

**AGREEMENT BY AND BETWEEN
THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION
AND UNITED WAY FOR GREATER AUSTIN WARM CENTER
FOR
2-1-1 TEXAS INFORMATION & REFERRAL SERVICES
FOR INFORMATION AND REFERRAL SERVICES**

HHSC CONTRACT NO. 529-16-0006-00026

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This agreement ("**Agreement**" or "**Contract**"), is by and between the Texas Health and Human Services Commission ("**HHSC**"), an administrative agency within the executive department of the State of Texas, having its principal office at 4900 North Lamar Boulevard, Austin, Texas, 78751, and United Way for Greater Austin ("**CONTRACTOR**"), an entity organized under the laws of the State of Texas, having its principal place of business at 2000 E. MLK Jr. Blvd., Austin Texas 78702. HHSC and United Way for Greater Austin may be referred to in this Agreement individually as "Party" and collectively as the "Parties."

HHSC and United Way for Greater Austin do hereby make and enter into this Agreement, which constitutes the entire Agreement under the above referenced-contract number between CONTRACTOR and HHSC.

I. Legal Authority

HHSC is authorized to enter into this Agreement under its authority pursuant to Texas Government Code, Chapter 531, established by the H.B. 2596, 75th Texas Legislature, Regular Session, 1997, which designates the responsibility for developing, coordinating, and implementing a statewide information and referral network to the Texas Health and Human Services Commission (HHSC). As a result, HHSC developed the 2-1-1 Texas Information & Referral Network which provides a single, statewide number consumers can dial for information about community resources.

II. General Terms and Conditions

a. HHSC Uniform Contract Terms and Conditions

CONTRACTOR must comply with the HHSC Uniform Contract Terms & Conditions, Version 1.5, located at

[http://www.hhsc.state.tx.us/about_hhsc/Contracting/rfp_attch/General TC.pdf](http://www.hhsc.state.tx.us/about_hhsc/Contracting/rfp_attch/General_TC.pdf), and all amendments thereto, which are incorporated for all purposes into this Agreement (the "HHSC UTCs").

b. Agreement Elements and Order of Precedence

- i. The Agreement between the Parties will consist of the following, and in the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence:
 1. The final executed Agreement, including exhibits, and all amendments thereto;
 2. HHSC's Uniform Contract Terms and Conditions 1.5 and all amendments thereto as **Exhibit A**;
 3. RFP 529-16-0006 and all attachments and addenda as clarified and modified by vendor questions and HHSC's response thereto as **Exhibit B**;
 4. CONTRACTOR's Plan of Operations and all attachments thereto, which are incorporated for all purposes into this Agreement as **Exhibit C** (collectively, "Plan of Operations"); and
 5. CONTRACTOR's Budget Pages and all attachments thereto, which are incorporated for all purposes into this Agreement as **Exhibit D** (collectively, "Budget Pages");
 6. CONTRACTOR's Proposal and final agreed clarifications and modifications as **Exhibit E**.

c. Contract Term/Contract Period

The effective term of this Agreement begins on September 1, 2015 or on the date of full execution of this Agreement, whichever is later ("**Effective Date**"), and will continue through August, 31, 2018 (the "**Initial Term**"), with two (2) additional 12-month renewal options (each a "**Renewal Term**" or, as with the Initial Term, a "**Contract Term**"). The Agreement may be renewed only by a written amendment executed by the Parties. All contract renewals beyond the Initial Term will be subject to the terms and conditions of the Agreement, including those related to appropriation of funds.

The Contract Period begins on the Effective Date and ends at the expiration of the Initial Term or, if applicable, the final Renewal Term, unless terminated earlier in accordance with the terms of the Agreement.

d. Contract Award

The total amount for the Initial Term of this Agreement is \$75,000.00. Continued funding for this contract is contingent upon availability of State and Federal funds. HHSC will notify CONTRACTOR of funding for Renewal Terms in writing at least 30 calendar days prior to the renewal amendment effective date.

III. **Services and Performance Measurement**

The CONTRACTOR understands and agrees that upon execution of this Agreement, CONTRACTOR will be responsible for performing all services proposed in the

CONTRACTOR's Plan of Operations ("**Services**") in accordance with all federal and state laws applicable to this Agreement. This includes:

- a. Providing Services only to eligible populations as defined in the CONTRACTOR Plan of Operations;
- b. Meeting all performance measure targets (outputs), proposed by the CONTRACTOR and accepted by HHSC (including but not limited to the Scope of Work and the CONTRACTOR's approved Plan of Operations);
- c. Reporting on Services provided in accordance with HHSC requirements; and
- d. Maintaining all documentation to support any Services or activities that support the Contract which are performed by the CONTRACTOR or CONTRACTOR's subcontractors and for which CONTRACTOR intends to be reimbursed or has been reimbursed by HHSC.

IV. Payment/Reimbursement Provisions.

- a. Notwithstanding any provision in this Agreement to the contrary, the parties acknowledge that CONTRACTOR has no right of reimbursement for Services performed and invoices are not properly payable under this Agreement unless and until (i) HHSC has received funding approval from all funding sources for Services provided under this Agreement and (ii) the Agreement has been fully executed with signatures by an authorized representative of each Party. If HHSC does not receive the necessary approvals to fund this Agreement in full or in part, HHSC will not be obligated to reimburse CONTRACTOR for any and all Services performed by CONTRACTOR during the Contract Period for which funding was not approved. Under those circumstances, HHSC will not be considered to be in default or breach under this Contract, nor will HHSC be liable for any damages or any expenses incurred by CONTRACTOR due to HHSC's failure to reimburse.
- b. Payment to CONTRACTOR shall be on a monthly basis. CONTRACTOR shall be paid only for Services and related expenses that are eligible for reimbursement under this Agreement in accordance with federal and state laws and in accordance with the CONTRACTOR's Budget Pages, and Plan of Operations.
- c. CONTRACTOR shall ensure that:
 - i. Expenditures eligible for reimbursement under this Agreement are expenses that have been:
 - 1. incurred in accordance with the CONTRACTOR's approved budget;
 - 2. incurred within the Contract Period;
 - 3. deemed allowable in 2 C.F.R. Part 200 (formerly known as OMB Circular A-122); and

4. paid by the CONTRACTOR or owed by the last day of the then-current Contract Term in accordance with the CONTRACTOR's method of accounting.
- ii. All costs are allocable, reasonable, necessary, and allowable under the federal cost principles governing nonprofits and incurred in accordance with the terms and conditions set forth in this Agreement, prior to charging those expenditures to this Agreement.
- d. HHSC will make payment in accordance with the Texas Prompt Payment Act, Chapter 2251, Texas Government Code.

V. Invoice Requirements

CONTRACTOR shall submit an invoice in the format prescribed by HHSC with required supporting documentation within 45 days after the last day of each month in which services were provided. Upon HHSC's request, CONTRACTOR shall provide additional information to the degree or detail necessary to resolve any review, examination, inquiry or audit by HHSC or other responsible authority. The CONTRACTOR's invoice must certify that payments requested are in accordance with applicable contract provisions as well as applicable laws and regulations and that the requirements of the contract have been met.

VI. Recoupment of Funds

- a. HHSC will recoup from CONTRACTOR any overpayments and/or payments made for Services or expenses that do not meet the requirements of this Contract.
- b. HHSC or its representatives and/or agents, or any other state or federal regulatory agency, may identify overpayments through activities such as contract monitoring, in day-to-day contract management activities, or as a result of an audit. Examples of when overpayments occur include situations where the CONTRACTOR was paid in excess of the CONTRACTOR's reimbursable budget or allocation of funds or the CONTRACTOR was paid for expenses or Services that did not meet contract requirements.
- c. The CONTRACTOR must repay HHSC any identified overpayment within the timeframe specified by HHSC in a written notice to CONTRACTOR. Alternatively, at HHSC's sole option, HHSC may offset the overpayment by reducing subsequent payment(s) to CONTRACTOR by the overpaid amount.

VII. Contract Remedies

In the event that the CONTRACTOR fails to perform Services in accordance with the provisions of this Contract and the approved Plan(s) of Operation, HHSC may, upon written notice to the Contractor, immediately terminate this Contract in its entirety or with respect to certain Services. Alternatively or in conjunction with a partial termination by HHSC under this section, HHSC may require CONTRACTOR to submit, within the timeframes specified by HHSC, corrective action plans that are subject to HHSC's approval. If appropriate, HHSC may also withhold or recoup reimbursement payments from CONTRACTOR for Services not properly performed

under this Contract. The foregoing remedies are not the exclusive remedies of HHSC but are in addition to any other rights and remedies provided by law or under this Contract.

VIII. Confidentiality

- a. CONTRACTOR and any of its subcontractors associated with this Agreement will ensure the confidentiality of all client and personnel information and records in accordance with the HHSC UTCs, applicable federal and state laws, rules, regulations and program policies and procedures. This provision does not limit HHSC's right of access to client and personnel information or records relating to Services provided under this Agreement.

IX. Contract Records

- a. CONTRACTOR shall ensure that all client files are stored in a secure location, with access limited only to authorized employees officers, directors, subcontractors, or agents of the CONTRACTOR. CONTRACTOR shall retain all client records for a minimum period of three (3) years and ninety (90) calendar days after the client has terminated services or three (3) years and ninety (90) calendar days after the end of the Contract Period, whichever is the lesser period.
- b. Financial records must be kept for a minimum of seven (7) years after the date of submission of the final billing or until the resolution of all litigation, claim, financial management review or audit pertaining to this Agreement, whichever is longer as required by the HHSC UTCs. All other records or documents that pertain to the Contract must be kept in a readily accessible location for a minimum of three years (3) and ninety (90) calendar days after the end of the Contract Period. If any litigation, claim, or audit involving these records or documents begins before that time, the CONTRACTOR must keep the records and documents for not less than three years (3) and ninety (90) calendar days after all litigation, claims, or audit findings are resolved.
- c. The CONTRACTOR must allow HHSC and all applicable federal and state funders of HHSC, or state/federal agencies or their representatives investigating CONTRACTOR to inspect, monitor, or evaluate client records, books, and supporting documents that pertain to Services provided.
- d. Record retention and accessibility requirements apply to electronic and paper records and documents.
- e. The CONTRACTOR must maintain the following in an accessible location:
 - i. All financial records and supporting documentation that support a claim or reimbursement request submitted to HHSC in support of the Services performed under this Agreement;
 - ii. All documentation in support of all Performance Reports submitted to HHSC for Services performed under this Agreement;

- iii. A complete copy of this Contract, including any and all budget amendments, exhibits, attachments and the CONTRACTOR's approved budget and Plan of Operation;
- iv. Copies of CONTRACTOR's most recent independent audit reports and related correspondence;
- v. Copies of HHSC's monitoring and evaluation reports, documentation of corrective actions, and related correspondence;
- vi. The CONTRACTOR's Operating Policies and Procedures;
- vii. Fair Labor Standards Act Information for Employees;
- viii. HHSC's contact information for any client or employee who wishes to contact HHSC to file a complaint against the CONTRACTOR; and
- ix. All records relating to the provision of Services required under this Contract.

X. Cooperation with HHSC and state and federal administrative agencies.

- a. As provider of the Services under this Agreement, the CONTRACTOR understands that the acceptance of funds under this Agreement acts as acceptance of the authority of HHSC, or its representatives and/or agents and any state or federal regulatory agency, to inspect, monitor, evaluate or audit client records, financial records, and any supporting documents that pertain to Services provided or expenditures incurred under this Agreement, in accordance with any applicable federal and state laws.
- b. Access at reasonable times to all financial books and records, supporting documentation pertaining to Services provided, and client records shall be granted to HHSC, its representatives, agents, or any state or federal regulatory agency when it is deemed necessary by such agencies for purposes of inspection, monitoring, evaluating, or auditing of such materials.
- c. CONTRACTOR shall make all financial books and records, supporting documentation pertaining to Services provided, and client records (with client-identifying information fully redacted) available for the period necessary for HHSC, its representative, agents, or any state or federal regulatory agency to conduct an inspection, monitoring, evaluation, or audit of such materials. Such audits will be conducted during reasonable business hours as maintained by CONTRACTOR.

XI. Multiple contracts

If the CONTRACTOR provides Services under multiple contracts, it must maintain an accounting system that separates expenditures by contract to ensure appropriate expense allocation and contract billing (i.e. fund accounting).

XII. Budget Revisions

- a. CONTRACTOR must obtain HHSC's prior written approval for any fund transfers among approved budget categories that will singularly or cumulatively exceed ten percent (10%) of the total contract budget.
- b. CONTRACTOR must ensure that any budget revision is in compliance with the terms and conditions of this Contract, is for allowable expenses only, and does not change the scope of this Contract.
- c. CONTRACTOR must make budget revisions in the format prescribed by HHSC.

XIII. CONTRACTOR'S Cost Allocation Plan and Methodology

- a. The Parties acknowledge that, prior to execution of this Contract, CONTRACTOR provided to HHSC a Cost Allocation Plan based upon a methodology that equitably distributes the CONTRACTOR's costs among the CONTRACTOR's various funding sources. CONTRACTOR shall maintain and abide by that Cost Allocation Plan unless HHSC approves a revised Cost Allocation Plan provided by CONTRACTOR.
- b. CONTRACTOR shall submit a revised Cost Allocation Plan if CONTRACTOR makes any changes to the Cost Allocation Plan that affect the distribution of expenses for costs charged to the Contract.
- c. HHSC's acceptance of the CONTRACTOR'S Cost Allocation Plan is limited to HHSC's interpretation of the reasonableness of the distribution of costs as they relate to this Agreement, and as such HHSC provides no guarantee to CONTRACTOR as to the correctness of the CONTRACTOR's Cost Allocation Plan and methodology used.

XIV. HHSC Monitoring Results with Findings.

- a. In the event that HHSC or its representatives or agents develop a report with findings based on HHSC's monitoring of CONTRACTOR's performance under this Agreement, the CONTRACTOR must submit a written response within the timeframe specified by HHSC explaining the actions the CONTRACTOR has taken or plans to take to address the findings.

If the CONTRACTOR fails to address or willfully refuses to address any finding within a reasonably negotiated timeline, the CONTRACTOR is subject to the appropriate remedies available under this Agreement or provided by law, as determined by HHSC.

XV. Building Codes and Safety Requirements

- a. The CONTRACTOR's facilities must be in good repair and in compliance with applicable local health fire, electrical and building safety codes.
- b. The CONTRACTOR's facilities must be in compliance with the Americans with Disabilities Act (ADA) to ensure accessibility for persons with physical disabilities.

XVI. Assignment

CONTRACTOR may not assign this Contract, in whole or in part, and may not assign any right or duty required under it, unless the assignment is approved in writing by HHSC. CONTRACTOR must give 30-day advanced written notice to HHSC of an assignment of this Agreement by CONTRACTOR. Before the assignment occurs, CONTRACTOR and the assignee must enter into an assignment agreement, subject to HHSC's prior approval. Within ninety (90) calendar days after such agreement takes effect, HHSC will evaluate the assignee's ability to continue the provision of contracted Services. If HHSC determines that the assignee is not able to provide the contracted Services, it will give the assignee written notice of contract termination thirty (30) calendar days prior to termination.

XVII. Audit Requirements for Sub-Recipients

- a. If the CONTRACTOR receives state or federal funds in the amount exceeding the threshold required by the Single Audit Act, the CONTRACTOR must comply with the requirements specified in the regulations found at 2 CFR Part 200, formerly known as the Office of Management and Budget (OMB) Circular A-133.
- b. If applicable, CONTRACTOR shall ensure that it engages in a procurement process to solicit single audit services at least once every six years as a recipient of funds received from HHSC under any contract agreement.
- c. CONTRACTOR shall submit to HHSC a copy of its annual audit, within ninety (90) calendar days of completion or within thirty (30) days of CONTRACTOR's Board of Directors approval, whichever comes first.
- d. If the CONTRACTOR receives state or federal funds in an amount not subject to the threshold requirements of the regulations found at 2 CFR Part 200, formerly known as OMB Circular A-133, the CONTRACTOR must submit a program-specific audit to HHSC within ninety (90) days of audit completion, or within thirty (30) calendar days of CONTRACTOR's Board approval, whichever comes first.

XVIII. Federal Funding Accountability and Transparency Act of 2006 for Subrecipients

If FFATA requirements are associated with the funding for this Contract, CONTRACTOR shall comply with the FFATA requirements as prescribed by the attached **Exhibit E**.

XIX. State Certifications

- a. Pursuant to Section 231.006, Texas Family Code (relating to child support), the CONTRACTOR, by signing this Contract, certifies that it is not ineligible to receive a payments under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
- b. Pursuant to §2155.004, Texas Government Code, the CONTRACTOR certifies that CONTRACTOR is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. Section 2155.004 prohibits a person or entity from receiving a state contract if that person or entity received compensation for participating in preparing the solicitation documents, if applicable, or specifications for this Contract from a state agency.
- c. Contractor certifies that it and its principals are eligible to participate in the Contract and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement, if applicable, and contracting and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>
- d. Sections 2155.006 and 2261.053, Government Code, prohibit HHSC from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004 of the Government Code, occurring after September 24, 2005. Under §2155.006, Government Code, the CONTRACTOR certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
- e. If CONTRACTOR is a Texas state agency, the Parties agree that this Agreement is authorized and made in compliance with the Interagency Cooperation Act, Chapter 771, and Texas Government Code. The parties certify that:
 - i. The services specified in this document are necessary and essential and are properly within the statutory functions and programs of the Parties;
 - ii. The proposed arrangements serve the interest of efficient and economical administration of state government; and

- iii. The services, supplies, or materials contracted for are not required by §21 of Article 16 of the Texas Constitution to be supplied under contract given to the lowest responsible bidder.

