

**HEALTH AND HUMAN SERVICES COMMISSION
CONTRACT NO. HHS000803400001
AMENDMENT NO. 1**

The **HEALTH AND HUMAN SERVICES COMMISSION (“HHSC” or “System Agency”)** and **CITY OF EL PASO (“Grantee”)**, who are collectively referred to as the “Parties” to that certain Women, Infants and Children’s (WIC) Nutrition Program Contract, effective October 1, 2020, and denominated HHSC Contract No. HHS000803400001 (“**Contract**”), want to amend the Contract.

WHEREAS, the Parties want to amend the Signature Document and replace the Statement of Work, Contract Affirmations, and Supplemental/Special Conditions attachments.

NOW, THEREFORE, the Parties amend and modify the Contract as follows:


1. **SECTION VIII(A)** of the **Signature Document** is amended to change the DUNS Number from: 80-678-1373 to 05-887-3019.
2. **SECTION VIII(B)** of the Signature Document is amended and restated as the following:
 - B. Assistance Listing Program Name and Number:
 - Name - Number: 10-557 Special Supplemental Nutrition Program for Women, Infants & Children (FOOD, ADMIN and PEER)
 - Name - Number: 10-561 Supplemental Nutrition Assistance Program
3. **ATTACHMENT A – STATEMENT OF WORK** is amended and restated with **ATTACHMENT A, REVISED STATEMENT OF WORK (JUNE 2021)**.
4. **ATTACHMENT D - SUPPLEMENTAL/SPECIAL CONDITIONS 1.1** is amended and restated with **ATTACHMENT D – SUPPLEMENTAL/SPECIAL CONDITIONS 1.2-CITY OF EL PASO**.
5. This Amendment shall be effective as of the date last signed below.
6. Except as amended and modified by this Amendment No. 1, all terms and conditions of the Contract shall remain in full force and effect.
7. Any further revisions to the Contract shall be by written agreement of the Parties.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 1
SYSTEM AGENCY CONTRACT NO. HHS000803400001**


**HEALTH AND HUMAN SERVICES
COMMISSION**

CITY OF EL PASO

DocuSigned by:

4520DCFEA122497...

Molly Lester

Policy Director, CPSO

DocuSigned by:

17720603D20945B...

By:

Name: Elda Rodriguez-Hefner

Title: Grants Administrator

Date of Signature: September 27, 2021

Date of Signature: September 27, 2021

**THE FOLLOWING ATTACHMENTS ARE ATTACHED AND INCORPORATED AS PART OF THE
CONTRACT:**

ATTACHMENT A - REVISED STATEMENT OF WORK (JUNE 2021)

ATTACHMENT D - SUPPLEMENTAL/SPECIAL CONDITIONS 1.2- CITY OF EL PASO

ATTACHMENT A

REVISED STATEMENT OF WORK (JUNE 2021)

I. GRANTEE RESPONSIBILITIES

Grantee will:

- 1.1 Perform professional, administrative and clerical services necessary to determine eligibility, provide food benefits, and provide appropriate nutrition education and counseling to qualified women, infants and children in a specified geographic area. Grantee shall ensure adequate staff coverage and uninterrupted delivery of services. Services shall be performed according to the statutes, rules, policies, and directives of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and/or as directed by the United States Department of Agriculture (USDA) as referenced in this Contract. During the term of this Contract, the USDA may issue regulations, instructions, policies and/or directives, which may be incorporated into the current System Agency WIC Program Policy and Procedures Manual and program rules.
- 1.2 Determine eligibility of applicants through assessment of their categorical criteria, income, residence and nutritional status, and provide nutrition education and counseling to eligible participants.
- 1.3 Review the immunization records of WIC Program applicants/participants to ensure that immunizations are current. Make appropriate referrals to health care providers for necessary immunizations according to WIC Program policy.
- 1.4 Determine participants' access to health care, medical care and other human services, and make appropriate referrals. Grantee shall have a system in place to provide participants with appropriate health services or make appropriate referrals to health care providers under written agreements that ensure confidentiality of participants' personal information.
- 1.5 Issue pre-numbered WIC Electronic Benefit Transfer (EBT) cards furnished by System Agency to qualified participants who shall use such EBT cards to obtain specified food items from participating vendors; maintain complete accountability and security of all WIC EBT cards received from System Agency. Grantee shall be held financially responsible for all unaccounted WIC EBT cards and/or for the redeemed value of those issued to ineligible participants. In addition, Grantee shall be held financially liable for issuance of infant formula instruments that are not authorized or prescribed according to the System Agency WIC Policy and Procedures Manual.
- 1.6 Provide services within the state boundaries of Texas and in the approved clinic locations described in Grantee's approved application which is incorporated herein by reference and made a part of this Contract.
- 1.7 Appoint a Grantee WIC Director/Supervisor.

