, conclusive, and irrevocable; and no Proposal will be subject to withdrawal, amendment, or correction by a Proposer after the Proposal Due Date and time specified in this Proposal Invitation. However, pursuant to Section B.1 (Deviations from Item Specifications or Terms and Conditions), the Benefits Cooperative, through First Public, reserves the right, in its sole discretion, to seek clarification, communicate, and resolve issues around deviations that were submitted in a Proposal, consistent with general procurement principles of fair competition.

6. Certifications

The Proposer's Agreement and Signature form, which is fundamental to and incorporated into this Proposal Invitation, requires Proposer to certify to certain matters. Pursuant to and in accordance with such Proposer's Agreement and Signature form, and in addition to the matters set forth therein, Proposer certifies to the following with respect to this Proposal Invitation, the Proposal, and any Contract awarded under this Proposal Invitation.

(a) Non-Collusion Certification

Proposer agrees and certifies to the following, and understands that the penalty for violating this non-collusion certification will be the immediate disqualification of Proposer's Proposal or, if the violation is revealed after Contract award, any remedies allowed by law or the Contract including termination of Vendor's Contract:

- 1) Neither Proposer nor any business entity represented by Proposer has received compensation for participation in the preparation of the item specifications or these Terms and Conditions related to this Proposal Invitation.
- 2) The Proposal has been arrived at independently and is submitted without collusion with any other Proposer, with any competitor or potential competitor, or with any other person or entity to obtain any information or gain any special treatment or favoritism that would in any way limit competition or give any Proposer an unfair advantage over any other Proposer with respect to the Proposal.
- 3) Proposer has not accepted, offered, conferred, or agreed to confer, and will not in the future accept, offer, confer, or agree to confer, any benefit or anything of value to any person or entity related to the Benefits Cooperative or any of its members or First Public in connection with any information or submission related to the Proposal, any recommendation, decision, vote, or award related to the Proposal, or the exercise of any influence or discretion concerning the sale, delivery, or performance of any product or service related to the Proposal.
- 4) Neither Proposer, nor any business entity represented by Proposer, nor anyone acting for such business entity, has violated the Federal Antitrust Laws or the antitrust laws of this State with regard to the Proposal, and the Proposal has not been knowingly disclosed, and will not be knowingly disclosed, to any other Proposer, competitor, or potential competitor prior to the opening of Proposals.
- 5) No attempt has been or will be made to induce any other person or entity to submit or to not submit a Proposal.

(b) Certification Regarding Ethics, Fair Competition, Legal, and Other Matters

Proposer agrees and certifies to the following:

- 1) Proposer has, or has the ability to obtain, such financial and other resources as may be required to fulfill all the responsibilities associated with the Proposal.
- 2) Proposer has a high degree of integrity and business ethics, and a satisfactory record of performance.
- 3) Proposer has not been notified by any local, state, or federal agency with competent jurisdiction that its standing in any matters whatsoever would preclude it from submitting its Proposal and Proposer would in no other way whatsoever be disqualified to propose or receive any award or

Contract related to this Proposal Invitation, and Proposer will comply with any reasonable request from the Cooperative to supply information sufficient to substantiate the foregoing representations.

- 4) Proposer has provided its valid, proper and correct business entity name and information in its Proposal, that such entity is operating in good standing with the proper authority of whatever State or local jurisdiction is required, and Proposer has obtained, and will continue to maintain during the entire term of the Contract, all permits, approvals, or licenses necessary for lawful performance of its obligations under this Contract.
- 5) The prices, prompt payment discount terms, delivery terms, distribution allowances and the quality and/or performance (including warranties) of the product or services offered in the Proposal are and will remain the same or better than those offered Proposer's similarly situated customers under similar circumstances, including those offered through other purchasing cooperatives.
- 6) The Proposal complies with all federal, state, and local laws concerning these types of products or services, and Proposer will continue to comply with any applicable federal, state, and local laws related to Proposer's activities in connection with the Contract.
- 7) Proposer will comply with any applicable prevailing wage rate requirements under the federal Davis-Bacon or state or local law, including Chapter 2258 of the Texas Government Code.
- 8) Proposer will maintain, at Proposer's expense, any insurance, including without limitation such workers' compensation insurance as may be required by state or local law or policy, necessary to protect the Benefits Cooperative, its members, and First Public from all claims for bodily injury, death, or property damage that might arise from the performance by Proposer or its employees or its agents of any service under the Contract; however, the existence of such insurance does not relieve Proposer of full responsibility and liability for damages, injury, death, or loss as described or as otherwise provided for by law.
- 9) Any false statement contained in the Proposal is a material breach of contract which will void the Proposal or any resulting Contract, and subject Proposer to removal from all proposal lists, and possible criminal prosecution.