XX. Federal Certifications

- a. Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity" as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity", and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity Department of Labor". Contractor shall ensure that all subcontracts comply with the above referenced provisions.
- b. Contractor certifies that neither it or its principals are debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program by any Federal department or agency. (See Executive Orders 12549 and 12689, 45 CFR part 76, 48 CFR part 9; 42 USC sect. 1320a-7). Contractor agrees to include this provision in any subcontracts related to this Contract.
- c. Contractor certifies that, if the total Contract amount, including any Contract amounts for Renewal Terms, exceeds \$150,000, it will to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Contractor agrees to include this provision in any subcontracts related to this Contract exceeding \$150,000.
- d. Contractor certifies that, if the total Contract amount, including any Contract amounts for Renewal Terms, exceeds \$100,000, Contractor will comply with the provisions of a federal law known generally as the Lobbying Disclosure Acts of 1989, and the regulations of the United States Department of Health and Human Services promulgated pursuant to said law, and shall make all disclosures and certifications as required by law. Contractor must submit with its response the Certification Regarding Lobbying attached to this Contract as **Exhibit G**. The requirements of this provision shall be included in all subcontracts exceeding \$100,000.

XXI. 2-1-1 Texas Information and Referral Network Specific Terms and Conditions

- a. Compliance with program Policy and Procedure

XXII. CONTRACTOR must comply with: current policy and procedure, as well as Alliance of Information and Referral Systems (AIRS) Standards and reasonable program standards (example: handbooks, minimum standards, program policies, etc.) established by HHSC in the future.

- a. Changes in legally authorized agency representatives and program key staff

Within five business days, CONTRACTOR must give written notice to HHSC of a change in its legally authorized representative (Executive Director/President) and/or program key staff. Notice should be provided on the agency letterhead addressed to the HHSC Contract Manager by the CONTRACTOR's Director (for key program staff) or by CONTRACTOR'S Board Chair (for Executive Director/President). With respect to changes in legally authorized representatives, Contractor must with its written notice to HHSC an updated Vendor Information form. Notice and forms are to be submitted to the following address:

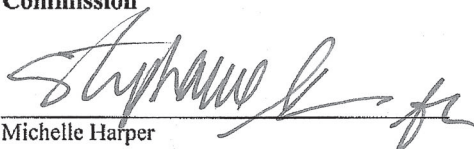

Health and Human Services Commission
2-1-1 TIRN Program
909 West 45th Street
Mail Code 2077
Austin, Texas 78751
Fax: 512-206-5531

XXIII. Exhibits

The following exhibits are incorporated into this Contract for all purposes:

- a. Exhibit A - HHSC Agency's Uniform Terms and Conditions (UTC'), Version 1.5
- b. Exhibit B - HHSC's Request for Proposal (RFP 529-16-0006) and its Addenda and Attachments
- c. Exhibit C - Plan of Operations
- d. Exhibit D - Budget Pages
- e. Exhibit E - Contractor's Proposal
- f. Exhibit F - Federal Funding Accountability and Transparency Act of 2006 Requirements
- g. Exhibit G - Certification Regarding Lobbying
- h. Exhibit H - HUB Subcontracting Plan

Each party has caused its authorized representative to execute this Contract as of the Effective Date.

Texas Health & Human Services Commission  Michelle Harper Associate Commissioner 8/27/15 Date	UNITED WAY FOR GREATER AUSTIN  Debbie Bressette President 8/1/15 Date
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THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION
AND
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2-1-1 TEXAS INFORMATION & REFERRAL SERVICES
FOR INFORMATION AND REFERRAL SERVICES**

EXHIBIT A

UNIFORM CONTRACT TERMS AND CONDITIONS 1.5



Health and Human Services Commission

**HHSC Uniform Terms and Conditions
Version 1.5**

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Article 1. Introduction

Section 1.01 Inducements.

In making the award of the Agreement, the Health and Human Services Commission (HHSC) relies on CONTRACTOR's assurances of the following:

(1) CONTRACTOR and its subcontractors are established providers of the types of services described in the Solicitation;

(2) CONTRACTOR and its subcontractors have the skills, qualifications, expertise, financial resources, and experience necessary to perform the services described in the Solicitation, CONTRACTOR's Proposal, and the Agreement in an efficient, cost-effective manner, with a high degree of quality and responsiveness, and has performed similar services for other public or private entities;

(3) CONTRACTOR has thoroughly reviewed, analyzed, and understood the Solicitation, has timely raised all questions or objections to the Solicitation, and has had the opportunity to review and fully understand the HHSC's current program and operating environment for the activities that are the subject of the Agreement and the needs and requirements of the State during the Agreement term;

(4) CONTRACTOR has had the opportunity to review and understand the State's stated objectives in entering into the Agreement and, based on such review and understanding, CONTRACTOR currently has the capability to perform in accordance with the terms and conditions of the Agreement;

(5) CONTRACTOR also has reviewed and understands the risks associated with the HHSC Programs as described in the Solicitation, including the risk of non-appropriation of funds.

Accordingly, HHSC desires to engage CONTRACTOR to perform the services described in the Agreement under the terms and conditions set forth in the Agreement.

Section 1.02 Construction of Agreement.

(a) *Scope of Introductory Article.*

The provisions of any introductory article to the Agreement are intended to be a general introduction and are not intended to expand the scope of the Parties' obligations under the Agreement or to alter the plain meaning of the terms and conditions of the Agreement.

(b) *References to the "State."*

References in the Agreement to the "State" mean the State of Texas unless otherwise indicated and will be interpreted, as appropriate, to mean or include 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.

(c) *Severability.*

If any provision of the Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.

(d) *Survival of terms.*

Termination or expiration of the Agreement for any reason will not release either Party from any liabilities or obligations set forth in the Agreement that:

(1) The Parties agree will survive the termination or expiration; or

(2) Remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

(e) *Headings.*

The article and section headings in the Agreement are for reference and convenience only and may not be considered in the interpretation of the Agreement.

(f) *Global drafting conventions.*

(1) The terms "include," "includes," and "including" are terms of inclusion and enlargement, and where used in the Agreement, should be read as if followed by the phrase "without limitation."

(2) Any references to "sections," "appendices," or "attachments" are references to sections, appendices, or attachments of the Agreement.

(3) Any references to agreements, contracts, statutes, or administrative rules or regulations in the Agreement are references to these documents as amended, modified, or supplemented from time to time during the term of the Agreement.

Section 1.03 No implied authority.

The authority delegated to CONTRACTOR by HHSC is limited to the terms of the Agreement. HHSC is the state agency designated by the Texas Legislature to administer the HHSC Programs, and no other state agency grants CONTRACTOR any authority related to the Agreement unless directed through HHSC. CONTRACTOR may not rely upon implied authority and is not delegated authority under the Agreement to:

- (1) make public policy;
- (2) promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of HHSC Programs; or
- (3) unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of HHSC regarding HHSC Programs or the Agreement.

To the fullest extent possible, CONTRACTOR is required to assist HHSC in communications and negotiations with state and federal governments and agencies as directed by HHSC.

Section 1.04 Legal Authority.

(a) HHSC is authorized to enter into the Agreement under Chapter 531 or 533, Texas Government Code; Section 2155.144, Texas Government Code; or Chapter 62, Texas Health & Safety Code. CONTRACTOR is authorized to enter into the Agreement pursuant to the authorization of its governing board or controlling owner or officer.

(b) The person or persons signing and executing the Agreement on behalf of the Parties, or representing themselves as signing and executing the Agreement on behalf of the Parties, warrant and guarantee that he, she, or they have been duly authorized to execute the Agreement and to validly and legally bind the Parties to all of its terms, performances, and provisions.

Article 2. Definitions

As used in the Agreement, the following terms and conditions have the meanings assigned below:

"Agreement" means the formal, written, and legally enforceable agreement and amendments between the Parties.

"Change" means any alteration, adjustment, exchange, substitution, or modification of the Services under the Agreement that are authorized in accordance with Article 7 of the Agreement.

"Change Order Request" means a request to make a change in the Services or Deliverables under the Agreement.

"Children's Health Insurance Program" or **"CHIP"** means the health insurance program authorized and funded pursuant to Title XXI, Social Security Act (42 U.S.C. §§ 1397aa-1397jj) and administered by HHSC.

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552; and
- (9) Other Confidential Information as designated in the Agreement.

"CONTRACTOR" means the Party identified in the Agreement as the individual or entity that is required to perform the Services and related obligations under the Agreement.

"Corrective Action Plan" means the detailed written plan required by HHSC to correct or resolve a material deficiency or breach of the Agreement.

"Deliverable" means a work product prepared, developed, or procured by CONTRACTOR as part of the Services under the Agreement for the use or benefit of HHSC or the State of Texas.

"Disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.

“Effective Date” means the date of complete execution of the Agreement unless another date is agreed to by the Parties as the date on which the Agreement takes effect. For purposes of the Agreement, the term includes any period under which work is performed in accordance with a properly executed Letter of Intent between HHSC and CONTRACTOR.

“Electronic and information resources (EIR)” --Includes information technology and any equipment or interconnected system or subsystem of equipment used to create, convert, duplicate, or deliver data or information. EIR includes telecommunications products (such as telephones), information kiosks and transaction machines, web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, thermostats or temperature control devices, and medical equipment that contain information technology that is integral to its operation, are not information technology. If the embedded information technology has an externally available web or computer interface, that interface is considered EIR. Other terms such as, but not limited to, Information and Communications Technology (ICT), Electronic Information Technology (EIT), etc. can be considered interchangeable terms with EIR for purposes of the Agreement.

“Health and Human Services Commission” or **“HHSC”** means the administrative agency within the executive department of Texas state government established under Chapter 531, Texas Government Code or its designee, including, but not limited to, the Texas Health and Human Services Agencies.

“HHSC Programs” means the public health and human service programs administered by HHSC, including but not limited to Medicaid and CHIP.

“Initial Term” means the period between the Effective Date and the original expiration date of the Agreement.

“Material Subcontract” means any Subcontract that exceeds, or is reasonably expected to exceed, \$100,000 per year. Any Subcontracts between the CONTRACTOR and a single entity that are split into separate agreements by time period, program, or service area, etc., may be consolidated for the purpose of this definition.

“Material Subcontractor (or Major Subcontractor)” means any entity with a Material Subcontract with CONTRACTOR.

“Medicaid” means the medical assistance entitlement program authorized and funded pursuant to Title XIX, Social Security Act (42 U.S.C. § 1396 *et seq.*) and administered by HHSC.

“Other Confidential Information” any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHSC that is expressly designated as Other Confidential Information in the Agreement.

“Parties” means HHSC and CONTRACTOR, collectively.

“Party” means either HHSC or CONTRACTOR, individually.

“Proposal” means the proposal submitted by the CONTRACTOR in response to the Solicitation.

“Public information” means information that:

- (1) Is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body;
- (2) The governmental body owns or has a right of access to; and
- (3) Is not Confidential Information.

“Solicitation” means the written invitation for bids, request for offers, request for proposals, or similar instrument that is posted on the HHSC Website and/or Electronic State Business Daily, seeking responses from qualified vendors for needed goods and services. This term also includes "price requests" and "pricing requests" sent to Department of Information Resources vendors to get pricing, based on a specific scope of work, through a Cooperative Contract or DBITS contract. and any addendums under which the Agreement was awarded and is executed.

“Scope of Work” means the description of Services and Deliverables specified in the Agreement, the Solicitation, and any agreed modifications.

“Services” means the tasks, functions, and responsibilities assigned and delegated to CONTRACTOR under the Agreement.

“Software” means all operating system and applications software used or created by CONTRACTOR to provide the Services under the Agreement.

“Subcontract” means any written agreement between CONTRACTOR and other party to fulfill the requirements of the Agreement. All subcontracts are required to be in writing.

“Subcontractor” means any individual or entity that has entered into a subcontract with CONTRACTOR.

“Turnover Plan” means the written plan developed by CONTRACTOR, approved by HHSC, and to be employed in the event that the work described in the Agreement transfers to the State or another vendor from CONTRACTOR. HHSC may require CONTRACTOR to develop a Turnover Plan at any time during the term of the Agreement at HHSC’s discretion. The Turnover Plan describes CONTRACTOR’s policies and procedures that will assure:

- (1) The least disruption in the delivery of services during the transition to a substitute vendor; and
- (2) Cooperation with HHSC and the substitute vendor in transferring information and services to a substitute vendor.

Article 3. General Terms and Conditions

Section 3.01 Agreement elements.

(a) Entire Agreement.

The Agreement between the Parties will consist of the document bearing the signatures of the Parties, Exhibits, or Attachments to that document, these Uniform Terms and Conditions, the Solicitation (CONTRACTOR’s Proposal and any agreed to modifications (incorporated by reference).

(b) Order of precedence.

Unless otherwise agreed, in the event of any conflict or contradiction between or among these documents, the documents will control in the following order of precedence:

- (1) The final executed document that bears the signature of the Parties, including any Exhibits or attachments, and all amendments to that document;
- (2) These Uniform Terms and Conditions, including any attachments;
- (3) The Solicitation and any addendums, corrections, and clarifications. ;
- (4) CONTRACTOR’s Proposal and any agreed to modifications.

Section 3.02 Funding.

The Agreement is conditioned on the availability of state and federal appropriated funds. CONTRACTOR will have no right of action against HHSC in the event that HHSC is unable to perform its obligations under the Agreement as a result of the suspension, termination, withdrawal of funding to HHSC, the failure to fund HHSC, or lack of sufficient funding of HHSC for any activities or functions contained within the scope of the Agreement. If funds become unavailable, the provisions of Article 11 (Remedies and Disputes) will apply. HHSC will use all reasonable efforts to ensure that such funds are available, and will negotiate in good faith with CONTRACTOR to resolve any CONTRACTOR claims for payment that represent accepted Services or Deliverables that are pending at the time funds become unavailable. HHSC will make best efforts to provide reasonable written advance notice to CONTRACTOR upon learning that funding for the Agreement may be discontinued.

Section 3.03 Delegation of authority.

Whenever, by any provision of the Agreement, any right, power, or duty is imposed or conferred on HHSC, the right, power, or duty so imposed or conferred is possessed and exercised by HHSC’s Executive Commissioner unless any right, power, or duty is delegated to the duly appointed agents or employees of HHSC. HHSC’s Executive Commissioner will reduce any delegation of authority to writing and provide a copy to CONTRACTOR on request.

Section 3.04 No waiver of sovereign immunity.

The Parties agree that no provision of the Agreement is in any way intended to constitute a waiver by HHSC or the State of Texas of any immunities from suit or from liability that HHSC or the State of Texas may have by operation of law.

Section 3.05 Force majeure.

A Party will not be liable for any failure or delay in performing its obligations under the Agreement if such failure or delay is due to any cause beyond the reasonable control of the Party, including, but not limited to, unusually severe weather, strikes, natural disasters, fire, civil disturbance, epidemic, war, court order, or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of a force majeure event as described above or otherwise waive this right as a defense.

Section 3.06 Other Health and Human Services Agencies’ participation in the Agreement.

In addition to providing the Services specified for HHSC, CONTRACTOR agrees to allow other Health and Human Service Agencies the option to participate in the Agreement under the same terms and conditions. Each

agency that elects to obtain services under this section will issue a purchase order to CONTRACTOR, referring to, and incorporating by reference, the terms and conditions specified in the Agreement.

Section 3.07 Most favored customer.

The CONTRACTOR agrees that if during the term of the Agreement, the CONTRACTOR enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the Agreement will, at HHSC's option, be amended to accord equivalent advantage to HHSC.

Section 3.08 Publicity.

(a) No Use

Except as provided in the paragraphs below, CONTRACTOR must not use the name of, or directly or indirectly refer to, HHSC, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Agreement or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations (other than proposals or reports submitted to HHSC, an administrative agency of the State of Texas, or a governmental agency or unit of another state or the Federal government).

(b) Limited Exception

CONTRACTOR may publish, at its sole expense, results of CONTRACTOR performance under the Agreement with HHSC's prior review and approval, which HHSC may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from HHSC and any Federal agency, as appropriate. CONTRACTOR will provide HHSC at least three (3) copies of any such publication prior to public release. CONTRACTOR will provide additional copies at the request of HHSC. CONTRACTOR may include information concerning the Agreement's terms, subject matter, and estimated value in any report to a governmental body to which the CONTRACTOR is required by law to report such information.

Section 3.09 Assignment.

(a) Assignment by CONTRACTOR.

CONTRACTOR will not assign all or any portion of its rights under or interests in the Agreement or delegate any of its duties without prior written consent of HHSC. Any written request for assignment or delegation must be accompanied by written acceptance of the assignment or delegation by the assignee or delegation by the delegate. Except where otherwise agreed in writing by HHSC, assignment or delegation will not release CONTRACTOR from its obligations under the Agreement.

(b) Assignment by HHSC.

CONTRACTOR understands and agrees HHSC may in one or more transactions assign, pledge, or transfer the Agreement. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

(c) Assumption.

Each party to whom a transfer is made must assume all or any part of CONTRACTOR'S or HHSC's interests in the Agreement, the product, and any documents executed with respect to the Agreement, including, without limitation, the assignor's obligation for all or any portion of the purchase payments, in whole or in part.

Section 3.10 Cooperation with other vendors and prospective vendors.

(a) Supplemental Contracts

HHSC may award supplemental contracts for work related to the Agreement, or any portion thereof. HHSC reserves the right to award the Contract as a joint venture between two or more potential vendors, if such an arrangement is in the best interest of HHSC. CONTRACTOR agrees to cooperate with such other vendors, and will not commit or permit any act that may interfere with the performance of work by any other vendor.