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REVISED STATEMENT OF WORK (JUNE 2021)

- 1.8 Offer services during extended hours of operation outside the traditional times of 8:00 a.m. to 5:00p.m., Monday through Friday, according to the Grantee's System Agency-approved Annual Plan of Operations, which incorporated by reference and made a part of this Contract.
- 1.9 Assist System Agency or USDA in the collection of data that will identify benefits of this nutrition intervention program and furnish financial, health, nutrition education and any other special reports in a timely manner as required by System Agency's WIC Program policies and procedures for the compilation of such data.
- 1.10 Become and maintain designation as a Mother-Friendly Worksite in accordance with 25 Tex. Admin. Code§ 31.1.
- 1.11 Implement or expand Grantee Breastfeeding Peer Counseling program to provide training and salary of peer counselors who assist pregnant and breastfeeding WIC program participants in normal breastfeeding situations. Provide clients with after-hours peer counseling services. Funding for this activity will be contingent on availability and written approval by System Agency.
- 1.12 Stock System Agency provided manual pumps, single-user electric breast pumps and multi-user electric breast pumps, collection kits, and purchase additional sized flanges. Distribute the appropriate pumps, kits, and/or additional sized flanges to eligible WIC participants. System Agency reserves the right to withhold payment if Grantee fails to accurately complete and submit online breast pump receiving reports within three (3) business days of receiving a System Agency breast pump delivery as documented in the current WIC Local Agency policy and procedure manual.
- 1.13 Implement or expand Grantee's use of a Registered Dietitian (RD) who is registered with the Commission on Dietetic Registration to provide for Grantee that includes, but not limited to: high-risk individual counseling, developing and conducting facilitated discussion nutrition education classes, consultation regarding the appropriate issuance of special formulas, nutrition publications and visual aids for on the job use, implementing staff training, assisting with the Annual Nutrition Education and Breastfeeding plan, and plan and assist with special projects.
- 1.14 Train Local Agency staff. The term "Local Agency" is defined at 7 CFR § 246.2.
- 1.15 Develop an Outreach and Retention Plan and submit to the System Agency as part of the annual Nutrition and Breastfeeding Plan as required by WIC Local Agency Policy. Conduct outreach to potential participants and community partners and implement strategies to retain existing participants in accordance with Grantee outreach plan.
- 1.16 Complete surveys as requested.

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- 1.17 Provide all WIC local agency employees providing services to WIC clients, a computer that has access to the WIC Management Information System (MIS) system and meets requirements set by the Texas WIC program.
- 1.18 Coordinate with System Agency to visit the physical address of a proposed grocery store outlet and determine if a store exists at the specified location and confirm the signage closely matches the indicated store name, if signage is present. Grantee shall send System Agency an email correspondence indicating findings on a form provided by System Agency, within five (5) business days of receipt of the form.
- 1.19 Resolve all possible dual participation records anytime the “duplicate detection” grid appears in the MIS. System Agency reserves the right to withhold payment if Grantee fails to accurately resolve all possible dual participation at the time of certification.
- 1.20 Implement special projects according to System Agency-approved plan related to nutrition education, outreach or breastfeeding if project is requested by Grantee and approved by System Agency. Funding for special projects is contingent upon availability and approval in writing by System Agency of the Grantee’s plan for the special project.
- 1.21 If selected by System Agency, provide meals to WIC participants as part of the WIC Summer Food Service Pilot Program in collaboration with the Texas Department of Agriculture (TDA) as follows:
 - A. Implement WIC Summer Food Service Pilot Program according to System Agency-approved plan.
 - B. Submit meals served data to Contracting Entity (CE), a designated TDA contractor, in a frequency and format designated by the CE.
 - C. Submit requested updates and/or reports to System Agency in a frequency and format designated by System Agency.
- 1.22 Implement lactation services for WIC program participants who have breastfeeding problems that are beyond the scope of practice of Grantee’s WIC staff and/or peer counselors using International Board-Certified Lactation Consultants (IBCLC) or the most qualified equivalent. Lactation services may also include Local Agency staff training and the provision of lactation equipment. System Agency will provide written approval of Grantee’s plan to use lactation funding.
- 1.23 If selected by System Agency, serve as:
 - A. A lactation center for WIC program mothers with breastfeeding problems as outlined by System Agency;
 - B. A training center for WIC local agency staff and other health providers to receive clinical experience working with breastfeeding mothers; and

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REVISED STATEMENT OF WORK (JUNE 2021)

- C. A statewide Lactation Resource Center for health providers to utilize for information and assistance when working with pregnant and breastfeeding women. To serve as the Lactation Resource Center Grantee must:
1. Provide counseling services (to include in-person, phone, web-cam, and email consults) to at least 1000 breastfeeding mothers at Grantee's location every fiscal year.
 2. Ensure at least 40 students (i.e. WIC staff, dietetic interns, residents, nurses) complete the Clinical Lactation Practicum or other breastfeeding training at Grantee's location.
 3. Provide community education and track outreach activities to promote and support breastfeeding and the use of the lactation center in the community.
 4. Submit quarterly activity reports within thirty (30) calendar days after the end of each quarter of this Contract, in a format designated by System Agency. Activity reports will include Grantee's activities to meet requirements stated within this section.
- 1.24 Ensure adequate staff coverage and uninterrupted delivery of WIC services if any member of Grantee's staff is approved in writing by System Agency to participate in the System Agency's dietetic Internship program. This internship will consist of no less than 1,200 hours of supervised learning experiences in a variety of nutrition-related facilities. Grantee is responsible for:
- A. Designating a WIC Nutritionist, preferably a registered dietitian, to be the Community Nutrition WIC Preceptor and oversee and evaluate intern's performance for the Community Nutrition (CN)/WIC portion of the System Agency dietetic internship.
 - B. The Community Nutrition Preceptor to ensure that the dietetic interns meet all requirements, standards and required supervised practice hours for the CN Supervised Practice as outlined by the System Agency's WIC Program.
 - C. Ensuring that the intern is not used for regular WIC duties during the internship period.
 - D. Collecting pay-back monies from intern in the event that the intern does not fulfill dietetic internship local agency contract requirements. Monies must be returned to System Agency.
- 1.25 If selected by System Agency, implement or expand SNAP-Education (SNAP-Ed) projects. Snap-Ed projects will focus on obesity prevention, nutrition education or breastfeeding friendly community initiatives, or peer counselor services for Supplemental Nutrition Assistance Program (SNAP) and WIC eligible populations within the community.