7. Proposal Signatures

Proposer must sign its Proposal in strict accordance with the Benefits Cooperative's instructions, including having an officer duly authorized by Proposer execute the Proposal. By signing, the signatory warrants that he or she has read and agrees to the terms of the Proposal and is authorized to execute same as a legally binding act of Proposer. A facsimile or imaged signature will be deemed an original.

8. No Reimbursement

Proposer understands and acknowledges that neither the Benefits Cooperative nor First Public will reimburse or pay Proposer for any expenses Proposer incurs in preparing its Proposal or providing additional information, including participation in any interview process, required in connection with the Proposal.

C. PROPOSAL EVALUATION

1. General

A Proposal submitted in accordance with this Proposal Invitation will initially be considered for award; however, initial consideration of a Proposal will not constitute an assessment of its meeting the necessary qualifications, and a Proposal may be disqualified at any time during the evaluation process for failure to meet any other terms or conditions contained anywhere else in this Proposal Invitation.

2. Best Value Criteria

The Benefits Cooperative evaluates Proposals on the basis of best value to Benefits Cooperative members. In evaluating Proposals and determining best value for all Benefits Cooperative members, the Benefits Cooperative will consider the following criteria:

Best Value Criteria		Maximum Points
1	Capability of Servicing Benefits Cooperative Members	25
2	Vendor Reputation for Services	25
3	Financial and Technical Resources	25
4	Vendor Past Performance	15
5	Any other relevant factor or requirement listed in this Proposal Invitation	10
TOTAL		100

The Benefits Cooperative's evaluation may include Proposer's responses to the forms and other attachments, or information included with a Proposal or associated with this Proposal Invitation, including but not limited to Proposer's responses to the Proposal Invitation Questionnaire, as well as any other information at its disposal deemed relevant by the Cooperative in its sole discretion. Only responsive Proposals will be evaluated. Failure to include all required information may result in a Proposal being deemed non-responsive.

As a general matter, the Benefits Cooperative makes competitive awards to Proposers that give the same or better discounts/pricing than they give their best governmental clients and can provide best value to Benefit Cooperative members. Proposers should provide competitive pricing that is the same or better than the pricing provided their best governmental clients. Each Proposal is evaluated on its own merit and determined to be fair and reasonable by comparing the price/discounts that Proposer offers other governmental clients.

If this Proposal Invitation requires discount pricing, discount practices may be examined and evaluated, in the Benefits Cooperative's sole discretion, based on historical data, sales information, discounts granted to other governmental clients, and/or other market research techniques. The Benefits Cooperative may award Contracts to multiple Proposers supplying comparable products or services, also known as a multiple award schedule, or award the Contract to a single Proposer. The Benefits Cooperative's decision to make multiple awards or a single award will be based upon the Benefits Cooperative's sole discretion regarding the type of award that provides best value to all Benefits Cooperative members.

In regard to Vendor past performance, among other factors, the Benefits Cooperative may consider a Vendor's breach of contractual obligation on any other active or prior Benefits Cooperative contract awarded to Vendor including, but not limited to, nonpayment of administrative fees by Vendor, its parent company or affiliates.