(b) Access

At HHSC's request, CONTRACTOR will allow parties interested in responding to HHSC Solicitations to have reasonable access during normal business hours to software, systems documentation, and site visits to the CONTRACTOR's facilities. All such parties inspecting the facilities and software and systems documentation may be required to agree to use the information so obtained only in the State of Texas and only for the purpose of responding to the Solicitation.

Section 3.11 Renegotiation and repurchase rights.

(a) Renegotiation of Agreement terms.

Notwithstanding anything in the Agreement to the contrary, HHSC may at any time during the term of the Agreement exercise the option to notify CONTRACTOR that HHSC has elected to renegotiate certain terms of the

Agreement within the scope of the Agreement and as permitted by law. Upon CONTRACTOR's receipt of any notice under this Section, CONTRACTOR and HHSC will undertake good faith negotiations of the subject terms of the Agreement.

(b) *Reprocurement of the services or procurement of additional services.*

Notwithstanding anything in the Agreement to the contrary, whether or not HHSC has accepted or rejected CONTRACTOR's Services or Deliverables provided during any period of the Agreement, HHSC may at any time issue requests for proposals or offers to other potential contractors for performance of any portion of the Services covered by the Agreement or services similar or comparable to the Services performed by CONTRACTOR under the Agreement.

(c) *Termination rights upon reprocurement.*

If HHSC elects to procure the Services or any portion of the Services from another vendor in accordance with this Section, HHSC will have the termination rights set forth in Article 11.

Section 3.12 *Solicitation errors and omissions.*

CONTRACTOR will not take advantage of any errors or omissions in the Solicitation or the resulting Agreement. CONTRACTOR must promptly notify HHSC of any errors or omissions that are discovered. Failure to notify HHSC of any errors will constitute a waiver of those errors.

Section 3.13 *Attorneys' fees.*

In the event of any litigation, appeal, or other legal action to enforce any provision of the Agreement, CONTRACTOR agrees to pay all expenses of such action, including attorneys' fees and costs if HHSC is the prevailing or substantially prevailing Party.

Section 3.14 *Preferences under service contracts.*

CONTRACTOR is required in performing the Agreement to purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside the State.

Section 3.15 *Ensuring timely performance.*

The Parties acknowledge the need to ensure uninterrupted and continuous performance of the Scope of Work under the Agreement, therefore, HHSC may terminate the Agreement or apply any other remedy as noted in Article 11 (Remedies and Disputes) if CONTRACTOR's performance is not timely.

Article 4. Contractor Personnel Management

Section 4.01 *Qualifications, retention and replacement of CONTRACTOR employees.*

CONTRACTOR agrees to maintain the organizational and administrative capacity and capabilities to carry out all duties and responsibilities under the Agreement. The personnel CONTRACTOR assigns to perform the duties and responsibilities under the Agreement will be properly trained and qualified for the functions they are to perform. CONTRACTOR does not warrant the quality of training for which the State is responsible. Notwithstanding transfer or turnover of personnel, CONTRACTOR remains obligated to perform all duties and responsibilities under the Agreement without degradation and in accordance with the terms of the Agreement.

Section 4.02 *Responsibility for CONTRACTOR personnel.*

(a) *Employment and Agency*

CONTRACTOR's employees and subcontractors will not in any sense be considered employees of HHSC or the State of Texas, but will be considered CONTRACTOR's employees for all purposes. Except as provided in the Agreement, neither CONTRACTOR nor any of CONTRACTOR's employees or subcontractors may act in any sense as agents or representatives of HHSC or the State of Texas.

(b) *E-Verify System*

By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.

(c) *Liability*

CONTRACTOR's employees must be paid exclusively by CONTRACTOR for all services performed. CONTRACTOR is responsible for and must comply with all requirements and obligations related to such employees under local, state or federal law, including minimum wage, social security, unemployment insurance, state and federal income tax, and workers' compensation obligations. CONTRACTOR assumes sole and full responsibility for its acts and omissions and the acts and omissions of its personnel and subcontractors.

CONTRACTOR AGREES THAT ANY CLAIM ON BEHALF OF ANY PERSON ARISING OUT OF EMPLOYMENT OR ALLEGED EMPLOYMENT (INCLUDING, BUT NOT LIMITED TO, CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS) ARE THE SOLE RESPONSIBILITY OF CONTRACTOR AND ARE NOT THE RESPONSIBILITY OF HHSC, AND THAT CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE STATE FROM ANY AND ALL SUCH CLAIMS ASSERTED AGAINST THE STATE.

CONTRACTOR understands that any person who alleges a claim arising out of employment or alleged employment by CONTRACTOR will not be entitled to any compensation, rights, or benefits from HHSC (including, but not limited to, tenure rights, medical and hospital care, sick and annual/vacation leave, severance pay, or retirement benefits).

Section 4.03 Cooperation with HHSC and state administrative agencies.

(a) *Cooperation with HHSC contractors.*

CONTRACTOR agrees to reasonably cooperate with and work with the State's contractors, subcontractors and third-party representatives as requested by HHSC. To the extent permitted by HHSC's financial and personnel resources, HHSC agrees to reasonably cooperate with CONTRACTOR and to use its best efforts to ensure that HHSC's other HHSC Programs contractors reasonably cooperate with CONTRACTOR.

(b) *Cooperation with state and federal administrative agencies.*

CONTRACTOR must ensure that CONTRACTOR personnel will cooperate with HHSC or other state or federal administrative agency personnel at no charge to HHSC for purposes relating to the administration of HHSC programs including, but not limited to the following purposes:

- (1) The investigation and prosecution of fraud, abuse, and waste in the HHSC programs;
- (2) Audit, inspection, or other investigative purposes; and
- (3) Testimony in judicial or quasi-judicial proceedings relating to the Services under the Agreement or other delivery of information to HHSC or other agencies' investigators or legal staff.

Section 4.04 Conduct of and responsibility for CONTRACTOR personnel.

(a) *Conduct*

While performing the Services or Deliverables, CONTRACTOR's personnel and subcontractors must:

- (1) Comply with applicable Agreement terms, State and federal rules, regulations, HHSC's policies, and HHSC's requests regarding personal and professional conduct; and
- (2) Otherwise conduct themselves in a businesslike and professional manner.

(b) *Removal*

If HHSC determines in good faith that a particular employee or subcontractor is not conducting himself or herself in accordance with this Section, HHSC may provide CONTRACTOR with notice and documentation concerning such conduct. Upon receipt of such notice, CONTRACTOR must promptly investigate the matter and, at HHSC's request, take appropriate action that may include:

- (1) Removing the employee from the project;
- (2) Providing HHSC with written notice of such removal; and
- (3) Replacing the employee with a similarly qualified individual acceptable to HHSC.

Nothing in the Agreement will prevent CONTRACTOR, at the request of HHSC, from replacing any personnel who HHSC determines are not adequately performing their assigned responsibilities or who, in the reasonable opinion of HHSC's Project Director, after consultation with CONTRACTOR, are unable to work effectively with the members of the HHSC's staff. In such event, CONTRACTOR will provide replacement personnel with equal or greater skills and qualifications as soon as reasonably practicable. Replacement of Key Personnel will be subject to HHSC review and approval. The Parties will work together in the event of any such required replacement so as not to disrupt the overall project schedule.

(c) *Sole Control*

CONTRACTOR agrees that anyone employed by CONTRACTOR to fulfill the terms of the Agreement is an employee of CONTRACTOR and remains under CONTRACTOR's sole direction and control.

CONTRACTOR agrees to be responsible for the following with respect to its employees:

- (1) Any and all employment taxes or other payroll withholding;
- (2) Damages caused by CONTRACTOR's employees acting within or outside the scope of their duties under the Agreement; and
- (3) Determination of the hours to be worked and the duties to be performed by CONTRACTOR's employees.

CONTRACTOR agrees and will inform its employees and subcontractor(s) that there is no right of action against HHSC for any duty owed by CONTRACTOR under the Agreement. CONTRACTOR understands that HHSC does not assume liability for the actions of, or judgments rendered against, the CONTRACTOR, its employees, agents or subcontractors. CONTRACTOR agrees that it has no right to indemnification or contribution from HHSC for any judgments rendered against CONTRACTOR or its subcontractors. HHSC's liability to the CONTRACTOR's employees, agents and subcontractors, if any, will be governed by the Texas Tort Claims Act, as amended or modified (Tex. Civ. Pract. & Rem. Code § 101.001 *et seq.*).

Section 4.05 Responsibility for subcontractors.

CONTRACTOR remains fully responsible for obligations, services, and functions performed by its subcontractors to the same extent as if such obligations, services, and functions were performed by CONTRACTOR'S employees, and for purposes of the Agreement such work will be deemed work performed by CONTRACTOR. HHSC reserves the right to require the replacement of any subcontractor found by HHSC to be unacceptable.

CONTRACTOR must not disclose Confidential Information of HHSC or the State of Texas to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of CONTRACTOR under the Agreement.

CONTRACTOR must identify any subcontractor that is a newly-formed subsidiary or entity, whether or not an affiliate of CONTRACTOR, substantiate the proposed subcontractor's ability to perform the subcontracted Services, and certify to HHSC that no loss of service will occur as a result of the performance of such subcontractor. The CONTRACTOR will assume responsibility for all contractual responsibilities whether or not the CONTRACTOR performs them. Further, HHSC considers the CONTRACTOR to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Agreement.

At least 30 days prior to executing a Material Subcontract or other agreement with a third party with a value greater than \$100,000.00, CONTRACTOR must submit a copy of the agreement to HHSC for HHSC's review at HHSC's option. HHSC reserves the right to: (1) reject the agreement or require changes to any provisions that do not comply with the requirements or duties and responsibilities of the Agreement or create significant barriers for HHSC in monitoring compliance with the Agreement; (2) object to the selection of the subcontractor; or (3) object to the subcontracting of the Services and Deliverables proposed to be subcontracted.

Section 4.06 HHSC's ability to contract with subcontractors.

The CONTRACTOR may not limit or restrict, through a covenant not to compete, employment agreement or other contractual arrangement, HHSC's ability to contract with subcontractors or former employees of the CONTRACTOR.

Article 5. Governing Law and Regulations

Section 5.01 Governing law and venue.

The Agreement is governed by the laws of the State of Texas and interpreted in accordance with Texas law. Provided CONTRACTOR first complies with the procedures set forth in Section 11.11, Dispute Resolution, proper venue for a claim arising from the Agreement will be in a court of competent jurisdiction in Travis County, Texas.

Section 5.02 CONTRACTOR responsibility for compliance with laws and regulations.

CONTRACTOR is responsible for compliance with all laws, regulations, and administrative rules that govern the performance of the Services including all State and Federal tax laws, State and Federal employment laws, State and Federal regulatory requirements, and licensing provisions.

CONTRACTOR is responsible for ensuring each of its employees, agents, or subcontractors who provide Services or Deliverables under the Agreement are properly licensed, certified, or have proper permits to perform any activity related to the Services.

CONTRACTOR warrants that the Services and Deliverables comply with all applicable Federal, State, and County laws, regulations, codes, ordinances, guidelines, and policies. **CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM AND AGAINST ANY LOSSES, LIABILITY, CLAIMS, DAMAGES, PENALTIES, COSTS, FEES, OR EXPENSES ARISING FROM OR IN CONNECTION WITH CONTRACTOR'S NEGLIGENCE OR**

CONTRACTOR'S FAILURE TO COMPLY WITH OR VIOLATION OF ANY SUCH LAW, REGULATION, CODE, ORDINANCE, OR POLICY.***Section 5.03 Compliance with immigration laws.***

CONTRACTOR must comply with the requirements of the Immigration and Nationality Act (8 U.S.C § 1101 et seq.) and all subsequent immigration laws and amendments.

Section 5.04 Compliance with anti-discrimination laws, regulations, and rules.

CONTRACTOR must comply with state and federal anti-discrimination laws, including:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
- (b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794);
- (c) Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*);
- (d) Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107);
- (e) Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688);
- (f) Food Stamp Act of 1977 (7 U.S.C. § 200 *et seq.*); and
- (g) HHSC's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to the Agreement.

CONTRACTOR must comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued under these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

CONTRACTOR must comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 and 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. Applicable state and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. CONTRACTOR must ensure that its policies do not have the effect of excluding or limiting the participation of persons in its programs, benefits, and activities on the basis of national origin. CONTRACTOR also must take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

CONTRACTOR must comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services will not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Upon request, CONTRACTOR will provide HHSC with copies of all of the CONTRACTOR'S civil rights policies and procedures.

CONTRACTOR must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under the Agreement. This notice must be delivered no more than ten calendar days after receipt of a complaint. Notice provided under this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
TTY Toll Free: (877) 432-7232
Fax: (512) 438-5885.

Section 5.05 Compliance with environmental protection laws.

CONTRACTOR must comply with state and federal environmental laws, including, without limitation:

- (a) *Pro-Children Act of 1994.*

CONTRACTOR must comply with the Pro-Children Act of 1994 (20 U.S.C. § 6081 *et seq.*), as applicable, regarding the provision of a smoke-free workplace and promoting the non-use of all tobacco products.

(b) *National Environmental Policy Act of 1969.*

CONTRACTOR must comply with any applicable provisions relating to the institution of environmental quality control measures contained in the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*) and Executive Order 11514 ("Protection and Enhancement of Environmental Quality").

(c) *Clean Air Act and Water Pollution Control Act regulations.*

CONTRACTOR must comply with any applicable provisions relating to required notification of facilities violating the requirements of Executive Order 11738 ("Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans").

(d) *State Clean Air Implementation Plan.*

CONTRACTOR must comply with any applicable provisions requiring conformity of federal actions to State (Clean Air) Implementation Plans under §176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 *et seq.*).

(e) *Safe Drinking Water Act of 1974.*

CONTRACTOR must comply with applicable provisions relating to the protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (21 U.S.C. § 349; 42 U.S.C. §§ 300f to 300j-9).

Section 5.06 Compliance with Fraud, Waste, and Abuse requirements.

CONTRACTOR, CONTRACTOR's personnel, and all subcontractors must comply with all fraud, waste, and abuse requirements found in [HHS Circular C-027](#).

Section 5.07 Electronic and Information Resources Accessibility Standards.(a) *Applicability.*

The following Electronic and Information Resources (EIR) requirements apply to the Agreement because CONTRACTOR performs services that include EIR that: (i) HHSC employees are required or permitted to access; or (ii) members of the public are required or permitted to access. This Section does not apply to incidental uses of EIR in the performance of the Agreement, unless the Parties agree that the EIR will become property of the State of Texas or will be used by HHSC's clients or recipients after completion of the Agreement. Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a Product.

(b) *Definitions.*

For purposes of this Section:

"Accessibility Standards" means accessibility standards and specifications for Texas agency and institution of higher education websites and EIR set forth in 1 Tex.Admin. Code Texas Administrative Code, Chapter 206 and/or Chapter 213

"Electronic and Information Resources" means information resources, including information resources technologies, and any equipment or interconnected system of equipment that is used in the creation, conversion, duplication, or delivery of data or information. The term includes telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.

"Electronic and Information Resources Accessibility Standards" means the accessibility standards for electronic and information resources contained in 1 Tex.Admin. Code Chapter 213.

"Product" means information resources technology that is, or is related to, EIR.

"Web Site Accessibility Standards/ Specifications" means standards contained in Volume 1 Tex. Admin. Code Chapter 206.(c) Accessibility Requirements.

Under Tex. Gov't Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHSC must procure Products and services that comply with the Accessibility Standards when those Products are available in the commercial marketplace or when those Products are developed in response to a procurement solicitation. Accordingly, CONTRACTOR must provide electronic and information resources and associated Product documentation and technical support that comply with the Accessibility Standards.

(c) *Evaluation, Testing, and Monitoring.*

(1) HHSC may review, test, evaluate and monitor CONTRACTOR's Products and services, as well as associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing.

Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or service, nor (2) the absence of review, testing, evaluation or monitoring, will result in a waiver of the State's right to contest the CONTRACTOR's assertion of compliance with the Accessibility Standards.

(2) CONTRACTOR agrees to cooperate fully and provide HHSC and its representatives timely access to Products, records, and other items and information needed to conduct such review, evaluation, testing, and monitoring.

(d) *Representations and Warranties.*

(1) CONTRACTOR represents and warrants that: (i) as of the Effective Date of the Agreement, the Products and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the state or an HHS Agency's client or recipient after the Contract expiration or termination, the Products will continue to comply with Accessibility Standards after the expiration or termination of the Contract Term, unless HHSC or its clients or recipients, as applicable, use the Products in a manner that renders it noncompliant.

(2) In the event CONTRACTOR becomes aware, or is notified that the Product or service and associated documentation and technical support do not comply with the Accessibility Standards, CONTRACTOR represents and warrants that it will, in a timely manner and at no cost to HHSC, perform all necessary steps to satisfy the Accessibility Standards, including remediation, replacement, and upgrading of the Product or service, or providing a suitable substitute.

(3) CONTRACTOR acknowledges and agrees that these representations and warranties are essential inducements on which HHSC relies in awarding this Agreement.

(4) CONTRACTOR's representations and warranties under this subsection will survive the termination or expiration of the Contract and will remain in full force and effect throughout the useful life of the Product.

(e) *Remedies.*

(1) Under Tex. Gov't Code § 2054.465, neither CONTRACTOR nor any other person has cause of action against HHSC for a claim of a failure to comply with Tex. Gov't Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.

(2) In the event of a breach of CONTRACTOR's representations and warranties, CONTRACTOR will be liable for direct, consequential, indirect, special, or liquidated damages and any other remedies to which HHSC may be entitled under this Contract and other applicable law. This remedy is cumulative of any other remedies to which HHSC may be entitled under this Contract and other applicable law.