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If selected, grantee shall appoint a project coordinator to oversee the implementation and evaluation of each initiative; participate in activities as requested by System Agency, including but not limited to, reports including budget status and evaluation results, collaboration on articles, participation in sharing sessions; follow the Snap-Ed guidance related to allowable costs for approved Snap-Ed projects; collect data and submit all requested reports in a frequency and format designated by Snap-Ed and System Agency for review and approval.

- 1.26 If selected by System Agency, implement or expand the Improving Participant Experience (IPE) initiative and strategies to improve the client experience and alleviate client “pain points,” thus improving the quality of services and client satisfaction. This may include clinic improvements or other improvements.
- A. Grantee shall submit proposed initiatives and required reports in a frequency and format designated by System Agency for review and approval.
 - B. Grantee shall appoint a project coordinator to oversee the implementation and evaluation of each initiative.
 - C. Grantee shall participate in activities as requested by System Agency, including but not limited to, writing news articles, submitting mid-year and end of year reports and participating in sharing sessions.
 - D. Grantee shall spend funds related to clinic improvements on items that meet the Texas WIC Design Guidelines and Catalog or have received approval from the System Agency.
- 1.27 If selected by System Agency, serve as an Innovation Center to implement innovative approaches in nutrition education, with a focus on behavior change and retention projects as proposed to System Agency.

Grantee shall designate an Innovation Lead based on requirements from System Agency who is responsible for overseeing local agency training, support, and evaluation on innovative concepts for clinic staff in addition to the implementation and evaluation of Innovation Center projects.

Grantee shall participate in additional activities as requested by System Agency, including but not limited to, observation and training on innovative techniques to staff from other WIC local agencies, collaboration on articles, reports including budget status and results, evaluation of innovative techniques, workgroup meetings at System Agency, and presentations at the Texas WIC Nutrition and Breastfeeding Conference. Grantee projects will comply with written Innovation Center plan submitted and approved by System Agency which is incorporated by reference. Grantee will submit reports in a frequency and in a format designated by System Agency.

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- 1.28 If selected by System Agency, provide services to assist other WIC local agencies with management of participation growth, including, but not limited to, scheduling participants, clinic flow, and utilization of clinic space. Services are to include the following:
- A. Consultation with local agency staff regarding placement of equipment, clinic scheduling, clinic reconfiguration, changes in patient flow, and revision of staff duties;
 - B. Visits to local agency sites to ensure that changes are successfully implemented and to advise and make recommendations as needed;
 - C. Evaluation and assistance to WIC local agencies with processing applicants within federal timeframes;
 - D. Additional duties not listed but deemed necessary by either the local agency or System Agency;
 - E. Submit reports to System Agency in a format and frequency designated by System Agency documenting services provided to local agencies and local agency clinic efficiency; and
 - F. Consult with System Agency concerning design and implementation of a new computerized system for administering and tracking WIC program activity.
- 1.29 If selected by System Agency, Grantee will provide women's health, infant mortality, and WIC education and outreach in designated regions. These services to include the following:
- A. Schedule WIC training for all Community Health Workers who shall attend at least one (1) training session per fiscal year; and
 - B. Oversee Community Health Workers in conducting education and outreach at, but not limited to, libraries, parent groups, schools, churches, businesses, health fairs, WIC clinics, etc., to educate potentially eligible persons about the benefits of the WIC Program including nutrition education, breastfeeding support, and supplemental foods, and the location of WIC clinics.
 - C. Submit requested updates and/or reports to System Agency in a frequency and format designated by System Agency for review and approval.
- 1.30 If selected by System Agency, provide WIC outreach utilizing a subcontracted entity for a designated area of the state.
- Subcontracted WIC program outreach services to include:
- A. Educate potentially eligible persons about the benefits of the WIC Program, including nutrition education, breastfeeding support and supplemental foods;
 - B. Provide WIC application and appointment assistance;
 - C. Promote WIC services at community events and through local media;