The Proposal Invitation may also require Proposers to provide certain information in the Proposal Forms for which the Cooperative does not evaluate the Proposer's responses as part of the award criteria set out in this Section C.2. The Cooperative requests such information because it may be relevant to federal, state, or local procurement law or other requirements that apply to various Benefit Cooperative members. (Benefit Cooperative members may also require and request Vendors provide additional certifications and information to meet the Benefit Cooperative member's specific procurement requirements prior to making purchases under an awarded Contract.) This information, which will be made available to Benefit Cooperative members with respect to awarded Vendors, includes the following:

- (a) Resident/Nonresident Certification
- (b) Vendor Employment Certification

3. Benefits Cooperative Board Decision

The Benefits Cooperative reserves the right to waive any or all irregularities, formalities, or other technicalities and to be the sole and independent judge of quality and suitability of any products or services offered. The Benefits Cooperative may accept or reject a Proposal in its entirety, or may reject any part of a Proposal without affecting the remainder of that proposal, and may award the individual items in this Proposal Invitation in any combination or in any way that provides best value to Benefits Cooperative members based on the criteria set out in section C.2 (Best Value Criteria) of these Terms and Conditions. The Benefits Cooperative may use all means at the collective disposal of the Benefits Cooperative and Benefits Cooperative members to evaluate Proposals. The final decision as to the best overall offer, including as to price and suitability of the proposed products or services to meet the needs of and provide best value to Benefits Cooperative members, rests solely with the Benefits Cooperative's Board of Trustees.

D. CONTRACT AWARD

1. Notice of Award and Related Matters

A Proposal is an offer by vendor to contract with the Benefits Cooperative, as well as Benefits Cooperative members in accordance with this Proposal Invitation, including without limitation the item specifications, and these Terms and Conditions. A Proposal does not become a Contract unless and until the Proposal is accepted by the Benefits Cooperative through the issuance of a written Notice of Award to the successful proposer/vendor and also the execution of an Agreement (whether separate or through the Notice of Award signed by the parties), whereupon the Contract becomes binding and enforceable. The Contract is then utilized by a Benefits Cooperative member who also enters into a Member Agreement with the successful proposer/vendor. The Benefits Cooperative, through First Public, may maintain Vendor's contract documents in electronic format for the duration of the Contract term.

2. Applicable Terms and Conditions; Ancillary Agreements

By submitting a Proposal, Vendor specifically agrees that these Terms and Conditions shall apply, subject to any deviations properly submitted by Proposer and approved by the Cooperative in accordance with section B.1 (Deviations from Item Specifications or General Terms and Conditions). Following award, Vendor shall not seek to impose on a Benefits Cooperative member additional terms, conditions, or ancillary agreements that are inconsistent with, or intended to supersede, the Contract Terms and Conditions. Further, Benefits Cooperative members and Vendors do not have the authority to modify these Terms and Conditions. However, nothing herein shall prevent the Benefits Cooperative member and

Vendor from negotiating additional ancillary terms applicable to and consistent with the requirements of these Terms and Conditions, including but not limited to:

- (a) Performance and/or payment bonds from Vendor as may be required by law or policy or deemed necessary or appropriate by the Benefits Cooperative member.
- (b) Requirements for Vendor to carry and provide proof of insurance as may be required by law or policy or as deemed necessary or appropriate by the Benefits Cooperative member.
- (c) Requirements for background checks at Vendor's expense on Vendor employees who will have direct contact with students or staff, or for other reasons.
- (d) Other requirements applicable to the purchase as may be required by law, local policy, or deemed necessary or appropriate by the Benefits Cooperative member.

Any ancillary terms between a Benefits Cooperative member and Vendor must be in writing and signed by a representative of the Cooperative member with all necessary authority to accept the agreement and bind the Benefits Cooperative member. All risk of confirming proper authority shall lie with Vendor.

By submitting a Proposal, Vendor understands and acknowledges that Cooperative members are governmental entities, and any provision in any ancillary agreement which requires the Cooperative member to indemnify or hold harmless Vendor, or any other provision not allowed by the laws applicable to the purchasing Cooperative member, shall be void and of no effect. Vendor further acknowledges and agrees that, notwithstanding anything in any ancillary agreement, to the contrary, the laws applicable to such agreement shall be the laws of the State of Texas. This provision supersedes any provision in any ancillary agreement to the contrary.

Any attempt by Vendor to deviate from this section in Vendor's Proposal shall be deemed rejected. Further, any attempt by an awarded Vendor to impose terms and conditions on a Benefits Cooperative member that are inconsistent with the requirements of this section shall be an event of default under the Contract and subject to all remedies up to and including termination of Vendor's Contract.