Section 5.08 Prohibition Against Performance Outside the United States.

(a) *Authority*

(1) HHSC is responsible for administering several public programs that require the collection and maintenance of information relating to persons who apply for and receive services from HHSC programs. This information consists of, among other things, personal financial and medical information and information designated "Confidential Information". Some of this information may, within the limits of the law and this Agreement, be shared from time to time with CONTRACTOR or a subcontractor for purposes of performing the Services or providing the Deliverables under this Agreement.

(2) HHSC is also responsible for collecting and maintaining personal information, including personal financial and medical information, concerning persons employed by HHSC and other health and human services agencies. Some of this information may be shared from time to time with CONTRACTOR or a subcontractor or collected and maintained by CONTRACTOR or a subcontractor for purposes of performing the Services or providing the Deliverables under this Agreement.

(3) HHSC is legally responsible maintaining the confidentiality and integrity of information relating to applicants and recipients of HHSC services and employees of HHS agencies and ensuring that any person or entity that receives such information, including CONTRACTOR and any subcontractor, is similarly bound by these obligations.

(4) HHSC also is responsible for the development and implementation of computer software and hardware to support HHSC programs. These items are paid for, in whole or in part, with state and federal funds. The federal agencies that fund these items maintain a limited interest in the software and hardware so developed or acquired.

(5) Some of the software used or developed by HHSC may also be subject to statutory restrictions on the export of technology to foreign nations, including but not limited to the Export Administration Regulations, 15 C.F.R. Parts 730-774.

(b) *Prohibition*

(1) In view of these obligations, and to ensure accountability, integrity, and the security of the information maintained by or for HHSC and the work performed on behalf of HHSC

HHSC DETERMINES THAT IT IS NECESSARY AND APPROPRIATE TO REQUIRE THAT:

(A) ALL WORK PERFORMED UNDER THIS AGREEMENT MUST BE PERFORMED EXCLUSIVELY WITHIN THE UNITED STATES; AND

(B) ALL INFORMATION OBTAINED BY CONTRACTOR OR A SUBCONTRACTOR UNDER THIS AGREEMENT MUST BE MAINTAINED WITHIN THE UNITED STATES.

(2) HHSC, without prior written approval, forbids the performance of any work or the maintenance of any information relating or obtained pursuant to this Agreement to occur outside of the United States except as specifically authorized or approved by HHSC.

(c) *Meaning of "within the United States" and "outside the United States."*

(1) As used in this Section 17.01, the term "within the United States" means any location inside the territorial boundaries comprising the republic of the United States of America, including of any of the 48 coterminous states in North America, the states of Alaska and Hawaii, and the District of Columbia.

(2) Conversely, the phrase "outside the United States" means any location that is not within the territorial boundaries comprising the republic of the United States of America, including of any of the 48 coterminous states in North America, the states of Alaska and Hawaii, and the District of Columbia.

(d) *Maintenance of Confidential Information*

(1) CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not allow any Confidential Information that CONTRACTOR receives from or on behalf of HHSC to leave the United States by any means (physical or electronic) at any time, for any period of time, for any reason.

(2) CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not permit any person to have remote access to HHSC information, systems, or Deliverables from a location outside the United States.

(e) *Performance of Work under Agreement*

(1) Unless otherwise approved in advance by HHSC in writing, and subject to the exceptions specified in paragraph (e) of this Section 17.01, CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must perform all services under this Agreement, including all tasks, functions, and responsibilities assigned and delegated to CONTRACTOR under this Agreement, within the United States.

(A) This obligation includes all Services, including but not limited to information technology services, processing, transmission, storage, archiving, data center services, disaster recovery sites and services, customer support, medical, dental, laboratory and clinical services.

(B) All custom software prepared for performance of this Agreement, and all modifications of custom, third party, or vendor proprietary software, must be performed within the United States.

(2) Unless otherwise approved in advance by HHSC in writing, and subject to the exceptions specified in this Section, CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not permit any person to perform work under this Agreement from a location outside the United States.

(f) *Exceptions*

(1) COTS Software. The foregoing requirements will not preclude the acquisition or use of commercial off-the-shelf (COTS) software that is developed outside the United States or hardware that is generically configured outside the United States.

(2) Foreign-made Products and Supplies. The foregoing requirements will not preclude CONTRACTOR from acquiring, using, or reimbursing products or supplies that are manufactured outside the United States, provided such products or supplies are commercially available within the United States for acquisition or reimbursement by HHSC.

(3) HHSC Prior Approval. The foregoing requirements will not preclude CONTRACTOR from performing work outside the United States that HHSC has approved in writing and that HHSC has confirmed will not involve the sharing of Confidential Information outside the United States.

(g) *Disclosure*

CONTRACTOR must disclose all Services and Deliverables under or related to this Agreement that CONTRACTOR intends to perform or has performed outside the United States, whether directly or via subcontractors, vendors, agents, or service providers.

(h) *Remedy*

(1) CONTRACTOR's violation of this Section will constitute a material breach of the Agreement. CONTRACTOR will be liable to HHSC for all actual and consequential damages in accordance with the UTC.

(2) For breach of the requirements under this Section, HHSC may terminate the Agreement with Notice to CONTRACTOR at least 1 calendar day before the effective date of such termination.

Article 6. Service Levels and Performance Measurement

Section 6.01 Performance measurement.

Satisfactory performance of the Agreement will be measured by:

- (1) Adherence to the Agreement, including all representations and warranties;
- (2) Compliance with project work plans, schedules, and milestones as proposed by CONTRACTOR in its Proposal and as revised by CONTRACTOR and finally approved by HHSC;
- (3) Delivery of the Services and Deliverables in accordance with the service levels and availability proposed in Contractor's Proposal and as finally approved or accepted by HHSC;
- (4) Results of audits performed by HHSC or its representatives in accordance with Article 8;
- (5) Timeliness, completeness, and accuracy of required Deliverables; and
- (6) Achievement of performance measures developed by CONTRACTOR and HHSC and as modified from time to time by written agreement during the Initial Term of the Agreement.

Article 7. Amendments, Modifications, and Change Order Requests

Section 7.01 Amendments and modifications.

(a) *Amendments and modifications resulting from changes in law or contract.*

The Agreement may be amended by mutual written agreement of the Parties if changes in federal or state laws, rules, regulations, policies, guidelines or circumstances affect the performance of the work. The Parties will develop a business plan for negotiating appropriate change order and amendment procedures.

(b) *Modifications resulting from imposition of remedies.*

The Agreement may be modified under the terms of Article 11 (relating to Remedies and Disputes).

Section 7.02 Required compliance with amendment modification procedures.

No different or additional services, work, or products will be authorized or performed except those that are within scope and that are memorialized in an amendment or modification of the Agreement that is executed in compliance with this article. No waiver of any term, covenant, or condition of the Agreement will be valid unless executed in compliance with this article. CONTRACTOR will not be entitled to payment for any services, work or products that are not authorized by a properly executed Agreement amendment or modification, or through the express authorization of HHSC.

Article 8. Audit and Financial Compliance

Section 8.01 Record retention and audit.

CONTRACTOR must maintain, and require its subcontractors to maintain, supporting information and documents that are adequate to ensure that payments are made and paid in accordance with applicable Federal and State requirements, and are sufficient to ensure the accuracy and validity of CONTRACTOR invoices. These documents, including all original claims forms, will be maintained and retained by CONTRACTOR or its subcontractors for a period of seven years after the date of submission of the final billing or until the resolution of all litigation, claim, financial management review, or audit pertaining to the Agreement, whichever is longer. CONTRACTOR agrees to timely repay any undisputed audit exceptions taken by HHSC in any audit of the Agreement.

Section 8.02 Access to records, books, and documents.**(a) Notice**

Upon reasonable notice, CONTRACTOR must provide, and cause its subcontractors to provide, the officials and entities identified in this Section with prompt, reasonable, and adequate access to any records, books, documents, and papers that are directly pertinent to the performance of the Agreement.

(b) Access

CONTRACTOR and its subcontractors must provide the access described in this Section upon HHSC's request. This request may include the following purposes:

- (1) Examination;
- (2) Audit;
- (3) Investigation;
- (4) Contract administration; or
- (5) The making of copies, excerpts, or transcripts.

(c) Entities

The access required must be provided to the following officials or entities:

- (1) The United States Department of Health and Human Services or its designee;
- (2) The Comptroller General of the United States or its designee;
- (3) Medicaid program personnel from HHSC or its designee;
- (4) The Office of Investigations and Enforcement of HHSC;
- (5) Any independent verification and validation contractor or quality assurance contractor, when acting on behalf of HHSC;
- (6) The Office of the State Auditor of Texas or its designee;
- (7) A State or Federal law enforcement agency;
- (8) A special or general investigating committee of the Texas Legislature or its designee; and
- (9) Any other entity identified by HHSC.

(d) Accommodations

CONTRACTOR agrees to provide the access described wherever CONTRACTOR maintains the books, records, and supporting documentation described above. CONTRACTOR further agrees to provide such access in reasonable comfort and to provide any furnishings, equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this Section. CONTRACTOR will require its subcontractors to provide comparable access and accommodations.

Upon request, CONTRACTOR must provide copies of the information described in this Section free of charge to HHSC and the entities described in subsection (c).

Section 8.03 Audits and inspections of Services and Deliverables.

Upon notice from HHSC where possible, CONTRACTOR will provide, and will cause its subcontractors to provide, such auditors and inspectors as HHSC may from time to time designate, with access to:

- (1) CONTRACTOR service locations, facilities, or installations;
- (2) CONTRACTOR Software and Equipment; and
- (3) CONTRACTOR records.

CONTRACTOR must provide as part of the Services any assistance that such auditors and inspectors reasonably may require to complete such audits or inspections.

Section 8.04 Response/compliance with audit or inspection findings.

(a) CONTRACTOR must take action to ensure its or a subcontractor's compliance with a correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services and Deliverables or any other deficiency contained in any audit, review, or inspection conducted under the Agreement. This action will include CONTRACTOR'S delivery to HHSC, for HHSC'S approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).

(b) CONTRACTOR must bear the expense of compliance with any finding of noncompliance under the Agreement that is:

- (1) Required by a Texas or Federal law, regulation, rule or other audit requirement relating to CONTRACTOR's business;
- (2) Performed by CONTRACTOR as part of the Services and Deliverables; or
- (3) Necessary due to CONTRACTOR's noncompliance with any law, regulation, rule or audit requirement imposed on CONTRACTOR.

(c) As part of the Services, CONTRACTOR must provide to HHSC upon request a copy of those portions of CONTRACTOR's and its subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Agreement.

Section 8.05 Audit of CONTRACTOR fees.

(a) CONTRACTOR will provide, and will cause its subcontractors to provide, to HHSC and its designees access to financial records and supporting documentation reasonably requested by HHSC.

(b) In addition to the normal monthly review and payment of administrative vouchers, HHSC may audit the Fees charged to HHSC to determine whether such Fees are accurate and in accordance with the Agreement.

(c) If, as a result of such audit, HHSC determines that CONTRACTOR has overcharged the State, HHSC will notify CONTRACTOR of the amount of such overcharge and CONTRACTOR will promptly pay to HHSC the amount of the overcharge, plus interest. Interest on such overpayment amount will be calculated from the date of receipt by the CONTRACTOR of the overcharged amount until the date of payment to HHSC, and will be calculated at the Department of Treasury's Median Rate (resulting from the Treasury's auction of 13-week bills) for the week in which liability is assessed, but in no event to exceed the highest lawful rate of interest. In the event any such audit reveals an overcharge to HHSC, CONTRACTOR will reimburse HHSC for the cost of such audit.

Section 8.06 SAO Audit.

The CONTRACTOR understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an investigation in connection with those funds. The CONTRACTOR further agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. The CONTRACTOR will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through CONTRACTOR and the requirement to cooperate is included in any subcontract it awards.

Article 9. Terms and Conditions of Payment

Section 9.01 Rights of set-off.

(a) General right of set-off.

With respect to any undisputed amount that a Party in good faith determines should be reimbursed to it or is otherwise payable to it by the other Party under the Agreement, the Party seeking the set-off may deduct the entire amount owed against the charges otherwise payable or expenses owed to it under the Agreement until such time as the entire amount determined to be owed has been paid.

(b) Duty to make payments.

HHSC will be relieved of its obligation to make any payments to the CONTRACTOR until such time as all set-off amounts have been credited to HHSC and the CONTRACTOR will be relieved of its obligation to make any payments to HHSC until such time as such amounts have been credited to the CONTRACTOR.

Section 9.02 Expenses.

Except as provided in the Agreement, all other expenses incurred by the CONTRACTOR in connection with its provision of the Services or Deliverables will not be reimbursed by HHSC unless agreed to by HHSC. CONTRACTOR will be responsible for payment of all expenses related to salaries, benefits, employment taxes, and insurance for its Staff. In addition, the costs associated with transportation, delivery, and insurance for each Deliverable will be paid by CONTRACTOR.

Section 9.03 Disputed fees.

If HHSC disputes payment of all or any portion of an invoice from the CONTRACTOR, HHSC will notify the CONTRACTOR of the dispute and both Parties will attempt in good faith to resolve the dispute. HHSC will not be required to pay any disputed portion of a CONTRACTOR invoice unless and until the dispute is resolved. Notwithstanding any such dispute, the CONTRACTOR must continue to perform the Services and produce Deliverables in compliance with the terms of the Agreement pending resolution of such dispute so long as all undisputed amounts continue to be paid to CONTRACTOR.

Section 9.04 Liability for taxes.

HHSC is not responsible in any way for the payment of any federal, state or local taxes related to or incurred in connection with the CONTRACTOR'S performance of the Agreement. CONTRACTOR must pay and discharge any and all such taxes, including any penalties and interest. In addition, HHSC is exempt from Federal excise taxes, and will not pay for any personal property taxes or income taxes levied on CONTRACTOR or on any taxes levied on employee wages.

Section 9.05 Liability for employment-related charges and benefits.

CONTRACTOR will perform work under the Agreement as an independent contractor and not as agent or representative of HHSC. CONTRACTOR is solely and exclusively liable for all taxes and employment-related charges incurred in connection with the performance of the Agreement. HHSC will not be liable for any employment-related charges or benefits of CONTRACTOR, such as workers compensation benefits, unemployment insurance and benefits, or fringe benefits.

Section 9.06 No additional consideration.

CONTRACTOR will not be entitled to nor receive from HHSC any additional consideration, compensation, salary, wages, or any other type of remuneration for services rendered under the Agreement. CONTRACTOR will not be entitled by virtue of the Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. In addition, the costs associated with transportation, delivery, and insurance relating to the CONTRACTOR'S performance of the Agreement will be paid for by the CONTRACTOR.

Section 9.07 No increase in rates.

CONTRACTOR will not increase rates during the term of the Agreement, except as authorized in Article 7.

Article 10. Disclosure and Confidentiality of Information**Section 10.01 Confidentiality.****(a) HHSC Data Use Agreement**

The HHSC Data Use Agreement, Attachment A to these UTCs, is incorporated into the Agreement and describes CONTRACTOR's rights and obligations with respect to the Confidential Information and the limited purposes for which the CONTRACTOR may create, receive, maintain, use, disclose or have access to Confidential Information.

Section 10.02 Requests for public information.

(a) HHSC agrees that it will promptly notify CONTRACTOR of a request for disclosure of public information filed in accordance with the Texas Public Information Act, Texas Government Code Chapter 552, which consists of the CONTRACTOR's Confidential Information, including information to which CONTRACTOR believes it has a proprietary or commercial interest. HHSC will deliver a copy of the request for public information to CONTRACTOR.

(b) With respect to any information that is the subject of a request for disclosure, CONTRACTOR is required to demonstrate to the Texas Office of Attorney General the specific reasons why the requested information is confidential or otherwise excepted from required public disclosure under law. CONTRACTOR will provide HHSC with copies of all such communications.

(c) CONTRACTOR must make information defined as public information not otherwise excepted from disclosure under the Texas Public Information Act, Texas Government Code Chapter 552, available to HHSC in a format agreeable to HHSC, accessible by the public, and at no additional charge to HHSC.

(d) To the extent authorized under the Texas Public Information Act, HHSC agrees to safeguard from disclosure information received from CONTRACTOR that the CONTRACTOR believes to be Confidential Information. CONTRACTOR must clearly mark such information as Confidential Information or provide written notice to HHSC that it considers the information confidential.

(e) To the extent allowed under the Texas Public Information Act, Texas Government Code Chapter 552, CONTRACTOR agrees that any consultant reports received by HHSC in connection with the Agreement, may be distributed by HHSC, in its discretion, to any other state agency and the Texas legislature. Any distribution may include posting on HHSC's website or the website of a standing committee of the legislature.

Section 10.03 Privileged Work Product.

(a) CONTRACTOR acknowledges that HHSC asserts that Privileged Work Product may be prepared in anticipation of litigation and that CONTRACTOR is performing the Services with respect to Privileged Work Product as an agent of HHSC, and that all matter related thereto is protected from disclosure by the Texas Rules of Civil Procedure, Texas Rules of Evidence, Federal Rules of Civil Procedure, or Federal Rules of Evidence.

(b) HHSC will notify CONTRACTOR of any Privileged Work Product to which CONTRACTOR has or may have access. After the CONTRACTOR is notified or otherwise becomes aware that such documents, data, database, or communications are Privileged Work Product, only CONTRACTOR personnel for whom such access is necessary for the purposes of providing the Services may have access to Privileged Work Product.

(c) If CONTRACTOR receives notice of any judicial or other proceeding seeking to obtain access to HHSC's Privileged Work Product, CONTRACTOR will:

- (1) Immediately notify HHSC; and
- (2) Use all reasonable efforts to resist providing such access.