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- D. Provide Medicaid, Food Stamps and Texas Temporary Assistance for Needy Families (TANF) application assistance to WIC participants;
 - E. Track and reporting case outcome determination; including persons referred to WIC who subsequently participate in the WIC program; and
 - F. Provide WIC clients and applicants with appointment reminders.
 - G. Require at a minimum, one (1) in-person training per federal fiscal year (FFY) for all subrecipient subcontractor staff providing WIC program services outreach. Grantee will submit to System Agency training content for review and approval upon request.
 - H. Provide System Agency with Grantee and Grantee subcontractor activity reports in the frequency and format designated by System Agency.
 - I. Grantee shall maintain and provide to System Agency upon request, written policies and procedures for monitoring subrecipient subcontractors for both financial and programmatic performance.
 - J. Grantee shall submit to System Agency upon request, results of ongoing monitoring and corrective actions in a format and frequency designated by System Agency.
 - K. Grantee shall ensure a signed Data Use form is signed for every contract term and that all client and potential client identifying information forwarded to the subrecipient subcontractor is used only for the purposes stated in this section.
- 1.31 If selected by System Agency, serve as a Regional Training and Conference center for the Texas WIC program and the United States Department of Agriculture (USDA) staff.
- A. In addition to training implemented by Grantee, the Regional Training and Conference Center shall be used as a central site for conducting routine System Agency.
 - B. Training center staff may be requested to develop specific courses as designated by the System Agency.
 - C. Training center staff may be required to travel to other agencies/sites to conduct trainings at the System Agency's request.
 - D. Grantee shall submit proposed courses, initiatives and required reports in a frequency and format designated by System Agency for review and approval.
 - E. The Regional Training and Conference Center will also be available for satellite video conferencing as needed by System Agency, USDA, and WIC local agencies.

II. PERFORMANCE MEASURES

ATTACHMENT A

REVISED STATEMENT OF WORK (JUNE 2021)

The System Agency will monitor the Grantee's performance of the requirements in this Attachment A and compliance with the Contract's terms and conditions.

The following performance measures will be used to assess, in part, Grantee's effectiveness in providing the services described in the Contract, without waiving the enforceability of any of the other terms of the contract.

2.1 Grantee shall ensure:

- A. Each quarter, an average of less than 5% of families who participate in the WIC Program by receiving food benefits will refuse nutrition education classes at the time of food instrument issuance.
- B. An average of 20% of all pregnant women who enter the WIC Program each quarter shall be certified as eligible during the period of the first trimester of their pregnancy;
- C. An average of 80% of clients a quarter who are enrolled in the WIC Program, excluding dual participants, transfer locked and/or migrant clients, shall participate as food benefit recipients each month (breast-feeding infants are also included in the client count); and
- D. 100% of participants who indicate during the enrollment process for the WIC Program that they have no source of health care shall be referred to an appropriate service.
- E. An average customer satisfaction percentage of no more than 10% below the statewide average.

III. INVOICE AND PAYMENT

- 3.1 System Agency will send Grantee an annual funding letter ("Notice of Award") setting the award amount for the corresponding fiscal year. Annual and funding adjustment Notices of Award will be incorporated into this Contract by reference.
- 3.2 Grantee will request monthly payments using the System Agency-designated invoice and submit with any supporting documentation by e-mail to HHSC WIC Program Services Branch at WicVouchers@hhs.texas.gov.
 - A. Grantee shall indicate separately on the face of the invoice, the costs associated with nutrition education, breast-feeding, and other administrative costs.
- 3.3 Grantee shall submit a separate invoice for reimbursement of actual allowable costs associated with each special project.
- 3.4 Grantee will submit Financial Status Reports (FSR) by e-mail to HHSC WIC Program Services Branch at WicVouchers@hhs.texas.gov by the last business day of the month following the end of each quarter of the Contract term for review and financial assessment.

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REVISED STATEMENT OF WORK (JUNE 2021)

- 3.5. Grantee will be paid on a cost categorical basis and in accordance with the terms of this Contract.
- 3.6 In order to claim indirect costs, Grantee must have an approved indirect cost rate or elect to use the de Minimis rate by December 31, 2020. The options for indirect cost recovery are as follows:
- A. Elect to use the de minimis;
 - B. Grantee provides System Agency with an approved negotiated indirect cost rate agreement from a federal or state agency;
 - C. Grantee requests a negotiated rate from a cognizant agency;
 - D. Grantee requests a negotiated rate from System Agency directly; or
 - E. Grantee waives indirect cost recovery.

Indirect costs may be restricted or prohibited by legal statute or the grant terms and conditions. Any restrictions that are identified by legal, statute, or grant terms will limit the maximum amount of grant dollars available to recover indirect costs.

- 3.7 All payments made by System Agency to Grantee under this Contract will be reimbursements subject to the following requirements, conditions and stipulations:
- A. All categories of costs billed to System Agency and allocation of such costs, shall be in accordance with the Plan to Allocate Direct Costs (PADC) submitted by Grantee and accepted by the System Agency. This document is incorporated in the Contract by reference.
 - B. System Agency will reimburse Grantee for administrative costs incurred when determining eligibility, providing appropriate nutrition education and counseling, issuing WIC Electronic Benefit Transfer (EBT) cards, making participant referrals, vendor evaluation, outreach, start-up costs and general administrative support.
 - C. Administrative funding is based on the Grantee's participant rate and/or a base rate as established by System Agency.
 - D. Grantee will be allowed the option of receiving a two (2) month cash advance in accordance with current System Agency's WIC program policy and procedures.
 - E. Grantee surplus encumbered by September 30 shall be billed and vouchers received by System Agency no later than sixty (90) calendar days following the fiscal year.
 - F. Grantee shall identify and document separately not less than 19% of total administrative costs as expenditures directly related to nutrition education and

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REVISED STATEMENT OF WORK (JUNE 2021)

counseling. Nutrition education and counseling expenditures shall be supported by documentation of participant attendance or non-attendance within the WIC Program.