Nothing in any ancillary agreement between a Benefits Cooperative member and Vendor shall affect the Terms and Conditions of the Contract as between the Cooperative and Vendor.

E. CONTRACT PERFORMANCE

1. Contract Term

The term of the Contract is for the initial term stated in this Proposal Invitation, which term begins on the date specified in the Notice of Award. Unless otherwise stated in this Proposal Invitation, the Contract may be renewed, at the sole discretion of the Benefits Cooperative, for two additional one-year terms as provided for in this Section E.1. A reference to "Contract term" in these Terms and Conditions means the initial term and any renewal term.

Vendor has no right to or vested interest in a Contract renewal. The Benefits Cooperative will evaluate the Contract award prior to the expiration of the then current Contract term (initial or renewal) and reserves the right to not renew the Contract based on factors that may include, but are not limited to, the annual amount of business, Vendor's performance, and the continued provision of best value to Benefits Cooperative members. With respect to the annual amount of business, the Benefits Cooperative expects

each awarded Vendor to generate at least \$15,000 of gross revenue to First Public during each one-year contract term.

In the event the Contract term will expire before the Benefits Cooperative awards a successor contract for the categories of awarded products or services, the Contract may be extended beyond the expiration date on a month-to-month basis, or such other term as determined by the Benefits Cooperative, upon the agreement of the Benefits Cooperative and Vendor, provided that the awarded pricing does not increase during such extension.

The Contract shall govern the Vendor's and the Cooperative member's rights and obligations with respect to any Member Agreement issued during the Contract term and afterwards with respect to any Member Agreement for specified services before the Contract award period ended. This includes, but is not limited to, the Vendor's obligations to pay to the Benefits Cooperative all applicable administrative fees as required by section E.4 (Administrative Fees) of these Terms and Conditions.

2. Prevailing Wages, Bonding, and Insurance Requirements

Vendor must comply with any applicable prevailing wage rate requirements under the federal Davis-Bacon and/or state or local law, including but not limited to Chapter 2258 of the Texas Government Code.

Vendor must provide any applicable performance and payment bonds as required by law, including but not limited to Chapter 2253 of the Texas Government Code, or as requested by a Benefits Cooperative member.

Vendor must maintain appropriate and sufficient insurance, including without limitation such workers' compensation insurance as may be required by state or local law or policy, necessary to protect Vendor and the Cooperative and its members from all claims for bodily injury, death, or property damage that might arise from the performance by Vendor or its employees or agents of any service under the Contract; however, the existence of such insurance does not relieve Vendor of full responsibility and liability for damages, injury, death, or loss as described or as otherwise provided by law.

3. Conformity to Specifications and Contract Award

If awarded a Contract, Vendor may only offer under the Contract those products and services included in Vendor's Proposal and awarded to Vendor by the Cooperative

Vendor warrants that the services a Vendor provides under the Contract conform to the item specifications and other requirements of this Proposal Invitation (except to the extent and as specifically noted as deviations in Vendor's Proposal).

The Benefits Cooperative, Texas Association of School Boards, Inc. ("TASB"), and First Public are not liable or responsible for any payment owed Vendor by a Benefits Cooperative member under the Contract.

4. Administrative Fees

Vendor must pay First Public, a Texas Life and Health Insurance Agency, the administrative fees specified in this Proposal Invitation and, unless this Proposal Invitation provides otherwise, the fees are included in the Vendor's pricing and will not be added as an additional charge or line-item to a member.. Except as otherwise provided in this Section E.4, Vendor must remit the administrative fees to First Public in Austin, Texas, within 45 calendar days of the due date of the administrative fees.

Vendor agrees to provide the Benefits Cooperative, through First Public, with copies of all agreements it enters into with Benefits Cooperative members generated by or under the Contract as First Public may

require in its reasonable discretion. Additionally, the Benefits Cooperative, through First Public, has the right, upon reasonable written notice, to review Vendor's records pertaining to services provided under the Contract with Benefits Cooperative members to verify the accuracy of administrative fees payable from Vendor to First Public.