(d) If CONTRACTOR resists disclosure of HHSC's Privileged Work Product in accordance with this Section, HHSC will, to the extent authorized under Civil Practices and Remedies Code or other applicable State law, have the right and duty (i) to represent CONTRACTOR in such resistance; (ii) to retain counsel to so represent CONTRACTOR; or (iii) to reimburse CONTRACTOR for reasonable attorneys' fees and expenses incurred in resisting such access. HHSC will make the sole determination as to which of the preceding duties it will undertake.

(e) If a court of competent jurisdiction orders CONTRACTOR to produce documents, disclose data, or otherwise breach Contractor's confidentiality obligations or maintenance obligations regarding the confidentiality, proprietary nature, and secrecy of Privileged Work Product, CONTRACTOR will not be liable for breach of such obligation.

Section 10.04 Unauthorized acts.

Each Party agrees to:

- (1) Notify the other Party promptly of any unauthorized possession, use, or knowledge, or attempt thereof, of any of the other Party's Confidential Information by any person or entity that may become known to it;
- (2) Promptly furnish to the other Party full details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist the other Party in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential Information;
- (3) Cooperate with the other Party in any litigation and investigation against third Parties deemed necessary by such Party to protect its proprietary rights; and
- (4) Promptly prevent a reoccurrence of any such unauthorized possession, use, or knowledge of Confidential Information.

Section 10.05 Legal action.

A party may not commence any legal action or proceeding with a third party with respect to any unauthorized possession, use, or knowledge, or attempt thereof, of the other Party's Confidential Information by any person or entity, if that action or proceeding identifies the other Party or its Confidential Information without such Party's consent.

Article 11. Remedies and Disputes

Section 11.01 Understanding and expectations.

The remedies described in this Article are directed to CONTRACTOR's timely and responsive performance of the Services and Deliverables, and to the creation of a flexible and responsive relationship between the Parties.

Section 11.02 Tailored remedies.

(a) Understanding of the Parties.

CONTRACTOR agrees and understands that HHSC may pursue tailored contractual remedies for noncompliance with the Agreement. At any time and at its discretion, HHSC may impose or pursue one or more remedies for each item of noncompliance and will determine remedies on a case-by-case basis. HHSC's pursuit or non-pursuit of a tailored remedy does not constitute a waiver of any other remedy that HHSC may have at law or equity.

(b) Notice and opportunity to cure for non-material breach.

(1) HHSC will notify CONTRACTOR in writing of specific areas of CONTRACTOR performance that fail to meet performance expectations, standards, or schedules, but that, in the determination of HHSC, do not result in a material deficiency or delay in the implementation or operation of the Services.

(2) CONTRACTOR will, within three business days (or another date approved by HHSC) of receipt of written notice of a non-material deficiency, provide HHSC a written response that:

(A) Explains the reasons for the deficiency, CONTRACTOR's plan to address or cure the deficiency, and the date and time by which the deficiency will be cured; or

(B) If CONTRACTOR disagrees with HHSC's findings, explains its reasons for disagreeing with HHSC's findings.

(3) CONTRACTOR's proposed cure of a non-material deficiency is subject to the approval of HHSC. CONTRACTOR's repeated commission of non-material deficiencies or repeated failure to resolve any such deficiencies may be regarded by HHSC as a material deficiency and entitle HHSC to pursue any other remedy provided in the Agreement or any other appropriate remedy HHSC may have at law or equity.

(c) *Corrective action plan.*

(1) At its option, HHSC may require CONTRACTOR to submit to HHSC a detailed written plan (the "Corrective Action Plan") to correct or resolve a material deficiency or breach of the Agreement.

(2) The Corrective Action Plan must provide:

- (A) A detailed explanation of the reasons for the cited deficiency;
- (B) CONTRACTOR's assessment or diagnosis of the cause;
- (C) A specific proposal to cure or resolve the deficiency; and
- (D) CONTRACTOR's timeline for cure or resolution of the deficiency

(3) The Corrective Action Plan must be submitted by the deadline set forth in HHSC's request for a Corrective Action Plan. The Corrective Action Plan is subject to approval by HHSC, which will not be withheld unreasonably.

(4) HHSC will notify CONTRACTOR in writing of HHSC's final disposition of HHSC's concerns regarding the Corrective Action Plan. If HHSC accepts CONTRACTOR's proposed Corrective Action Plan, HHSC may:

- (A) Condition such approval on completion of tasks in the order or priority that HHSC may prescribe;
- (B) Disapprove portions of CONTRACTOR's proposed Corrective Action Plan; or
- (C) Require additional or different corrective action(s).

(5) At any time during this remedial process, HHSC reserves the right to:

- (A) Suspend all, or part of, the Agreement, and to withhold further payment for the suspended portions of the Agreement; or
- (B) Prohibit CONTRACTOR from incurring additional obligations of funds during investigation of the pending corrective action, if necessary, by CONTRACTOR or a decision by HHSC to terminate the Agreement for cause.

(6) If HHSC rejects CONTRACTOR's written explanation or proposed Corrective Action Plan, HHSC may issue a Stop Work Order to CONTRACTOR or any of its subcontractors or suppliers. HHSC may delay the implementation of the Stop Work Order if it affects the completion of any of the Services in accordance with the approved schedule or work plan.

(7) HHSC's acceptance of a Corrective Action Plan under this Section will not:

- (A) Excuse CONTRACTOR's prior substandard performance;
- (B) Relieve CONTRACTOR of its duty to comply with performance standards; or
- (C) Prohibit HHSC from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance.

(d) *Administrative remedies.*

(1) At its discretion, HHSC may impose one or more of the following remedies for each item of noncompliance and will determine the scope and severity of the remedy on a case-by-case basis:

- (A) Assess liquidated damages in accordance with the terms of the Agreement if provided in the Agreement;
- (B) Conduct accelerated monitoring of the CONTRACTOR. Accelerated monitoring includes more frequent or more extensive monitoring by HHSC or its agent;
- (C) Require additional, more detailed, financial or programmatic reports to be submitted by CONTRACTOR;
- (D) Decline to renew or extend the Agreement;
- (E) Withhold or recoup payment for the noncompliant Service or Deliverable; or
- (F) Terminate the Agreement in accordance with Section 11.03.

(2) For purposes of the Agreement, an item of noncompliance means a specific action of CONTRACTOR that:

- (A) Violates a provision of the Agreement;
- (B) Fails to meet an agreed measure of performance; or
- (C) Represents a failure of CONTRACTOR to be reasonably responsive to a reasonable request of HHSC relating to the Services and Deliverables for information, assistance, or support within the timeframe specified by HHSC.

(3) HHSC will provide notice to CONTRACTOR of the imposition of an administrative remedy in accordance with this Section, with the exception of accelerated monitoring, which may be unannounced. HHSC may require CONTRACTOR to file a written response as part of the Tailored Remedy approach.

(4) The Parties agree that a State or Federal statute, rule, regulation, or Federal guideline will prevail over the provisions of this Section unless the statute, rule, regulation, or guidelines can be read together with this Section to give effect to both.

(e) *Damages.*

(1) HHSC will be entitled to actual and consequential damages resulting from the CONTRACTOR's failure to comply with any of the terms of the Agreement.

(2) In some cases, the actual damage to HHSC or the State of Texas as a result of CONTRACTOR's failure to meet any aspect of the responsibilities of the Agreement or to meet specific performance standards set forth in the Agreement are difficult or impossible to determine with precise accuracy. Therefore, liquidated damages may be assessed in writing against and paid by the CONTRACTOR for failure to meet any aspect of the responsibilities of the Agreement or to meet the specific performance standards identified by the HHSC. Liquidated damages may be assessed if HHSC determines such failure is the fault of the CONTRACTOR (including the CONTRACTOR's subcontractors or consultants) and is not materially caused or contributed to by HHSC or its agents. If at any time, HHSC determines the CONTRACTOR has not met any aspect of the responsibilities of the Agreement or the specific performance standards due to mitigating circumstances, HHSC reserves the right to waive all or part of the liquidated damages. All such waivers must be in writing, contain the reasons for the waiver, and be signed by the appropriate executive of HHSC.

(a) The liquidated damages prescribed in this Section are not intended to be in the nature of a penalty, but are intended to be reasonable estimates of HHSC's projected financial loss and damage resulting from the CONTRACTOR's nonperformance, including financial loss as a result of project delays. Accordingly, in the event CONTRACTOR fails to perform in accordance with the Agreement, HHSC may assess liquidated damages as provided in this Section.

(3) If CONTRACTOR fails to perform any of the Services described in the Agreement, HHSC may assess liquidated damages for each occurrence of a liquidated damages event, to the extent consistent with HHSC's tailored approach to remedies and Texas law.

(4) HHSC may elect to collect liquidated damages:

(A) Through direct assessment and demand for payment delivered to CONTRACTOR; or

(B) By deduction of amounts assessed as liquidated damages as set-off against payments then due to CONTRACTOR for the Services or Deliverables or that become due at any time after assessment of the liquidated damages. HHSC will make deductions until the full amount payable by the CONTRACTOR is received by the State.

(f) *Equitable Remedies*

(1) CONTRACTOR acknowledges that, if CONTRACTOR breaches (or attempts or threatens to breach) its obligation under the Agreement, the State will be irreparably harmed. In such a circumstance, HHSC may proceed directly to court.

(2) If a court of competent jurisdiction finds that CONTRACTOR breached (or attempted or threatened to breach) any such obligations, CONTRACTOR agrees that without any additional findings of irreparable injury or other conditions to injunctive relief, it will not oppose the entry of an appropriate order compelling performance by CONTRACTOR and restraining it from any further breaches (or attempted or threatened breaches).

(g) *Suspension of Agreement*

(1) HHSC may suspend performance of all or any part of the Agreement if:

(A) HHSC determines that CONTRACTOR has committed a material breach of the Agreement;

(B) HHSC has reason to believe that CONTRACTOR has committed, assisted in the commission of, or failed to take appropriate action concerning fraud, abuse, malfeasance, misfeasance, or nonfeasance by any party concerning the Agreement; or

(C) HHSC determines that suspension of the Agreement in whole or in part is convenient or in the best interests of the State of Texas or the HHSC Programs.

(2) HHSC will notify CONTRACTOR in writing of its intention to suspend the Agreement in whole or in part. Such notice will:

(A) Be delivered in writing to CONTRACTOR;

(B) Include a concise description of the facts or matter leading to HHSC's decision; and

(C) Unless HHSC is suspending the contract for convenience, request a Corrective Action Plan from CONTRACTOR or describe actions that CONTRACTOR must take to avoid the contemplated suspension of the Agreement.

Section 11.03 Termination of Agreement.

In addition to other provisions of this article allowing termination, the Agreement will terminate upon the expiration date unless extended in accordance with the terms of the Agreement, or terminated sooner under the terms of the Agreement. Prior to completion of the Initial Term and any extensions or renewal thereof, all or a part of the Agreement may be terminated for any of the following reasons:

(a) *Termination by mutual agreement of the Parties.*

The Agreement may be terminated by mutual agreement of the Parties. Such agreement must be in writing.

(b) *Termination in the best interest of the State.*

HHSC may terminate the Agreement at any time when, in its sole discretion, HHSC determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination.

(c) *Termination for cause.*

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, HHSC may terminate the Agreement, in whole or in part, upon the following conditions:

(1) *Assignment for the benefit of all or substantially all of its creditors, appointment of receiver, or inability to pay debts.*

HHSC may terminate the Agreement if CONTRACTOR:

(A) Makes an assignment for the benefit of its creditors;

(B) Admits in writing its inability to pay its debts generally as they become due; or

(C) Consents to the appointment of a receiver, trustee, or liquidator of CONTRACTOR or of all or any part of its property.

(2) *Failure to adhere to laws, rules, ordinances, or orders.*

HHSC may terminate the Agreement if a court of competent jurisdiction finds CONTRACTOR failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of CONTRACTOR's duties under the Agreement.

(3) *Breach of confidentiality.*

HHSC may terminate the Agreement if CONTRACTOR breaches confidentiality obligations with respect to the Services and Deliverables provided under the Agreement.

(4) *Failure to maintain adequate personnel or resources.*

HHSC may terminate the Agreement if, after providing notice and an opportunity to correct, HHSC determines that CONTRACTOR has failed to supply personnel or resources and such failure results in CONTRACTOR's inability to fulfill its duties under the Agreement.

(5) *Termination for gifts and gratuities.*

(A) HHSC may terminate the Agreement following the determination by a competent judicial or quasi-judicial authority and CONTRACTOR's exhaustion of all legal remedies that CONTRACTOR, its employees, agents or representatives have either offered or given anything of value to an officer or employee of HHSC or the State of Texas in violation of state law.

(B) CONTRACTOR must include a similar provision in each of its subcontracts and will enforce this provision against a subcontractor who has offered or given anything of value to any of the persons or entities described in this Section, whether or not the offer or gift was in CONTRACTOR's behalf.

(C) Termination of a subcontract by CONTRACTOR under this provision will not be a cause for termination of the Agreement unless:

(1) CONTRACTOR fails to replace such terminated subcontractor within a reasonable time.

(D) For purposes of this Section, a "thing of value" means any item of tangible or intangible property that has a monetary value of more than \$50.00 and includes, but is not limited to, cash, food, lodging, entertainment, and charitable contributions. The term does not include contributions to holders of public office or candidates for public office that are paid and reported in accordance with State or Federal law.

(6) *Termination for non-appropriation of funds.*

Notwithstanding any other provision of the Agreement, if funds for the continued fulfillment of the Agreement by HHSC are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then HHSC will have the right to terminate the Agreement at no additional

cost and with no penalty whatsoever. HHSC will make best efforts to provide reasonable written advance notice to CONTRACTOR upon learning that funding for the Agreement may be discontinued.

(7) Termination for lack of financial viability.

HHSC may terminate the Agreement if, in its sole discretion, HHSC has a good faith belief that CONTRACTOR no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform the Agreement.

(8) Judgment and execution.

(A) HHSC may terminate the Agreement if judgment for the payment of money in excess of \$500,000.00 that is not covered by insurance, is rendered by any court or governmental body against CONTRACTOR, and CONTRACTOR does not:

- (1) Discharge the judgment or provide for its discharge in accordance with the terms of the judgment;
- (2) Procure a stay of execution of the judgment within 30 days from the date of entry thereof; or
- (3) Perfect an appeal of such judgment and cause the execution of such judgment to be stayed during the appeal, providing such financial reserves as may be required under generally accepted accounting principles.

(B) If a writ or warrant of attachment or any similar process is issued by any court against all or any material portion of the property of CONTRACTOR, and such writ or warrant of attachment or any similar process is not released or bonded within 30 days after its entry, HHSC may terminate the Agreement in accordance with this Section.

(8) Termination for CONTRACTOR's material breach of the Agreement.

HHSC will have the right to terminate the Agreement in whole or in part if HHSC determines, at its sole discretion, that CONTRACTOR has materially breached the Agreement.

Section 11.04 Effective date of termination.

Except as otherwise provided in the Agreement, termination will be effective as of the date specified in the notice of termination.

Section 11.05 Extension of termination effective date.

HHSC may extend the effective date of termination one or more times as it elects, in its sole discretion.

Section 11.06 Payment and other provisions at Agreement termination.

(a) If HHSC terminates the Agreement, HHSC will pay CONTRACTOR on the effective date of termination (or as soon as possible thereafter taking into account appropriation and fund accounting requirements) any undisputed amounts due for all completed, approved, and accepted Services or Deliverables.

(b) HHSC further agrees to negotiate in good faith with CONTRACTOR to equitably adjust and settle any accrued or outstanding liabilities for any unaccepted Service or deliverable and Change Order Requests that

- (1) Is due or delivered prior to or upon contract termination;
- (2) Is complete or substantially complete, or for which CONTRACTOR can document to the satisfaction of HHSC substantial progress; and
- (3) Benefits HHSC or the State of Texas, notwithstanding its unaccepted status.

(c) CONTRACTOR must provide HHSC all reasonable access to records, facilities, and documentation as is required to efficiently and expeditiously close out the Services under the Agreement.

(d) CONTRACTOR must prepare a turnover plan, which is acceptable to and approved by HHSC. That turnover plan will be implemented during the time period between receipt of notice and the termination date.

Section 11.07 Modification of Agreement in the event of remedies.

HHSC may propose a modification of the Agreement in response to the imposition of a remedy under this article. Any modifications under this Section must be reasonable, limited to the matters causing the exercise of a remedy, within the scope of the Agreement, and in writing. CONTRACTOR must negotiate such proposed modifications in good faith.

Section 11.08 Turnover assistance.

Upon receipt of notice of termination of the Agreement by HHSC, CONTRACTOR will provide any turnover assistance reasonably necessary to enable HHSC or its designee to effectively close out the Agreement and move the work to another vendor or to perform the work by itself.

Section 11.09 Rights upon termination or expiration of Agreement.

In the event that the Agreement is terminated for any reason, or upon its expiration, HHSC will, at HHSC's discretion, retain ownership of any and all associated work products, Deliverables or Documentation in whatever form that they exist.

Section 11.10 CONTRACTOR responsibility for associated costs.

If HHSC terminates the Agreement for Cause, the CONTRACTOR will be responsible to HHSC for all costs incurred by HHSC, the State of Texas, or any of its administrative agencies to replace the CONTRACTOR. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to CONTRACTOR's failure to perform any Service in accordance with the terms of the Agreement.

Section 11.11 Dispute resolution.**(a) General agreement of the Parties.**

The Parties mutually agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under the Agreement. The Parties mutually commit to using all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in this Article, unless HHSC immediately terminates the Agreement in accordance with the terms and conditions of the Agreement.