- G. System Agency will identify annually to Grantee an amount of funds that shall be spent for breastfeeding promotion. The allocation of breast feeding funds to Grantee will be based on Grantee's proportional share of the statewide combined total of pregnant and breastfeeding participants as reported to System Agency.
- H. System Agency reserves the right to withhold payment when evidence exists that nutrition education and/or breastfeeding promotion is not being provided by Grantee, or Grantee is not complying with the provisions of USDA and/or System Agency directives.
- I. System Agency may provide extended hours funding to Grantee for participants who are provided WIC services outside the normal traditional hours to the extent that federal funding is available.



TEXAS

Health and Human Services

**Health and Human Services Commission
WIC Local Agency Special Conditions
Version 1.2 – City of El Paso**

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HHSC SUPPLEMENTAL CONDITIONS

THE FOLLOWING SUPPLEMENTAL CONDITIONS APPLY TO THIS CONTRACT AND MODIFY THE HHS UNIFORM TERMS AND CONDITIONS

All references to the Uniform Grant Management Standards (UGMS) in this Contract are hereby changed to the Texas Grant Management Standards (TxGMS) found at: <https://comptroller.texas.gov/purchasing/grant-management>.

Section 2.2 Final Billing Submission, of the Health and Human Services Commission Uniform Terms and Conditions – Grant, Version 2.16.1, is revised to read as follows:

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than ninety (90) calendar days following the end of the term of the Contract. Reimbursement or payment requests received after the deadline may not be paid.

Section 2.3 Financial Status Reports (FSRs), of the Health and Human Services Commission Uniform Terms and Conditions – Grant, Version 2.16.1, is revised to read as follows:

Except as otherwise provided, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to System Agency by the last business day of the month following the end of each quarter for System Agency review and financial assessment. Grantee shall submit the final FSR no later than ninety (90) calendar days following the end of the applicable term.

Section 9.2 Insurance, of the Health and Human Services Commission Uniform Terms and Conditions - Grant, Version 2.16.1, is revised to add the following passage:

C. Pursuant to Chapter 2259 of the Texas Government Code entitled, “Self-Insurance by Governmental Units,” Grantee is not required to purchase insurance if self-insured.

Section 9.22 Civil Rights, of the Health and Human Services Commission Uniform Terms and Conditions – Grant, Version 2.16.1, is modified to add the following:

Grantee shall comply with all provisions required by implementing the regulations of the Department of Agriculture, 7 CFR Part 246, 248; Department of Justice Guidelines for Enforcement of Title VI; 28 CFR § 50.3 and 28 CFR Part 42; and Food & Nutrition Service (FNS) directives and guidelines, to the effect that no person will, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation under any program or activity for which Grantee receives federal financial assistance from FNS; and hereby gives assurance that it shall immediately take measures necessary to implement this Contract.

Grantee shall compile data, maintain records and submit reports, as required, to permit effective enforcement of the nondiscrimination laws and permit authorized USDA and System Agency personnel, during normal working hours, to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. The Department of Agriculture, Food and Nutrition Service (USDA), has the right to seek judicial enforcement if Grantee violates any nondiscrimination laws. This Assurance is binding on Grantee, its

successors, transferees, and assignees, as long as they receive assistance or retain possession of any assistance from the Department of Agriculture. The person or persons whose signatures appear on the Contract are authorized to sign this Assurance on behalf of Grantee.

Article VIII Contract Management and Early Termination Provision of the Health and Human Services Commission Uniform Terms and Conditions – Grant, Version 2.16.1, is modified by adding the following:

8.05 Termination by Grantee

If Grantee seeks to terminate this Contract, Grantee shall give System Agency no less than sixty (60) calendar days prior written notice and shall submit a transition plan to ensure client services are not disrupted.

Article IX, Miscellaneous Provisions, of the HHSC Uniform Terms and Conditions – Grant Version 2.16.1, is amended to add a new Subsection 9.24 as follows:

9.24 Identity

The Grantee must notify System Agency in writing at least sixty (60) calendar days before the intended effective date of any change in legal entity status, such as ownership or control, name change, legal status with the Texas Secretary of State, or State Comptroller's Texas Identification Number.

Grantee will notify System Agency in writing within ten (10) calendar days any change in administrator or director; and within seven (7) working days of any change in the contact telephone number designated in the contract.

HHSC SPECIAL CONDITIONS

The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in HHSC Grantee Uniform Terms and Conditions – Version. 2.16.1.

ARTICLE I. SPECIAL DEFINITIONS

“Conflict of Interest” means a set of facts or circumstances, a relationship, or other situation under which Grantee, a Subcontractor, or individual has past, present, or currently planned personal or financial activities or interests that either directly or indirectly: (1) impairs or diminishes the Grantee's, or Subcontractor's ability to render impartial or objective assistance or advice to the HHSC; or (2) provides the Grantee or Subcontractor an unfair competitive advantage in future HHSC procurements.

“Grantee Agents” means Grantee's representatives, employees, officers, as well as any contractor or subgrantee's employees, contractors, officers, principals and agents.

“Data Use Agreement” means the agreement incorporated into the Contract to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information.

“Item of Noncompliance” means Grantee’s acts or omissions that: (1) violate a provision of the Contract; (2) fail to ensure adequate performance of the Project; (3) represent a failure of Grantee to be responsive to a request of HHSC relating to the Project under the Contract.

“Minor Administrative Change” refers to a change to the Contract that does not increase the fees or term and done in accordance with Section 4.01 of these Special Conditions.