5. Disclaimer of Warranty and Limitation of Liability

THE BENEFITS COOPERATIVE, FIRST PUBLIC, AND TASB DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO THE AVAILABILITY, ACCURACY, CONTENT OR ANY OTHER ASPECT OF ANY INFORMATION, PRODUCT, OR SERVICE FURNISHED UNDER THE CONTRACT AWARD, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITH RESPECT TO ANY AND ALL CAUSES OF ACTION ARISING UNDER OR RELATED TO THE CONTRACT, THE BENEFITS COOPERATIVE, FIRST PUBLIC, OR TASB, OR THEIR RESPECTIVE OFFICERS, BOARD MEMBERS, EMPLOYEES OR AGENTS, ARE NOT LIABLE TO VENDOR UNDER ANY CIRCUMSTANCES FOR LOST REVENUE, DATA OR PROFITS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, EVEN IF THE BENEFITS COOPERATIVE, FIRST PUBLIC, AND/OR TASB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY PROVIDED BY LAW, IN NO EVENT WILL THE BENEFITS COOPERATIVE, FIRST PUBLIC AND/OR TASB'S TOTAL JOINT LIABILITY TO VENDOR EXCEED THE AMOUNT OF THE ADMINISTRATIVE FEE PAID BY VENDOR DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

The Benefits Cooperative, First Public, and/or TASB are not in any way liable to Vendor for a Benefits Cooperative member's performance or nonperformance of the member's obligations under the Contract or agreement entered into between a Benefits Cooperative member and Vendor.

6. Sales Tax

Benefits Cooperative members are governmental entities which are generally exempt by law from the payment of state sales tax and federal excise tax. Vendor may request a Benefits Cooperative member to provide a tax exemption certificate, or the member may establish its tax-exempt status by including tax exemption information or tax exemption certificate with the Member Agreement as authorized under law. Vendor is responsible for collecting such taxes, if any, as may be due from a Benefits Cooperative member and remitting payment to the appropriate taxing authority.

7. Use of Logo and Trade Name

The Benefits Cooperative trade name and logo are proprietary to TASB and have been specifically licensed by TASB to the Benefits Cooperative. Vendor may not use, display, or otherwise distribute the Benefits Cooperative logo or trade name without obtaining prior written consent from the Benefits Cooperative, through First Public. Vendor may not use, display, or otherwise distribute the First Public or TASB logo or trade name without obtaining prior written consent from First Public or TASB, respectively.

8. Indemnification

Vendor agrees to defend, indemnify, and hold harmless the Cooperative, TASB, and Cooperative members, and their officers, board members, agents and employees, from and against all third-party claims, actions, suits, liability, liens, loss and damage of any character, type, or description, including without limitation all expenses of litigation, court costs and attorney's fees, arising out of or related to (a)

injury or death to any person or damage to any property related to the acts of Vendor or its agents, subcontractors, or employees in the execution of or performance under the Contractor any Member Agreement, as applicable; and (b) Vendor's negligence, misconduct, breach of contract or other failure to comply with its obligations in the execution or performance under the Contract or any Member Agreement, as applicable.

9. Intellectual Property Infringement

Without limiting the scope of section E.8 (Indemnification) of these Terms and Conditions, if any claim is asserted, or action or proceeding brought against the Benefits Cooperative, First Public, TASB, or a Benefits Cooperative member that alleges that all or any part of the products or services supplied or provided by Vendor, in the form supplied or modified by Vendor, or its subcontractors pursuant to Vendor's sole directions, infringes or misappropriates any United States intellectual property, intangible asset, or other proprietary right, title or interest (including, without limitation, any copyright or patent or any trade secret right, title, or interest), or violates any other contract, license, grant, or other proprietary right of any third party, the Benefits Cooperative, through First Public, upon its awareness, shall give Vendor prompt written notice thereof. Vendor shall defend, and hold the Benefits Cooperative, First Public, TASB, and the Benefits Cooperative member harmless, against any such claim or action and shall indemnify the Benefits Cooperative, First Public, TASB, and the Benefits Cooperative member against any liability, damages and costs resulting from such claim. In addition, if, in any such suit arising from such claim, the continued use of the product or services for the purpose intended is enjoined by any court of competent jurisdiction, Vendor shall, at its expense and option, either (a) procure for the Benefits Cooperative member the right to continue using the product or service; (b) modify the product or service so that it becomes non-infringing; (c) replace the product or service or portions thereof so that it becomes non-infringing; or (d) allow the Benefits Cooperative member to return the product or service and refund the purchase price (less reasonable depreciation for use.)