(b) Duty to negotiate in good faith.

Any dispute that in the judgment of any Party to the Agreement may materially or substantially affect the performance of any Party will be reduced to writing and delivered to the other Party within 10 business days. The Parties must then negotiate in good faith and use every reasonable effort to resolve the dispute and the Parties will not resort to any formal proceedings unless they have reasonably determined that a negotiated resolution is not possible and notified the other Party. The resolution of any dispute disposed of by agreement between the Parties will be reduced to writing and delivered to all Parties within 10 business days.

(c) Claims for breach of Agreement.

(1) *General requirement.* As required by Chapter 2260, Government Code, CONTRACTOR's claim for breach of the Agreement must be resolved in accordance with the dispute resolution process established by HHSC in accordance with Chapter 2260, Government Code.

(2) *Negotiation of claims.* The Parties agree that the CONTRACTOR's claim for breach of the Agreement that the Parties cannot resolve in the ordinary course of business or through the use of all reasonable and informal means will be submitted to the negotiation process provided in Chapter 2260, Subchapter B, Government Code.

(A) To initiate the process, CONTRACTOR must submit written notice to HHSC that states that CONTRACTOR invokes the provisions of Chapter 2260, Subchapter B, Government Code. The notice must comply with the requirements of Title 1, Chapter 392, Subchapter B of the Texas Administrative Code.

(B) The Parties agree that the CONTRACTOR's compliance with Chapter 2260, Subchapter B, Government Code, will be a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.

(3) *Contested case proceedings.* The contested case process provided in Chapter 2260, Subchapter C, Government Code, will be CONTRACTOR's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by HHSC if the Parties are unable to resolve their disputes under Subsection (c)(2) of this Section.

(A) The Parties agree that compliance with the contested case process provided in Chapter 2260, Subchapter C, Government Code, will be a condition precedent to seeking consent to sue from the Texas Legislature under Chapter 107, Civil Practices & Remedies Code. Neither the execution of the Agreement by HHSC nor any other conduct of any representative of HHSC relating to the Agreement will be considered a waiver of the State's sovereign immunity to suit.

(4) *HHSC rules.* The submission, processing and resolution of CONTRACTOR's claim is governed by the rules adopted by HHSC under Chapter 2260, Government Code, found at Title 1, Chapter 392, Subchapter B of the Texas Administrative Code.

(5) *CONTRACTOR's duty to perform.* Neither the occurrence of an event constituting an alleged breach of contract nor the pending status of any claim for breach of contract is grounds for the suspension of performance, in whole or in part, by CONTRACTOR of any duty or obligation with respect to the performance of the Agreement. Any changes to the Agreement as a result of a Dispute Resolution will be implemented in accordance with Article 8, Amendments, Modifications and Change Order Requests.

Section 11.12 Liability of CONTRACTOR.

(a) CONTRACTOR bears all risk of loss or damage due to:

- (1) Defects in products, Services or Deliverables;
- (2) Unfitness or obsolescence of products, Services or Deliverables; or

(3) The negligence or intentional misconduct of CONTRACTOR or its employees, agents, subcontractors, or representatives.

(b) **CONTRACTOR MUST, AT THE CONTRACTOR'S OWN EXPENSE, DEFEND WITH COUNSEL APPROVED BY THE STATE, INDEMNIFY, AND HOLD HARMLESS THE STATE AND STATE EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS AND AGENTS FROM AND AGAINST ANY LOSSES, LIABILITIES, DAMAGES, PENALTIES, COSTS, FEES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, AND EXPENSES FROM ANY CLAIM OR ACTION FOR PROPERTY DAMAGE, BODILY INJURY OR DEATH, TO THE EXTENT CAUSED BY OR ARISING FROM THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF THE CONTRACTOR AND ITS EMPLOYEES, OFFICERS, AGENTS, OR SUBCONTRACTORS.**

(c) CONTRACTOR will not be liable to HHSC for any loss, damages or liabilities attributable to or arising from:

- (1) The failure of HHSC or any state agency or HHSC CONTRACTOR to perform a service or activity in connection with the Agreement; or
- (2) CONTRACTOR's prudent and diligent performance of the Services in compliance with instructions given by HHSC in accordance with Section 1.03 (relating to implied authority) and Section 3.03 (relating to delegation of authority) of the Agreement.

(d) CONTRACTOR will ship all Equipment and Software purchased and Third Party Software licensed under the Agreement, freight prepaid, FOB HHSC's destination. The method of shipment will be consistent with the nature of the Equipment and Software and hazards of transportation. Regardless of FOB point, CONTRACTOR agrees to bear all risks of loss, damage, or destruction of Deliverables, in whole or in part, ordered hereunder that occurs prior to Acceptance, except loss or damage attributable to HHSC's fault or negligence; and such loss, damage, or destruction will not release CONTRACTOR from any obligation hereunder. After Acceptance, the risk of loss or damage will be borne by HHSC, except loss or damage attributable to CONTRACTOR's fault or negligence.

Article 12. Assurances and Certifications**Section 12.01 Proposal certifications.**

CONTRACTOR acknowledges its continuing obligation to comply with the requirements of any certifications contained in the Agreement, and will immediately notify HHSC of any changes in circumstances affecting those certifications.

Section 12.02 Conflicts of interest.

(a) *Representation.*

CONTRACTOR agrees to comply with applicable state and federal laws, rules, and regulations regarding conflicts of interest in the performance of its duties under the Agreement. CONTRACTOR warrants that it, its subcontractors, and employees, officers, directors and agents of Contractor and Contractor's subcontractors have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with its performance under the Agreement.

(b) *General duty regarding conflicts of interest.*

CONTRACTOR will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. CONTRACTOR will operate with complete independence and objectivity without actual, potential or apparent conflict of interest with respect to the activities conducted under the Agreement with the State of Texas.

Section 12.03 Organizational conflicts of interest.

(a) *Definition.*

An organizational conflict of interest is a set of facts or circumstances, a relationship, or other situation under which a contractor, or a subcontractor has past, present, or currently planned personal or financial activities or interests that either directly or indirectly:

- (1) Impairs or diminishes the offeror's, contractor's, or subcontractor's ability to render impartial or objective assistance or advice to HHSC; or
- (2) Provides the contractor or subcontractor an unfair competitive advantage in future HHSC procurements.

(b) *Warranty.*

Except as otherwise disclosed and approved by HHSC prior to the Effective Date of the Contract, CONTRACTOR warrants that, as of the Effective Date and to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to organizational conflict of interest affecting the Agreement.

CONTRACTOR affirms that it has neither given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, at any time during the procurement process or in connection with the procurement process except as allowed under relevant state and federal law.

(c) *Continuing duty to disclose.*

(1) CONTRACTOR agrees that, if after the Effective Date, CONTRACTOR discovers is made aware of an organizational conflict of interest, CONTRACTOR will immediately and fully disclose such interest in writing to the HHSC project manager. In addition, CONTRACTOR must promptly disclose any relationship that might be perceived or represented as a conflict after its discovery by CONTRACTOR or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of conflicts of interest, and CONTRACTOR agrees to abide by HHSC's decision.

(2) The disclosure will include a description of the action(s) that CONTRACTOR has taken or proposes to take to avoid or mitigate such conflicts.

(d) *Remedy.*

If HHSC determines that an organizational conflict of interest exists, HHSC may, at its discretion, terminate the contract. If HHSC determines that CONTRACTOR was aware of an organizational conflict of interest before the award of the Agreement and did not disclose the conflict to the contracting officer, such nondisclosure will be considered a material breach of the Agreement. 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.

(e) *Flow down obligation.*

CONTRACTOR must include the provisions of this Section 12.03 in all subcontracts for work to be performed similar to the service provided by CONTRACTOR, and the terms "Agreement," "CONTRACTOR," and "project manager" modified appropriately to preserve the State's rights.

Section 12.04 HHSC personnel recruitment prohibition.

CONTRACTOR has not retained or promised to retain any person or company, or utilized or promised to utilize a consultant that participated in HHSC's development of specific criteria of the Agreement or who participated in the selection of the CONTRACTOR for the Agreement.

CONTRACTOR will not recruit or employ any HHSC professional or technical personnel who have worked on projects relating to the subject matter of the Agreement, or who have had any influence on decisions affecting the subject matter of the Agreement, for two (2) years following the completion of the Agreement.

Section 12.05 Anti-kickback provision.

CONTRACTOR certifies that it will comply with the Anti-Kickback Act of 1986, 41 USC §51-58 and Federal Acquisition Regulation 52.203-7.

Section 12.06 Debt or back taxes owed to the State of Texas.

In accordance with Section 403.055 of the Government Code, CONTRACTOR agrees that any payments due to CONTRACTOR under the Agreement will be first applied toward any debt or back taxes CONTRACTOR owes the State of Texas. CONTRACTOR further agrees that payments will be so applied until such debts and back taxes are paid in full.

Section 12.07 Certification regarding status of license, certificate, or permit.

Article IX, Section 163 of the General Appropriations Act for the 1998/1999 state fiscal biennium prohibits an agency that receives an appropriation under either Article II or V of the General Appropriations Act from awarding an Agreement with the owner, operator, or administrator of a facility that has had a license, certificate, or permit revoked by another Article II or V agency. CONTRACTOR certifies it is not ineligible for an award under this provision.

Section 12.08 Outstanding debts and judgments.

CONTRACTOR certifies that it is not presently indebted to the State of Texas, and that CONTRACTOR is not subject to an outstanding judgment in a suit by the State of Texas against CONTRACTOR for collection of the balance. For purposes of this Section, an indebtedness is any amount sum of money that is due and owing to the State of Texas and is not currently under dispute. A false statement regarding CONTRACTOR's status will be treated as a material breach of the Agreement and may be grounds for termination at the option of HHSC.

Section 12.09 Anti-trust.

In submitting a proposal, and in accepting the Contract or purchase order, Contractor certifies and agrees as follows:

(1) Neither the CONTRACTOR, nor the person represented by the CONTRACTOR, nor any person acting for the represented person has:

(a) violated the antitrust laws codified by Chapter 15, Business & Commerce Code, or the federal antitrust laws; or

(b) directly or indirectly communicated the bid/offer associated with this contract to a competitor or other person engaged in the same line of business.

(2) CONTRACTOR assigns to HHSC all of CONTRACTOR's rights, title, and interest in and to all claims and causes of action CONTRACTOR may have under the antitrust laws of Texas or the United States for overcharges associated with this contract.

Article 13. Representations and Warranties

Section 13.01 Authorization.

(a) The execution, delivery and performance of the Agreement has been duly authorized by CONTRACTOR and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for CONTRACTOR to enter into the Agreement and perform its obligations under the Agreement.

(b) CONTRACTOR has obtained and will maintain all licenses, certifications, permits, and authorizations necessary to perform the Services under the Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of CONTRACTOR's performance of the Agreement. CONTRACTOR will maintain all required certifications, licenses, permits, and authorizations to remain in good standing during the term of the Agreement.

Section 13.02 Ability to perform.

CONTRACTOR warrants that it has the financial resources to fund the capital expenditures required under the Agreement without advances by HHSC or assignment of any payments by HHSC to a financing source.

Section 13.03 Workmanship and performance.

(a) All Services and Deliverables provided under the Agreement will be provided in a manner consistent with the standards of quality and integrity as outlined in the Agreement, the Solicitation, and CONTRACTOR's Proposal.

(b) All Services and Deliverables must meet or exceed the required levels of performance specified in or under the Agreement, and will meet or exceed HHSC's Missions and Objectives, as set forth in the Solicitation.

(c) CONTRACTOR will perform the Services in a workmanlike manner, in accordance with best practices and high professional standards used in well-managed operations performing services similar to the services described in the Agreement.

Section 13.04 Warranty of deliverables.

CONTRACTOR warrants that Deliverables developed and delivered under the Agreement will meet the specifications as described in the Agreement during the period following its acceptance by HHSC, through the term of the Agreement, including any extensions as provided in the Agreement, that are subsequently negotiated by CONTRACTOR and HHSC. CONTRACTOR will promptly repair or replace any such Deliverables not in compliance with this warranty at no charge to HHSC.

Section 13.05 Manufacturers' warranties.

CONTRACTOR assigns to HHSC all of the manufacturers' warranties and indemnities relating to all products, including without limitation, Third Party Software to the extent CONTRACTOR is permitted by the manufacturers to make such assignments to HHSC. Such assignment is subject to all of the terms and conditions imposed by the manufacturers with respect thereto.

Section 13.06 Compliance with Agreement.

CONTRACTOR will not take any action substantially or materially inconsistent with any of the terms and conditions set forth in the Agreement without the written approval of HHSC.

Article 14. Intellectual Property

Section 14.01 Infringement and misappropriation.

(a) CONTRACTOR warrants that all Deliverables provided by CONTRACTOR will not infringe or misappropriate any right of, and will be free of any claim of, any third person or entity based on copyright, patent, trade secret, or other intellectual property rights.

(b) **CONTRACTOR WILL, AT ITS EXPENSE, DEFEND WITH COUNSEL APPROVED BY HHSC, INDEMNIFY, AND HOLD HARMLESS HHSC, ITS EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS, AND AGENTS FROM AND AGAINST ANY LOSSES, LIABILITIES, DAMAGES, PENALTIES, COSTS, FEES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND EXPENSES, FROM ANY CLAIM OR ACTION AGAINST HHSC THAT IS BASED ON A CLAIM OF BREACH OF THE WARRANTY SET FORTH IN THE PRECEDING PARAGRAPH. HHSC WILL PROMPTLY NOTIFY CONTRACTOR IN WRITING OF THE CLAIM, PROVIDE CONTRACTOR A COPY OF ALL INFORMATION RECEIVED BY HHSC WITH RESPECT TO THE CLAIM, AND COOPERATE WITH CONTRACTOR IN DEFENDING OR SETTLING THE CLAIM.**

(c) In case the Deliverables, or any one or part thereof, is in such action held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted or if a proceeding appears to CONTRACTOR to be likely to be brought, CONTRACTOR will, at its own expense, either:

- (1) Procure for HHSC the right to continue using the Deliverables; or
- (2) Modify or replace the Deliverables to comply with the Specifications and to not violate any intellectual property rights.

If neither of the alternatives set forth in (1) or (2) above are available to the CONTRACTOR on commercially reasonable terms, CONTRACTOR may require that HHSC return the allegedly infringing Deliverable(s) in which case CONTRACTOR will refund all amounts paid for all such Deliverables and reimburse HHSC for any related direct and indirect damages incurred by HHSC due to the infringing Deliverable(s).

Section 14.02 Exceptions.

CONTRACTOR is not responsible for any claimed breaches of the warranties set forth in Section 14.01 to the extent caused by:

- (a) Modifications made to the item in question by anyone other than CONTRACTOR or its subcontractors or HHSC or its Contractors working at CONTRACTOR's direction or in accordance with the specifications; or
- (b) The combination, operation, or use of the item with other items if CONTRACTOR did not supply or approve for use with the item; or
- (c) HHSC's failure to use any new or corrected versions of the item made available by CONTRACTOR.

Article 15. Liability

Section 15.01 Property damage.

(a) CONTRACTOR will protect HHSC's real and personal property from damage arising from CONTRACTOR's, its agent's, employees' and subcontractors' performance of the Agreement, and CONTRACTOR will be responsible for any loss, destruction, or damage to HHSC's property that results from or is caused by CONTRACTOR's, its agents', employees' or subcontractors' negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of HHSC, CONTRACTOR will notify the HHSC Project Manager thereof and, subject to direction from the Project Manager or her or his designee, will take all reasonable steps to protect that property from further damage.

(b) CONTRACTOR agrees to observe and require its employees and agents to observe safety measures and proper operating procedures at HHSC sites at all times.

(c) CONTRACTOR will distribute a policy statement to all of its employees and agents that directs the employee or agent to immediately report to HHSC or to CONTRACTOR any special defect or unsafe condition encountered while on HHSC premises. CONTRACTOR will immediately report to HHSC any special defect or an unsafe condition it encounters or otherwise learns about.

Section 15.02 Risk of Loss.

During the period Deliverables are in transit and in possession of CONTRACTOR, its carriers or HHSC prior to being accepted by HHSC, CONTRACTOR will bear the risk of loss or damage thereto, unless such loss or damage is caused by the negligence or intentional misconduct of HHSC. After HHSC accepts a Deliverable, the risk of loss or damage to the Deliverable will be borne by HHSC, except loss or damage attributable to the negligence or intentional misconduct of CONTRACTOR's agents, employees or subcontractors.

Section 15.03 Limitation of HHSC's Liability.

HHSC WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY. THIS WILL APPLY REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF HHSC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

HHSC'S LIABILITY TO CONTRACTOR UNDER THE AGREEMENT WILL NOT EXCEED THE TOTAL CHARGES TO BE PAID BY HHSC TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING CHANGE ORDER REQUEST PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

Article 16. Special Terms and Conditions

Section 16.01 HHSC Data Use Agreement Not Required

The HHSC Data Use Agreement is not required to be attached to the Agreement because:

☐ CONTRACTOR does not Access Confidential Information; or

☐ CONTRACTOR accesses Other Confidential Information as defined in the Agreement and CONTRACTOR agrees:

CONTRACTOR and all subcontractors, consultants, or agents under the Agreement will treat all information that is obtained through performance of the Services under the Agreement, including, but not limited to, information relating to applicants or recipients of HHSC Programs as Other Confidential Information to the extent that such information is considered Other Confidential Information in the Agreement.

(a) CONTRACTOR is responsible for understanding the degree to which information obtained through performance of the Agreement is confidential under state and federal law, regulations, or administrative rules as applicable.