“Confidential System Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Grantee; or that Grantee may create, receive, maintain, use, disclose or have access to on behalf of HHSC or through performance of the Project, which is not designated as Confidential Information in a Data Use Agreement.

“State” means the State of Texas and, unless otherwise indicated or appropriate, will be interpreted to mean HHSC and other agencies of the State of Texas that may participate in the administration of HHSC Programs; provided, however, that no provision will be interpreted to include any entity other than HHSC as the contracting agency.

“Software” means all operating system and applications software used or created by Grantee to perform the work under the Contract.

“UTC” means HHSC’s Uniform Terms and Conditions –Grantee- Version 2.16.1.

ARTICLE II. GRANTEE PERSONNEL

Section 2.01 Qualifications

Grantee agrees to maintain the organizational and administrative capacity and capabilities proposed in its response to the Solicitation, as modified, to carry out all duties and responsibilities under the Contract. Grantee Agents assigned to perform the duties and responsibilities under the Contract must be and remain properly trained and qualified for the functions they are to perform. Notwithstanding the transfer or turnover of personnel, Grantee remains obligated to perform all duties and responsibilities under the Contract without degradation and in strict accordance with the terms of the Contract.

Section 2.02 Conduct and Removal

While performing the Project, Grantee Agents must comply with applicable Contract terms, State and federal rules, regulations, HHSC’s policies, and HHSC’s requests regarding personal and professional conduct; and otherwise conduct themselves in a businesslike and professional manner.

If HHSC determines in good faith that a particular Grantee Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may provide Grantee with notice and documentation regarding its concerns. Upon receipt of such notice, Grantee must promptly investigate the matter and, at HHSC’s election, take appropriate action that may include removing the Grantee Agent from performing the Project.

ARTICLE III. CONFIDENTIALITY

Section 3.01 Confidential System Information

Subject to Grantee's obligations under the Texas Public Information Act, Texas Government Code Chapter 552, HHSC prohibits the unauthorized disclosure of Other Confidential Information. Subject to Grantee's obligations under the Texas Public Information Act, Texas Government Code Chapter 552, Grantee and all Grantee Agents will not disclose or use any Other Confidential Information in any manner except as is necessary for the Project or the proper discharge of obligations and securing of rights under the Contract. Grantee will have a system in effect to protect Other Confidential Information. Any disclosure or transfer of Other Confidential Information by Grantee, including information requested to do so by HHSC, will be in accordance with the Contract. If Grantee receives a request for Other Confidential Information, Grantee will immediately notify HHSC of the request, and will make reasonable efforts to protect the Other Confidential Information from disclosure until further instructed by the HHSC.

Grantee will notify HHSC promptly of any unauthorized possession, use, knowledge, or attempt thereof, of any Other Confidential Information by any person or entity that may become known to Grantee. Grantee will furnish to HHSC all known details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist HHSC in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Other Confidential Information.

HHSC will have the right to recover from Grantee all damages and liabilities caused by or arising from Grantee or Grantee Agents' failure to protect HHSC's Confidential Information as required by this section.

TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, Grantee WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM ALL DAMAGES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COSTS) CAUSED BY OR ARISING FROM Grantee OR Grantee AGENTS FAILURE TO PROTECT OTHER CONFIDENTIAL INFORMATION. Grantee WILL FULFILL THIS PROVISION WITH COUNSEL APPROVED BY HHSC.

ARTICLE IV. MISCELLANEOUS PROVISIONS

Section 4.01 Minor Administrative Changes

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Project or the Contract that do not increase the fees or term. Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in the UTC. Upon approval of a Minor Administrative Change, HHSC and Grantee will maintain written notice that the change has been accepted in their Contract files.

Section 4.02 Conflicts of Interest

Grantee warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and further that Grantee or Grantee Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Grantee will, and require Grantee Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal gain. Grantee and Grantee Agents will operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract.

Grantee agrees that, if after Grantee's execution of the Contract, Grantee discovers or is made aware of a Conflict of Interest, Grantee will immediately and fully disclose such interest in writing to HHSC. In addition, Grantee will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Grantee or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Grantee agrees to abide by HHSC's decision.

If HHSC determines that Grantee was aware of a Conflict of Interest and did not disclose the conflict to HHSC, such nondisclosure will be considered a material breach of the Contract. Furthermore, such breach may be submitted to the Office of the Attorney General, Texas Ethics Commission, or appropriate State or federal law enforcement officials for further action.

Section 4.03 Flow Down Provisions

Grantee must include any applicable provisions of the Contract in all subcontracts based on the scope and magnitude of work to be performed by such Subcontractor. Any necessary terms will be modified appropriately to preserve the State's rights under the Contract.

Section 4.04 Contracts with Subcontractors.

- a. Grantee may enter into contracts with subcontractors unless restricted or otherwise prohibited in the Contract.
- b. Grantee must obtain prior written approval from System Agency before entering into an agreement which subcontracts any portion of Grantee's Scope of Work.
- c. Grantees are prohibited from subcontracting with for-profit organizations under this Contract.
- d. Subcontracting shall be conducted solely at the Grantee's expense;
- e. Prior to entering into a subcontract agreement equaling or exceeding \$100,000, Grantee will obtain written approval from the System Agency.
- f. Obtain written approval before modifying any subcontract agreement to cause the agreement to exceed \$100,000.
- g. Establish written policies and procedures for competitive procurement and monitoring of subcontracts and will produce a subcontracting monitoring plan.