10. Remedies for Default and Termination of Contract

(a) Default and Termination of Cooperative Contract

Except as otherwise provided for in these Terms and Conditions, either party (Cooperative or Vendor) may terminate the Contract in whole or in part in the event of the other party's substantial failure to fulfill its obligations under the Contract through no fault of the terminating party; provided, however, that the defaulting party is given at least ten (10) business days prior written notice of the default and intent to terminate (delivered by certified mail, return receipt requested, or other method that similarly documents receipt), and, to the extent the default is capable of being cured, a ten (10) business day opportunity to remedy the default to the satisfaction of the terminating party (or, in the event of default based on Vendor's failure to timely remit the administrative fee due First Public, such longer cure period as may be established by First Public.)

At the Benefits Cooperative's option, and in addition to any other remedies it may have available, the Benefits Cooperative may terminate the Contract if Vendor fails to adhere to or violates any of the provisions of these Terms and Conditions, including the certifications. Without limiting the scope of the foregoing, one or more of the following constitute grounds for termination:

- a) Materially misleading or false statement(s) in Vendor's Proposal.
- b) Delivery of product or services that fail to meet the item specifications.
- c) Failure to meet required delivery schedules.
- d) Failure to timely supply the awarded products or services
- e) Failure to timely remit any administrative fee due First Public under the Contract with Vendor.

- f) Failure to provide, within a reasonable time and where required by the Contract, information reasonably requested by the Benefits Cooperative including, but not limited to, information requested under section E.4 of these Terms and Conditions.
- g) Entering into an agreement with a Benefits Cooperative member, without notifying First Public
- h) Vendor refusal, inability, or loss of ability to offer or provide awarded products or services to any Benefits Cooperative members unless caused by a Force Majeure event pursuant and subject to Section E.11.

Notwithstanding any other provision of this Section E.10, in the event of Vendor's default under or breach of any provision in the Contract, the Benefits Cooperative reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of the Benefits Cooperative or necessary or appropriate to protect or provide best value to Benefits Cooperative members. Without limiting the scope of the foregoing, the Cooperative, acting by and through First Public, may temporarily inactivate (suspend) Vendor's Contract, with or without prior notice, if the Cooperative or First Public reasonably determines that there has been a breach under the Contract, including but not limited to nonpayment of administrative fees, or that there is a potential policy, public health, or safety issue to warrant such action. Such temporary inactivation may remain in effect pending further action or termination of the Contract by the Benefits Cooperative. Vendor remains liable for all obligations and responsibilities incurred prior to and during any temporary inactivation and prior to termination, as applicable.

In the event the Benefits Cooperative terminates the Contract, in whole or in part, the Benefits Cooperative reserves the right to award the terminated Contract, or any portion thereof, to the next Proposer the Cooperative determines to provide best value to Cooperative members. Additionally, the Cooperative may sue for breach of contract and specific performance and, in addition to contract damages, recover attorney's fees and costs. Vendor shall be liable for any and all damages permitted by law, and any deviation submitted by Vendor in its Proposal seeking to limit Vendor's liability to the Cooperative shall be deemed rejected. The Cooperative will not be liable to Vendor for any damages (including, but not limited to, loss of profit or loss of business, or any special, consequential, exemplary, or incidental damages) resulting from termination based on Vendor's default or breach of contract.

If any delay or failure of performance is caused by a Force Majeure event as described in section E.11 (Force Majeure) of these Terms and Conditions, the Benefits Cooperative, through First Public, may, in its sole discretion, terminate the Contract in whole or part, provided such termination complies with the procedures set out above. Any Contract termination resulting from any cause other than a Force Majeure event will be deemed valid reason for not considering any future proposals from the defaulting Vendor.

In the event a Vendor's Contract is terminated under this Section E.10, Vendor shall remain responsible for payment of all administrative fees to First Public incurred prior to such termination.