(b) CONTRACTOR and all subcontractors, consultants, or agents under the Agreement will not use any information obtained through performance of the Agreement in any manner except as is necessary to the proper discharge of obligations and securing of rights under the Agreement.

(c) CONTRACTOR will have a system in effect to protect all records, documents, or Other Confidential Information under the Agreement that is obtained or maintained in connection with the activities funded under the Agreement. Any disclosure or transfer of Other Confidential Information by CONTRACTOR, including information required by HHSC, will be in accordance with the Agreement. If the CONTRACTOR receives a request for information deemed Other Confidential Information under the Agreement, CONTRACTOR will immediately notify the State of the request, and will make reasonable efforts to protect the information from public disclosure until further instructed by HHSC.

(d) In addition to the requirements stated in this Section, CONTRACTOR must comply with any policy, rule, or reasonable requirement of HHSC that relates to the safeguarding or disclosure of Other Confidential Information relating to HHSC Programs recipients, CONTRACTOR'S operations, or the CONTRACTOR performance of the Agreement.

(e) Upon expiration of the Agreement, or termination of the Agreement for any reason, all Other Confidential Information of a Party disclosed to, and all copies made by the other Party, will be returned to the disclosing Party or, at the disclosing Party's option, erased or destroyed, subject to laws governing the destruction of public information. The recipient of the Other Confidential Information must provide the disclosing Party certificates evidencing this erasure or destruction.

(f) CONTRACTOR will immediately report to HHSC any and all unauthorized disclosures or uses of Other Confidential Information upon it or its subcontractor(s), consultant(s), or agent(s) becoming aware or acquiring knowledge of the disclosure. CONTRACTOR acknowledges that any publication or disclosure of Other Confidential Information may cause immediate and irreparable harm to HHSC and may constitute a violation of State or federal laws. If CONTRACTOR, its subcontractor(s), consultant(s), or agent(s) should publish or disclose such Other Confidential Information to others without authorization, HHSC will immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period as described in Article 11. HHSC will have the right to recover from CONTRACTOR all damages and liabilities caused by or arising from Contractor's, its subcontractors', consultants', or agents' failure to protect HHSC's Confidential Information. **CONTRACTOR WILL DEFEND WITH COUNSEL APPROVED BY HHSC, 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 CONTRACTOR'S OR ITS SUBCONTRACTORS', CONSULTANTS' OR AGENTS' FAILURE TO PROTECT OTHER CONFIDENTIAL INFORMATION.**

(g) CONTRACTOR will require its subcontractor(s), consultant(s), and agent(s) to comply with the terms of this provision.

(h) The obligations in this Section do not restrict any disclosure by a Party under any applicable law, or by order of any court or government agency, provided that the disclosing Party must give prompt notice to the non-disclosing Party of such order.

(i) With the exception of HHSC Program recipient or client information, Other Confidential Information of a Party will not be afforded the protection of the Agreement if this data was:

- (1) Already known to the receiving Party without restrictions at the time of its disclosure by the furnishing Party;
- (2) Independently developed by the receiving Party without reference to the furnishing Party's confidential Information;
- (3) Rightfully obtained by the other Party without restriction from a third party after its disclosure by the furnishing Party;
- (4) Publicly available other than through the fault or negligence of the other Party; or
- (5) Released without restriction to anyone.

☐ **Section 16.02 Financial/performance audits.**

(a) Texas Health and Safety Code Section 12.0123 directs HHSC to contract with an independent auditor to perform annual independent external financial and performance audits of any Medicaid contractor used by HHSC in HHSC's operation of a part of the State Medicaid program. "Medicaid contractor" means an entity that, under a contract with or otherwise on behalf of HHSC, performs one or more administrative services in relation to HHSC's operation of a part of the State Medicaid program, such as claims processing, utilization review, client enrollment, provider enrollment, quality monitoring, or payment of claims. The independent auditor will deliver to the CONTRACTOR and to HHSC a report of the findings and recommendations within 30 calendar days of the close of each audit. The report will be prepared in accordance with generally accepted auditing standards.

(b) CONTRACTOR agrees to deliver to HHSC, for HHSC's approval, a Corrective Action Plan that addresses deficiencies identified in the audit within 30 calendar days of the delivery of the independent auditor's report.

(c) CONTRACTOR understands that the independent auditor ("the auditor") will make specific inquiries of CONTRACTOR's management for information, including but not limited to information concerning the representations embodied in the financial statements and reports CONTRACTOR is required to furnish the State as per any financial report requirements in the Agreement. CONTRACTOR understands that as part of the auditor's audit procedures, the auditor will request, and CONTRACTOR's management will provide to the auditor a representation letter;

- (1) Acknowledging management's responsibility for the preparation of the financial statements and reports;
- (2) Acknowledging management's responsibility for compliance with laws and regulations; and

(3) Affirming management's belief that the effects of any uncorrected financial statement or report misstatements aggregated by the auditor during the current audit engagement and pertaining to the period presented are immaterial, both individually and in the aggregate, to the financial statements and reports taken as a whole.

(d) CONTRACTOR understands and agrees that the auditor will also request that CONTRACTOR's management confirm certain representations made to the auditor during the audit. The responses to those inquiries, and the related written representations of management required by generally accepted auditing standards, are part of the evidential matter that the auditor will rely on in forming its opinion on the CONTRACTOR's financial statements and reports.

☐ **Section 16.03 Audit software.**

As part of the Services, CONTRACTOR must operate and maintain audit software that HHSC or its designees may provide to CONTRACTOR from time to time during the Term of the Agreement.

☐ **Section 16.04 Ownership and licenses.**

(a) *Custom software.*

The Parties agree that any Deliverable, including any software, developed by CONTRACTOR in connection with the Agreement (the "Custom Software"), will be the exclusive property of HHSC.

(b) *Ownership rights.*

(1) HHSC will own all right, title, and interest in and to its Confidential Information and the Deliverables provided by CONTRACTOR, including without limitation the specifications, a work plan, and the Custom Software, except that the Deliverables will not include the third party software and the associated Documentation for purposes of this Section. CONTRACTOR will take all actions necessary and transfer ownership of the Deliverables to HHSC,

including the Custom Software and associated Documentation on final acceptance or as otherwise provided in the Agreement.

(2) CONTRACTOR will furnish Custom Software and Documentation, upon request of HHSC, in accordance with applicable State law. All Deliverables, in whole and in part, will be deemed works made for hire of HHSC for all purposes of copyright law, and copyright will belong solely to HHSC. To the extent that any Deliverable under this Section does not qualify as a work for hire under applicable law, and to the extent that the Deliverable includes materials subject to copyright, patent, trade secret, or other proprietary right protection, CONTRACTOR assigns all right, title, and interest in and to Deliverables, including all copyrights, inventions, patents, trade secrets, and other proprietary rights in the Deliverables (including any proprietary right renewals) to HHSC.

(3) CONTRACTOR will, at the expense of HHSC, assist HHSC or its designees to obtain copyrights, trademarks, or patents for all such Deliverables in the United States and any other countries. CONTRACTOR agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to HHSC all the right, title, and interest in and to such Deliverables. CONTRACTOR also agrees not to assert any moral rights under applicable copyright law with regard to such Deliverables.

(c) *License Rights*

HHSC will have ownership and unlimited rights to use, disclose, duplicate, or publish all information and data developed, derived, documented, or furnished by CONTRACTOR under or resulting from the Agreement. Such data will include all results, technical information, and materials developed for or obtained by HHSC from CONTRACTOR in the performance of the Services hereunder, including but not limited to all reports, surveys, plans, charts, recordings (video or sound), pictures, drawings, analyses, source and object code, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the Services performed as a result of the Agreement.

(d) *Proprietary Notices*

CONTRACTOR will reproduce and include HHSC's copyright and other proprietary notices and product identifications provided by CONTRACTOR on such copies, in whole or in part, or on any form of the Deliverables.

(e) *Third Party Software and Documentation Licenses*

(1) CONTRACTOR grants HHSC a non-exclusive, perpetual, license for HHSC to use the Third Party Software and its associated Documentation for its internal business purposes. HHSC will be entitled to use the Third Party Software on the Equipment or any replacement equipment used by HHSC, and with any replacement Third Party Software chosen by HHSC, without additional Charges. Terms in any licenses for Third Party Software will be consistent with the requirements of this Section.

(2) The licenses hereunder are granted as of the date when such Third Party Software is installed and certified by CONTRACTOR as operational, and the licenses will continue until HHSC permanently discontinues the use of the Third Party Software.

(3) Prior to utilizing any Third Party Software product that may be included as part of a Software Deliverable to HHSC, CONTRACTOR will provide to HHSC copies of the license agreement from the licensor of the Third Party Software to allow HHSC to pre-approve the license agreement that must, at a minimum, provide HHSC with necessary rights consistent with the short and long-term goals of the Agreement. CONTRACTOR will assign to HHSC the licenses for the Third Party Software upon Final Acceptance.

(4) CONTRACTOR will, during the project, maintain any and all Third Party Software products at their most current version or no more than one version back from the most current version. However, CONTRACTOR will not maintain any Third Party Software versions, including one version back, if any such version would prevent HHSC from using any functions, in whole or in part, or would cause deficiencies in the system.

(f) *State and Federal Governments*

In accordance with 45 C.F.R. Part 95.617, all appropriate State and Federal agencies will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes all materials, the Custom Software and modifications thereof, and associated documentation designed, developed, or installed with Federal Financial Participation under the Agreement, including but not limited to those materials covered by copyright, all Software source and object code, instructions, files, and Documentation composing the System.

☐ **Section 16.05 Insurance Coverage.**

(a) *Required Coverage.*

(1) CONTRACTOR will procure, at CONTRACTOR's own expense, during the Term of the Agreement and until final acceptance of all Services and Deliverables, the following insurance coverage. CONTRACTOR will

provide HHSC with proof of the following insurance coverage within 10 calendar days after the Agreement is awarded upon HHSC's request:

- (A) Standard Worker's Compensation Insurance coverage;
- (B) Automobile Liability; and
- (C) Commercial General Liability Insurance including Bodily Injury coverage of \$100,000.00 per each occurrence and Property Damage Coverage of \$25,000.00 per each occurrence.

(2) If CONTRACTOR's current Commercial General Liability insurance coverage does not meet the above stated requirements, CONTRACTOR will obtain excess liability insurance to compensate for the difference in the coverage amounts prior to effective date of the Agreement.

(3) CONTRACTOR is responsible for all deductibles stated in the policies. Insurance will be maintained at all times during the performance of the Agreement. Insurance coverage will be issued by insurance companies with "A" rating from Best that are authorized by applicable law to conduct business and provide the required coverage in the State of Texas, and must name HHSC as an additional insured.

(4) The policy will have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement.

(b) *Proof of Insurance Coverage*

(1) CONTRACTOR will furnish the HHSC Project Manager original Certificates of Insurance evidencing the required coverage to be in force on the date of award, and renewal certificates of insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Agreement. The failure of HHSC to obtain this evidence from CONTRACTOR before permitting CONTRACTOR to commence work will not be deemed to be a waiver by HHSC and CONTRACTOR will remain under continuing obligation to maintain and provide proof of the insurance coverage.

(2) The insurance specified above will be carried until all services required to be performed under the terms of the Agreement are satisfactorily completed. Failure to carry or keep such insurance in force will constitute a violation of the Agreement, and HHSC maintains the right to stop work until proper evidence of insurance is provided.

(3) The insurance will provide for 30 calendar days prior written Notice to be given to HHSC in the event coverage is substantially changed, canceled, or non-renewed. CONTRACTOR must submit a new coverage binder to HHSC to ensure no break in coverage.

(4) CONTRACTOR will require all subcontractors operating in Texas to carry the same or more coverage as CONTRACTOR is required to carry under the Agreement. CONTRACTOR may provide the coverage for any subcontractor, and, if provided, the evidence of insurance submitted will so stipulate.

(5) The Parties understand and agree that any insurance coverages and limits furnished by CONTRACTOR will in no way expand or limit CONTRACTOR's liabilities and responsibilities specified within the Contract documents or by applicable law.

(6) CONTRACTOR and each subcontractor will require that insurer will waive their rights of subrogation against HHSC.

(7) CONTRACTOR understands and agrees that any insurance maintained by HHSC will apply in excess of and not contribute with insurance provided by CONTRACTOR under the Agreement.

(8) If CONTRACTOR, or its subcontractor(s), desire additional coverage, higher limits of liability, or other modifications for its own protection, CONTRACTOR and each of its subcontractors will be responsible for the acquisition and cost of this additional protection at no additional cost to HHSC.

(9) CONTRACTOR may not transport a client or conduct any other official business on behalf of HHSC without the required coverage of the Agreement. CONTRACTOR agrees and understands that HHSC will not be liable for any accident or death due to an automobile accident involving the CONTRACTOR or CONTRACTOR's employee, even if the accident or death occurs in the course of performing any work under the Agreement. Failure to meet this provision may be considered a material breach of the Agreement.



Section 16.06 Background Checks.

CONTRACTOR must obtain a criminal background check, including fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation, on any Contractor's employees or agents, including Subcontractors and Subcontractor employees or agents, who would be placed in direct contact with a resident or client.

CONTRACTOR must also perform checks against the Nurse Aide Registry and the Employee Misconduct Registry maintained on DADS' Employability Status Check Search website. CONTRACTOR must perform any criminal background checks at its expense and should limit its search to the United States of America.

CONTRACTOR will not utilize an employee, Subcontractor, or Subcontractor's employee to perform a site visit or have any contact with stakeholders, patients, residents, or their family members if:

(a) CONTRACTOR determines, as a result of a criminal background check, that the person has been convicted of an offense listed in Tex. Health & Safety Code § 250.006 that bars employment or if the Consultant makes a reasonable determination that a conviction may pose a risk to any stakeholders, patients, residents, or their family members; or

(b) the employee or Subcontractor or Subcontractor's employee is listed in the Nurse Aide Registry or the Employee Misconduct Registry.



**Section 16.07 Historically Underutilized
Business Participation Requirements**

This Subsection applies if HHSC determined that sub-contracting opportunities were probable for the procurement/contract.

(a) Definitions.

For purposes of this Section:

(1) "**Historically Underutilized Business**" or "**HUB**" means a minority or women-owned business as defined by Texas Government Code, Chapter 2161.

(2) "**HSP**" means a HUB Subcontracting Plan.

(b) HUB Requirements.

(1) Contractor must submit an HSP for HHSC's approval.

(2) Contractor must report to HHSC's contract manager and HUB Office monthly, in the format required by the HUB Office, its use of HUB subcontractors to fulfill the subcontracting opportunities identified in the HSP.

(3) If the Parties amend the Agreement to include additional funds or a change to the Scope of Work, the Contractor must submit a revised HSP to the HHSC HUB Office, when a determination is made for additional subcontracting opportunities. All proposed changes to the HSP must comply with the requirements of **Section 16.07(b)(4)**.

(4) Contractor must obtain prior written approval from the HHSC HUB Office before making any changes to the HSP. The proposed changes must comply with HHSC's good faith effort requirements relating to the development and submission of HSPs.

(5) HHSC will determine if the value of Subcontracts to HUBs meet or exceed the HUB subcontracting provisions specified in the Contractor's HSP. If HHSC determines that the Contractor's subcontracting activity does not demonstrate a good faith effort, the Contractor may be subject to provisions in the Vendor Performance and Debarment Program

(34 Tex. Admin. Code Chapter 20, Subchapter C), and subject to remedies for Breach.

**AGREEMENT BETWEEN
THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION
AND
UNITED WAY FOR GREATER AUSTIN FOR
2-1-1 TEXAS INFORMATION & REFERRAL SERVICES
FOR INFORMATION AND REFERRAL SERVICES**

EXHIBIT B

**RFP 529-16-0006 AND ALL ATTACHMENTS AND ADDENDA AS CLARIFIED AND MODIFIED BY VENDOR
QUESTIONS AND HHSC'S RESPONSE THERETO**



Kyle L. Janek, M.D., Executive Commissioner

Request for Proposals (RFP)

Community Access and Services

RFP NO. 529-16-0006

Date of Release: April 24, 2015

NIGP Class/Item Codes: 952-74: Referral Services
952-90: Training and Instructional (For Clients, Not Staff)
915-49: High Volume Call Answering Services
961-02: Administrative Services, All kinds
948-07: Administrative Services, Health

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1. General Information

1.1. Scope

The State of Texas, by and through the Texas Health and Human Services Commission (HHSC), seeks local, comprehensive information services in accordance with the specifications contained in this Request for Proposal ("RFP").

1.2. HHSC Point of Contact

The sole point of contact for inquiries concerning this RFP is:

Diana McIntosh
Texas Health and Human Services Commission
Procurement and Contracting Services Division MC 2020
4405 North Lamar
Austin, Texas 78756
512/206-4782 phone
512/424-4540 fax
Diana.mcintosh@hhsc.state.tx.us

All communications relating to this RFP must be directed to the HHSC contact person named above.

All communications between respondents and other HHSC staff members concerning this RFP are strictly prohibited.

Failure to comply with these requirements may result in proposal disqualification.

1.3. Procurement Schedule

The following table documents the critical pre-award events for the procurement. All dates are subject to change at HHSC's discretion.