- h. Monitor subcontractors for both financial and programmatic performance and will maintain pertinent records.
- i. Submit quarterly monitoring reports to the System Agency in a format determined by the System Agency.
- j. ensure that subcontracts are fully aware of the requirements placed upon them by state/federal statutes, rules, and regulations and by the provisions of this Contract.
- k. Ensure all subcontracts, must be in writing and include the following:
 - 1. Name and address of all parties and the subcontractor's Vendor Identification Number (VIN) or Employee Identification Number (EIN);
 - 2. Detailed description of the services to be provided;
 - 3. Measurable method and rate of payment and total not-to-exceed amount of the contract;
 - 4. Clearly defined and executable termination clause; and
 - 5. Beginning and ending dates that coincide with the dates of the Contract.
- l. Ensure and be responsible for the performance of the subcontractor(s).
- m. Not contract with a subcontractor, at any tier, that is debarred, suspended, or excluded from or ineligible for participation in federal assistance programs or if the subcontractor would be otherwise ineligible to abide by the terms of this Contract.

Section 4.05 Status of Subcontractors.

Grantees will require that all subcontractors certify that they are/have:

- a. In good standing with all state and federal funding and regulatory agencies;
- b. Not currently debarred, suspended or otherwise excluded from participation in federal grant programs;
- c. Not delinquent on any repayment agreements;
- d. Not had a required license or certification revoked;
- e. Not ineligible under the terms of the Contract; and
- f. Not had a contract terminated by the System Agency.
- g. Not voluntarily surrendered within the past three years any license issued by System Agency.

Section 4.06 Incorporation of Terms in Subcontracts.

- a. Grantee will include in all its contracts with subrecipient subcontractors and solicitations for subrecipient subcontracts, without modification (except as required to make applicable to the subcontract):
 - 1. Statement of Work

2. Uniform Terms and Conditions
 3. Supplemental and Special Conditions
 4. Federal Assurances and Certifications
 5. Non-Exclusive List of Applicable Laws
 6. A provision granting to the System Agency, State Auditor's Office (SAO), Office of Inspector General (OIG), and the Comptroller General of the United States, and any of their representatives, the right of access to inspect the work and the premises on which any work is performed, and the right to audit the subcontractor.
- b. Grantee will ensure that all written agreements with subcontractors incorporate the terms of this Contract so that all terms, conditions, provisions, requirements, duties and liabilities under this Contract applicable to the services provided or activities conducted by a subcontractor are passed down to that subcontractor.
 - c. No provision of this Contract creates privity of contract between the System Agency and any subcontractor of Grantee.

Section 4.07 Notice of Legal Matter or Litigation.

Grantee will notify the contract manager assigned to this Contract of any litigation or legal matter related to or affecting this Contract within seven (7) calendar days of becoming aware of the litigation or legal matter.

Section 4.08 Grantee's Notification of Change of Contact Person or Key Personnel.

Within ten (10) business days, Grantee shall notify the assigned contract manager to this Contract in writing of any change in the Grantee's Contact Persons or Key Personnel.

Section 4.09 Notice of Organizational change.

Within ten (10) business days, Grantee shall notify the assigned contract manager to this Contract in writing of any change to Grantee's name, contact information, organizational structure, such as merger, acquisition, or change in form of business, legal standing, or authority to do business in Texas.

Section 4.10 Significant Incidents.

In addition to notifying the appropriate authorities, Grantee will notify the assigned contract manager to this Contract in writing any significant incidents involving substantial disruption of Grantee's program operation or affecting or potentially affecting the health, safety or welfare of the System Agency funded clients or participants within three (3) calendar days of discovery.

Section 4.11 Equipment, Supplies and Property.

Grantee shall comply with System Agency WIC Program's equipment, supplies, and property policies.

- a. Bankruptcy.
 1. In the event of bankruptcy, Grantee will;

- i. sever the System Agency property, equipment, and supplies in possession of Grantee from the bankruptcy, and title must revert to the System Agency.
 - ii. when directed by the System Agency, return all such property, equipment and supplies to the System Agency.
 - iii. ensure that its subcontracts, if any, contain a specific provision requiring that in the event of the subcontractor's bankruptcy, the subcontractor must sever the System Agency property, equipment, and supplies in possession of the subcontractor from the bankruptcy, and title must revert to the System Agency, who may require that the property, equipment and supplies be returned to the System Agency.
- b. Closeout of Equipment
 - 1. Provided a new Contract is not entered into immediately following the end of the term of a Contract that has no additional renewals, or that will not be renewed (Closeout), or when a Contract is otherwise terminated, Grantee will submit System Agency an inventory of equipment purchased with System Agency funds and request disposition instructions for such equipment.
 - i. The title of equipment, capital assets, designated reportable assets equipment, and supplies in possession of Grantee from the bankruptcy, will revert to the System Agency.
 - 2. All equipment purchased with System Agency funds must be secured by Grantee at the time of Closeout, or termination of this Contract, and must be disposed of according to the System Agency's disposition instructions, which may include return of the equipment to System Agency or transfer of possession to another System Agency Grantee, at Grantee's expense.
 - 3. Grantee to ensure that its subcontracts, if any, must sever the System Agency property, equipment, and supplies in possession of the subcontractor and title must revert to the System Agency, who may require that the property, equipment and supplies be returned to the System Agency.