(b) Default and Termination of Cooperative Member Purchase

A Benefits Cooperative member has no authority to terminate the Contract at the Benefits Cooperative level for default. A Cooperative member may terminate its Member Agreement with Vendor (1) as provided for in these Terms and Conditions, Cooperative Member Agreement, or ancillary agreement or (2) for Vendor's material breach of a term or condition included in the Contract, Member Agreement, or ancillary agreement. Additionally, to the extent permitted by law, the Benefits Cooperative members may sue for breach of contract and specific performance and, in addition to contract damages, recover attorneys' fees and costs. Nothing herein shall limit the remedies available to a Cooperative member under applicable law.

A Benefits Cooperative member will not be liable to Vendor for any damages (including, but not limited to, loss of profits or loss of business, or any special, consequential, exemplary, or incidental damages) resulting from termination based on Vendor's default or breach of contract.

11. Force Majeure

The term Force Majeure includes, but is not limited to, governmental restraints or decrees, provided they affect all companies in Vendor's industry equally and are not actions taken solely against Vendor; acts of God (except natural phenomena, such as rain, wind or flood, which are normally expected in the locale in which performance is to take place); work stoppages due to labor disputes or strikes; fires; explosions; epidemics or pandemics; riots; war; rebellion; or sabotage.

The Benefits Cooperative, First Public, Cooperative members, and Vendor are required to use due caution and preventive measures to protect against the effects of Force Majeure, and the burden of proving that Force Majeure has occurred rests on the party seeking relief under this Section E.11. The claiming party must promptly notify the other party in writing, citing the details of the Force Majeure event, use due diligence to overcome obstacles to performance created by the Force Majeure event, and resume performance immediately after the obstacles have been removed, provided the Contract has not been terminated in the interim.

Delay or failure of performance of the Contract or an agreement entered between a Benefits Cooperative member and Vendor caused solely by a Force Majeure event will be excused for the period of delay caused solely by the Force Majeure event, provided the party claiming the event promptly notifies the other party in writing. Neither party shall have any claim for damages against the other resulting from delays caused solely by Force Majeure. The Benefits Cooperative and First Public will not be responsible for any cost incurred by Vendor because of a Force Majeure event. A Benefits Cooperative member will not be responsible for any cost incurred by Vendor because of the Force Majeure event unless an authorized representative of the Benefits Cooperative member has requested, in writing, that Vendor incur such cost in connection with any delay or work stoppage caused by the Force Majeure event.

Notwithstanding any other provision of this Section E.11, in the event Vendor's performance of its obligations under the Contract is delayed or stopped by a Force Majeure event, the Benefits Cooperative may, at its sole option, terminate the Contract in accordance with Section E.10 (Remedies for Default and Termination of Contract) of these Terms and Conditions. This Section E.11 does not limit or otherwise modify any of the Benefits Cooperative's or First Public's rights as provided elsewhere in the Contract.

F. MISCELLANEOUS

1. Assignment

Vendor may not sell, assign, transfer, convey or subcontract any responsibility or obligation created by the Contract in regard to the Benefits Cooperative without the Benefits Cooperative's, through First Public's, prior written consent. A Vendor wishing to assign, transfer, or convey all or any portion of an awarded Contract shall submit a written request to First Public at least 60 days before the projected effective date of the assignment and provide such information as the Benefits Cooperative or First Public may require to process and consider the request.

Approval or denial of an assignment request shall be within the sole discretion of the Benefits Cooperative, and a vendor not awarded a Contract through the Proposal Invitation process has no right or vested

interest to assignment of an awarded Contract. In determining whether to consent, the Benefits Cooperative may consider any relevant factors, including whether the person to which the sale, assignment, transfer, conveyance or subcontract is proposed is bound to and will honor all obligations and responsibilities imposed on Vendor under the Contract, including awarded pricing, and the best interest of and value to Benefits Cooperative members. Vendor's attempted sale, assignment, transfer, conveyance or subcontracting of any part of the Contract except in compliance with this section F.1 is void and ineffective.

2. Notices

Unless otherwise provided for in this Proposal Invitation, any written notice or other communication required by the Contract or by law will be conclusively deemed to have been given and received on the third business day after such written notice has been deposited in the U. S. Mail, properly addressed, and with sufficient postage affixed thereto, provided that actual notice may also be given in any other manner used in commerce.

If the conclusion of any time period provided for in these General Terms and Conditions falls on a weekend or a federal holiday, the conclusion of such time period shall be deemed to be extended until the next business day. Otherwise, references to time periods measured by days shall mean calendar days unless business days are specifically designated.

3. Equal Employment Opportunity (EEO) Disclosures

Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the state in which Vendor's primary place of business is located. In accordance with such laws, regulations and executive orders, Vendor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status, disability or genetic information, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Vendor under the Contract. Upon request, Vendor will furnish information regarding its nondiscriminatory hiring and promotion policies.

4. Applicable Law, Venue and Dispute Resolution

The Contract is governed by and will be construed according to the laws of the State of Texas. Venue for any litigation arising under the Contract concerning the Benefits Cooperative, First Public, or TASB lies in Austin, Travis County, Texas, and venue for any litigation between a Benefits Cooperative member and Vendor arising under the Contract lies in the home county of the member. No party may bring a lawsuit or other formal legal proceedings for any dispute arising under the Contract, without first having made a good faith effort to resolve the dispute by participating in at least eight consecutive hours of mediation before a mutually selected, third-party neutral trained or certified as a mediator. Each party's representative in such mediation proceedings will have full authority to compromise and settle any dispute that is the cause of the proceeding. The mediation will be held in Austin, Travis County, Texas; provided, however, that if a Benefits Cooperative member is a party to the mediation, the mediation will be held in the home county of the member. Each party will bear its own expenses for participation in the mediation, including equal shares of the mediator's fees. The mediator will, at the conclusion of the mediation, issue a written statement that either memorializes the agreement of the parties to resolve the dispute, or declares the dispute unresolved, in whole or in part. If both parties, with the consent of the mediator, agree that resolution is not possible through mediation, the mediator will make the determination to end the mediation.

5. Waiver

No claim or right arising out of a breach of the Contract can be discharged in whole or part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. A party's failure to require strict performance of any provision of the Contract does not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision.

6. Interpretation – Parol Evidence

This writing is intended by the parties as a final expression of their agreement and a complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties and no usage of the trade is relevant to supplement or explain any terms used in the Contract. Acceptance or acquiescence in a course of performance rendered under the Contract is not relevant to and does not determine the meaning of the Contract even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.

7. Right to Assurance

Whenever the Benefits Cooperative or First Public in good faith has reason to question Vendor's intent to perform, the Benefits Cooperative, through First Public may demand that Vendor give written assurance of its intent to perform. In the event that a demand is made, and no assurance is given within five (5) days, the Benefits Cooperative may treat the failure as an anticipatory repudiation of the Contract.

8. Non-Appropriations Clause

Texas law prohibits the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Vendor agrees that a Benefits Cooperative member that is a governmental entity (a) may rescind a multi-year agreement to purchase products or services under the Contract at the end of the member's fiscal year if it is determined that funding is not available to extend the agreement and (b) will use its best efforts to attempt to obtain and appropriate funds for payment.

9. Invalid Term or Condition

If any term or condition of the Contract is held invalid or unenforceable, the remainder of the Contract will not be affected and will be valid and enforceable.

10. Remedies Cumulative

The remedies available to the Benefits Cooperative, First Public, a Benefits Cooperative member, or Vendor under this Contract are in addition to any other remedies that may be available under law or in equity.

11. Signatures

Except as required pursuant to section B.7 (Proposal Signatures) of these Terms and Conditions with respect to Proposals and related documentation or as otherwise specifically required in these Terms and Conditions, all notices, requests, amendments and other written documentation required or authorized under the Contract may be provided by facsimile or as an imaged document, and an electronic, facsimile or imaged signature shall be deemed an original.

12. Right of Setoff

Any indebtedness or obligation owed by Vendor or Vendor's affiliates to the Benefits Cooperative may be appropriated and applied by the Benefits Cooperative at any time, and from time to time, on any indebtedness or other obligation owed by the Benefits Cooperative to Vendor or Vendor's affiliates,

whether such indebtedness or other obligations are now existing or hereafter arise, and whether under the Contract or otherwise. It is further understood and agreed that this right of setoff is in addition to, and not in lieu of, any other right, remedy or recourse which is available to the Benefits Cooperative either at law or equity, and that failure to exercise such right of setoff in any instance shall not constitute a waiver of such right.