Section 4.12 Unilateral Amendment.

The System Agency reserves the right to amend this Contract through execution of a unilateral amendment signed by the contract manager for this Contract and provided to the Contractor with ten (10) days' notice prior to execution of the amendment under the following circumstances to:

- a. To comply with a court order or judgment
- b. Incorporate new or revised federal or state laws, regulations, rules or policies
- c. Correct an obvious clerical error in this Contract;
- d. Modify a Contract Number or Agency ID Number;
- e. Change the name of the Contractor in order to reflect the Contractor's name as recorded by the Texas Secretary of State.

- f. To correct the name, mailing address, or contact information for persons named in the Contract;
- g. To update service descriptions or rates (if applicable);
- h. To revise budget category or service type funding amounts without increasing or decreasing the contract funding amount or
- i. To change the state fiscal year funding amount, based on utilization of funds or availability of funds.

Section 4.13 Bilateral Amendment.

Except as provided for the Unilateral Amendment in section 2.07, this Contract can only be changed by a Bilateral Amendment executed by both Parties.

ARTICLE V. DSHS LEGACY PROVISIONS

Section 5.01 Notice of Criminal Activity and Disciplinary Actions

- a. Grantee shall immediately report in writing to their contract manager when Grantee has knowledge or any reason to believe that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, subcontractor or volunteer that is providing services under this Contract has:
 - 1. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
 - 2. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- b. Grantee shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

Section 5.02 Notice of IRS or TWC Insolvency

Grantee shall notify in writing their assigned contract manager their insolvency, incapacity or outstanding unpaid obligations to the Internal Revenue Service (IRS) or Texas Workforce Commission within five days of the date of becoming aware of such.

Section 5.03 Disaster Services

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

- a. Community evacuation;

- b. Health and medical assistance;
- c. Assessment of health and medical needs;
- d. Health surveillance;
- e. Medical care personnel;
- f. Health and medical equipment and supplies;
- g. Patient evacuation;
- h. In-hospital care and hospital facility status;
- i. Food, drug and medical device safety;
- j. worker health and safety;
- k. Mental health and substance abuse;
- l. Public health information;
- m. Vector control and veterinary services; and
- n. Victim identification and mortuary services.

Section 5.04 Consent by Non-Parent or Other State Law to Medical Care of a Minor

Unless a federal law applies, before a Grantee or its subcontractor can provide medical, dental, psychological or surgical treatment to a minor without parental consent, informed consent must be obtained as required by Texas Family Code Chapter 32.

Section 5.05 Telemedicine /Telepsychiatry Medical Services

If Grantee or its subcontractor uses telemedicine/telepsychiatry, these services shall be in accordance with the Grantee's written procedures. Grantee must use a protocol approved by Grantee's medical director and equipment that complies with the System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine service must include the following requirements:

- a. Clinical oversight by Grantee's medical director or designated physician responsible for medical leadership;
- b. Contraindication considerations for telemedicine use;
- c. Qualified staff members to ensure the safety of the individual being served by telemedicine at the remote site;
- d. Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
- e. Use by credentialed licensed providers providing clinical care within the scope of their licenses;
- f. Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- g. Priority in scheduling the system for clinical care of individuals;
- h. Quality oversight and monitoring of satisfaction of the individuals served; and

- i. Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

Section 5.06 Services and Information for Persons with Limited English Proficiency

- a. Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities.
- b. Grantee shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- c. Grantee shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

Section 5.07 HIV/AIDS Model Workplace Guidelines

Grantee shall implement System Agency's policies based on the Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), AIDS Model Workplace Guidelines for Businesses at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>, State Agencies and State Grantees Policy No. 090.021.

Grantee shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas. Health & Safety Code §§ 85.112-114.

Section 5.08 Medical Records Retention

- a. Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.
- b. Grantee shall maintain full and complete records concerning WIC Program operations and the following requirements:
 1. Records shall include, but not be limited to, information pertaining to financial operations, food delivery systems, food benefit issuance and redemption, equipment purchases and inventory, certification, nutrition education, civil rights and fair hearing procedures.
 2. If United States Department of Agriculture (USDA) deems any of the WIC program records to be of historical interest, it may require System Agency or the Grantee to forward such records to the USDA whenever either entity is disposing of them.

3. All records shall be available during normal business hours for representatives of the USDA, System Agency and the Comptroller General of the United States to inspect, audit, and copy. Any reports or other documents resulting from the examination of such records that are publicly released may not include confidential applicant or participant information.

Section 5.09 Notice of a License Action

Grantee shall notify their contract manager of any action impacting its license to provide services under this Contract within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the license action; and
- d. License or case reference number.

Section 5.10 Interim Extension Amendment

- a. Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.
- b. The System Agency shall provide written notice of interim extension amendment to the Grantee under one of the following circumstances:
 1. Continue provision of services in response to a disaster declared by the governor; or
 2. To ensure that services are provided to clients without interruption.
- c. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- d. Grantee will provide and invoice for services in the same manner that is stated in the Contract.
- e. An interim extension under Section (b)(1) above shall extend the term of the contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
- f. An interim extension under Section (b)(2) above shall be a one-time extension for a period of time determined by the System Agency.

Section 5.11 Child Abuse Reporting Requirement

- a. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
 1. Grantee shall comply with System Agency WIC Program Child Abuse policy.