Procurement Schedule	
RFP Release Date	April 24, 2015
Vendor Conference Location: Brown Heatly Public Hearing Room, 4900 North Lamar Blvd. Austin TX 78756	May 1, 2015 9:00 am-1:00 pm
Vendor Questions Due	May 6, 2015 @ 2:00 pm
HHSC Posts Responses to Vendor Questions	May 11, 2015
Proposals Due	May 14, 2015 @ 2:00 pm
Deadline for Proposal Withdrawal	May 14, 2015
Tentative Award Announcement	June 24, 2015
Anticipated Contract Start Date	September 1, 2015

1.4. Mission Statement

HHSC's missions for this procurement seeks to secure a collaborative team of Texas-based local organizations for the 2-1-1 Texas Information and Referral Network (TIRN), to offer local and statewide information, and referral services in accordance with the Standards for Professional Information and Referral, Version 7.0 (Standards) as revised and published April 2, 2013. At such time as an updated version of the AIRS Standards is published, this version will replace Version 7.0 as an outline of requirements of 2-1-1 activity by AICs. The Standards may be found at [AIRS STANDARDS](#). The respondent must be able to provide services during normal operations and disaster periods and participate in special initiatives and public emergency events in which HHSC/TIRN is involved. Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located. At a minimum the respondent must provide services stated in Service Coverage reference Section 2.2.9 throughout all counties in the service region.

Each respondent must have at least 30% of staff eligible for AIRS certification and be fully accredited ([Section 2.4](#)). These staff shall have work hours that are specifically dedicated to 2-1-1 activity which is in accordance with the Standards for Professional Information and Referral, Version 7.0 (Standards) as revised and published April 2, 2013. At such time as an updated version of the AIRS Standards is published, the updated version will replace Version 7.0 as an outline of requirements of 2-1-1 activity by AICs. The Standards may be found at [AIRS STANDARDS](#).

1.5. Mission Objectives

HHSC's objectives for this procurement are as follows:

1. To provide comprehensive access to health and human services information to consumers and professionals;
2. To serve as coordinator of the comprehensive health and human services database, as defined in the AIRS/INFO Line taxonomy, for the assigned 2-1-1 Area Information Center (AIC) multi-county region;
3. To serve as coordinator for regional Information & Referral services;
4. To maintain and provide information necessary to support community planning activities, internal analysis, and advocacy;
5. To provide a level of professionalism that lends credibility to the Information & Referral field and ensures a high level of service to consumers seeking health and human services information;
6. To maintain and provide call center staffing management that is flexible and responsive to the needs of special projects that may be assigned during the contract period, and conduct outreach activities in each county within region; and
7. To prepare for and respond to disasters in coordination with other emergency management entities.

Applications that clearly demonstrate the applicant's ability to achieve these expectations will be more favorably reviewed by HHSC.

1.6. Background

1.6.1 Overview of the Health and Human Services Commission

Since 1991, HHSC has overseen and coordinated the planning and delivery of health and human service programs in Texas. HHSC is established in accordance with Texas Government Code Chapter 531 and is responsible for the oversight of all Texas Health and Human Service Agencies (HHS Agencies). HHSC's chief executive officer is Kyle L. Janek, M.D., Executive Commissioner of Health and Human Services.

As a result of the consolidation due to House Bill 2292 (HB 2292, 2003), some of the contracting and procurement activities for the HHS Agencies have been assigned to the Procurement and Contracting Services (PCS) Division of HHSC. As such, PCS will administer the initial stages of the procurement process, prior to the contract award, including RFP announcement and publication, handling of communications from the Respondent, as well as managing the receipt and handling of valid responses for final review and evaluation. PCS directs the execution of the contract after the awarded vendor has been selected.

1.6.2 Project Overview

Texas Government Code, Chapter 531, designates the responsibility for developing, coordinating, and implementing a statewide information and referral network to HHSC. As a result, HHSC developed the 2-1-1 Texas Information & Referral Network which provides a single, statewide number consumers can dial for information about community resources.

For the past two years HHSC/TIRN has handled over three million calls for comprehensive information and referral statewide. Reference the map identifying the 25 Area Information Center regions 2-1-1 that comprise the 2-1-1 Texas Information & Referral which can be located at: <https://211texas.hhsc.state.tx.us/211/aicMap.do>

HHSC/TIRN works with other state agencies and statewide organizations to improve customer access to information regarding all health and human services available in Texas. In addition to comprehensive information and referral services, HHSC/TIRN works as part of the Governor's Homeland Security Strategic Plan for 2005-2015 to provide hazard and emergency information to the public.

Nationwide, the trend is toward greater efficiency and improved quality of government services. 2-1-1 Texas Information & Referral Network participates in a myriad of collaborative projects and programs that serve the citizens of Texas. Therefore, entities designated as 2-1-1 Area Information Center organizations should expect their 2-1-1 programs to grow in response to increased awareness of the capabilities of 2-1-1.

1.7. Strategic Elements

1.7.1 Contract Type and Term

HHSC will award one or more contracts for the provision of comprehensive Information and Referral Services in Texas. HHSC reserves the option to amend the term of the contract for up to two additional years.

Initial Contract Period:	9/1/2015 through 8/31/2018
Option Year 1	9/1/2019 through 8/31/2020
Option Year 2	9/1/2020 through 8/31/2021

1.7.2 Contract Elements

The term “contract” means the contract awarded as a result of this RFP and all exhibits thereto. At a minimum, the following documents will be incorporated into the contract: this RFP and all attachments and exhibits; any modifications, addendum, or amendments issued in conjunction with this RFP, **HHSC’s Uniform Terms and Conditions (UTCs), Version 1.5** (Appendix J); [HHSC’s Data Use Agreement V8.3](#); which is available on the DUA website: http://www.hhsc.state.tx.us/about_hhsc/BusOpp/data-use-agreement.pdf. and the successful respondent’s proposal.

One or more of the “Special Terms” located in Article 16 of the [UTCs](#) (Appendix J) may apply to the contract, and HHSC reserves the right to negotiate additional contract terms and conditions. Respondents are responsible for reviewing the [UTCs](#) (Appendix J) and noting any exceptions, reservations, and limitations on the [Respondent Information and Disclosures form](#).

1.7.3 Data Use Agreement (DUA)

By entering into contract, or purchase order, with a Texas Health & Human Services agency, you agree to be bound by the terms of the HHS Data Use Agreement (HHS-GC.DUA) Data Use Agreement: This is the general version that should be used for all contractors who access agency confidential information. It is available on the DUA website: http://www.hhsc.state.tx.us/about_hhsc/BusOpp/data-use-agreement.pdf.

Information that explains the terms of the DUA and what laws require us to protect and safeguard agency confidential data can be found at: <http://hhscx.hhsc.state.tx.us/data-use-agreement-compliance/docs/understanding-dua.pdf>

☐ If this box is checked, Section 1.7.1 does not apply to the contract, or purchase order, because the contractor will not have access to confidential information.

1.7.4 HHSC’s Basic Philosophy: Contracting for Results

HHSC’s fundamental commitment is to contract for results. HHSC defines a successful result as the generation of defined, measurable, and beneficial outcomes that satisfy the contract requirements and support HHSC’s missions and objectives. This RFP describes what is required of the contractor in terms of services, deliverables, performance measures and outcomes, and unless otherwise noted in the RFP, places the responsibility for how they are accomplished on the contractor.

1.8. Legal and Regulatory Constraints

1.8.1 Delegation of Authority

State and federal laws generally limit HHSC's ability to delegate certain decisions and functions to a contractor, including but not limited to: (1) policy-making authority; and (2) final decision-making authority on the acceptance or rejection of contracted services.

1.8.2 Conflicts of Interest

A conflict of interest is a set of facts or circumstances in which either a respondent or anyone acting on its behalf in connection with this procurement has past, present or currently planned personal, professional or financial interests or obligations that, in HHSC's determination, would actually or apparently conflict or interfere with the Respondent's contractual obligations to HHSC. A conflict of interest would include circumstances in which a party's personal, professional or financial interests or obligations may directly or indirectly:

1. Make it difficult or impossible to fulfill its contractual obligations to HHSC in a manner that is consistent with the best interests of the State of Texas;
2. Impair, diminish or interfere with that party's ability to render impartial or objective assistance or advice to HHSC; or
3. Provide the party with an unfair competitive advantage in future HHSC procurements.

Neither the respondent nor any other person or entity acting on its behalf, including but not limited to subcontractors, employees, agents and representatives, may have a conflict of interest with respect to this procurement. Before submitting a proposal, respondents should carefully review [*UTCs \(Appendix J\)*](#) for additional information concerning conflicts of interests.

A respondent must certify that it does not have personal or business interests that present a conflict of interest with respect to the RFP and resulting contract ([*Required Certifications Form*](#)). Additionally, if there are potential or actual conflicts of interests, the respondent must disclose them. The respondent must describe the measures it will take to ensure that there will be no actual conflict of interest and that its fairness, independence and objectivity will be maintained ([*Respondent Information and Disclosures form*](#)). HHSC will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the contract.

Failure to identify potential conflicts of interest may result in HHSC's disqualification of a proposal or termination of the contract.

1.8.3 Former Employees of a State Agency

Respondents must comply with Texas and federal laws and regulations relating to the hiring of former state employees (see e.g., Texas Government Code §572.054 and 45 C.F.R. §74.43). Such "revolving door" provisions generally restrict former agency heads from communicating with or appearing before the agency on certain matters for two years after leaving the agency. The revolving door provisions also restrict some former employees from representing clients on

matters that the employee participated in during state service or matters that were in the employees' official responsibility.

As a result of such laws and regulations, a respondent must certify that it has complied with all applicable laws and regulations regarding former state employees ([Required Certifications Form](#)). Furthermore, a respondent must disclose any relevant past state employment of the respondent's or its subcontractors' employees and agents in the [Respondent Information and Disclosure form](#).

1.8.4 Drug-Free Workplace

Respondents must comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Respondent must comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

1.8.5 E-Verify

By responding to this RFP, Respondent certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- A. All persons employed to perform duties within Texas, during the term of the Contract; and
- B. All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.

The Respondent shall provide, upon request of HHSC, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Respondent, and Respondent's subcontractors, as proof that this provision is being followed.

1.9. HHSC Amendments and Announcements Regarding this RFP

HHSC will post all official communication regarding this RFP on its website, including the notice of tentative award. HHSC reserves the right to revise the RFP at any time. Any changes, amendments, or clarifications will be made in the form of written responses to respondent questions, amendments, or addendum issued by HHSC on its website. Respondents should check the website frequently for notice of matters affecting the RFP. To access the website, go to the [HHSC Contract Opportunities](http://www.hhsc.state.tx.us/about_hhsc/BusOpp/contract-opportunities.asp) (http://www.hhsc.state.tx.us/about_hhsc/BusOpp/contract-opportunities.asp) and enter a search for this procurement.

1.10. RFP Cancellation/Partial Award/Non-Award

HHSC reserves the right to cancel this RFP, to make a partial award, or to make no award if it determines that such action is in the best interest of the State of Texas.

1.11. Right to Reject Proposals or Portions of Proposals

HHSC may, in its discretion, reject any and all proposals or portions thereof.

1.12. Costs Incurred

Respondents understand that issuance of this RFP in no way constitutes a commitment by HHSC to award a Contract or to pay any costs incurred by a respondent in the preparation of a response to this RFP. HHSC is not liable for any costs incurred by a respondent prior to issuance of or entering into a formal agreement, contract, or purchase order. Costs of developing proposals, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by a respondent are entirely the responsibility of the respondent, and will not be reimbursed in any manner by the State of Texas.

1.13. Protest Procedures

Texas Administrative Code Title 1, Part 15, Chapter 392, Subchapter C outlines HHSC's respondent protest procedures.

1.14. Interpretive Conventions

Whenever the terms "shall," "must," or "is required" are used in this RFP in conjunction with a specification or performance requirement, the specification or requirement is mandatory. A respondent's failure to address or meet any mandatory requirement in a proposal may be cause for HHSC's rejection of the proposal.

Whenever the terms "can," "may," or "should" are used in this RFP in conjunction with a specification or performance requirement, the specification or performance requirement is a desirable, but not mandatory, requirement. Accordingly, a respondent's failure to address or provide any items so referred to will not be the cause for rejection of the proposal, but will likely result in a less favorable evaluation.

2. Mission Results/Scope of Work

2.1. Project Schedule

Estimated Project Schedule	
Contract to be signed	July 2015
Contract Operations begin	September 1, 2015
Contract Close-out process begins	July, 2018
Contract Ends	August 31, 2018

2.2. Project Scope

HHSC seeks to secure a collaborative team of Texas-based local organizations for the 2-1-1 Texas Information and Referral Network (TIRN), to offer local and statewide information, and referral services in accordance with the Standards for Professional Information and Referral, Version 7.0 (Standards) as revised and published April 2, 2013. At such time as an updated version of the AIRS Standards is published, this version will replace Version 7.0 as an outline of requirements of 2-1-1 activity by AICs. The Standards may be found at [AIRS Standards](#). The respondent must be able to provide services during normal operations and disaster periods and participate in special initiatives and public emergency events in which HHSC/TIRN is involved. Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located. At a minimum the respondent must provide services stated in Section 2.2.9 Service Coverage, throughout all counties in the service region.

Each respondent must have at least 30% of staff eligible for AIRS certification and be fully accredited ([Section 2.4, Eligible Applicants](#)). These staff shall have work hours that are specifically dedicated to 2-1-1 activity which is in accordance with the Standards for Professional Information and Referral, Version 7.0 (Standards) as revised and published April 2, 2013. At such time as an updated version of the AIRS Standards is published, this version will replace Version 7.0 as an outline of requirements of 2-1-1 activity by AICs. The Standards may be found at [AIRS Standards](#).

2.2.1 Data Resource Management:

- A. Develop, maintain and disseminate accurate, up-to-date contributions of community resource information for the statewide database that include details about services provided by local human service agencies and the conditions under which these services are available. Research and develop a comprehensive list of health and human services in the assigned region. Outcome to be measured by database audits, performed by HHSC/TIRN staff.

- B. To ensure that the needs of the network are met, the contracted organization must adhere to HHSC/TIRN developed written criteria for inclusion and exclusion, and any other materials pertaining to agencies and programs in the resource database. These criteria shall be uniformly applied so that staff and the public are aware of the scope and limitations of the database. Outcome to be measured by database audits, performed by HHSC/TIRN staff.
- C. Conform to the AIRS taxonomy standards in organizing and entering health and human services resources into the database (information available at [AIRS/211 LA County Taxonomy](#)). Outcome to be measured by database audits, performed by HHSC HHSC/TIRN staff.
- D. Database upload must have a data quality passing rate of 100%. Outcome to be measured by automatic audits, reviewed by HHSC/TIRN staff.
- E. The contracted organization must conduct formal reviews of 100% of active agencies annually. Formal reviews must be documented in writing, and documents (e.g. communications with Agency representatives) must be retained in accordance with contract retention requirements. Formal review documentation must be provided to HHSC/TIRN upon request by email. Outcome to be measured by database audits, conducted by HHSC/TIRN staff.
- F. Requirements outlined in this subsection must be delivered by Resource Manager Staff or Resource Specialist staff, whose work is supervised by a Resource Manager (Section 2.2.10.H, Staff Responsibilities and Minimum Requirements).

2.2.2 Service Delivery:

- A. For Information and Referral (I&R) phone calls delivered by HHSC/TIRN-supplied telephone technology:
 - 1. Conduct an assessment in which the inquirer has one-to-one interaction with an I&R Specialist; engage in active listening and effective questioning to determine the needs of the inquirer, clarify the need(s),
 - 2. Identify appropriate resources,
 - 3. Select appropriate delivery mode(s),
 - 4. Make referrals to organizations capable of meeting those needs,
 - 5. Provide enough information about each service and organization to help inquirers make an informed choice about which referrals to pursue.

In situations where services are unavailable, the I&R service shall engage in problem solving to help the inquirer identify alternative strategies. In

this situation, as well as others in which a referral cannot be given to the inquirer, the presenting need must be recorded as unmet. The recording of an unmet need must be qualified by the recording of a reason for its being unmet.

- B.** TIRN may add web chat as a future method of delivering I&R service to 2-1-1 users. Once HHSC/TIRN has established web chat as a means for providing I&R service, parameters developed by HHSC must be followed during web chat. AICs may not engage in web chat with 2-1-1 users until HHSC/TIRN has made this Service Delivery Method available and instructed AICs to engage in its use.
- C.** Provide information to an inquirer in response to a direct request for such information. Information can range from a limited response (ex: an organization's name, telephone number, and address) to a detailed description of community service systems (ex: explaining how intake works for a particular agency), agency policies, and procedures for application. Active listening is necessary to establish a positive contact with the inquirer, understand context, and provide an appropriate response.
- D.** Provide/offer advocacy, when necessary, to ensure that callers receive the benefits and services for which they are eligible. Inquirer advocacy seeks to meet individual needs without attempting to change social institutions and, for purposes of these standards, does not include system advocacy or legislative advocacy (lobbying). All advocacy efforts shall be consistent with written policies established by the governing body of the I&R service and shall proceed only with the permission of the inquirer.
- E.** Each organization must have crisis intervention plans for both Continuity of Operations (COOP) and Escalation of Services during disasters or events that result in substantially increased call volume. COOP Plans pertain to an AIC's ability to continue service delivery when their operations are interrupted for an extended period (ex. due to flooding of the Call Center). Plans must be tested annually. HHSC/TIRN will conduct a drill annually of the system. The organization will conduct an internal drill annually assessing readiness (may be in conjunction with local emergency management). Every Call Specialist staff must be trained and prepared, according to the AIRS Standard, to assess and meet the immediate, short-term needs of inquirers who are experiencing a crisis.
- F.** Ensure that every Call Specialist has received training for and uses appropriate Crisis Call protocol.

- G.** Ensure that calls are answered 24 hours per day/ seven (7) days per week, and that all calls are answered by Call Specialists, with possible HHSC/TIRN-approved exceptions occurring during disasters or events that result in substantially increased call volume. To fulfill this requirement, AICs may subcontract with other AICs for overnight/weekend coverage.
- H.** Provide a supportive voice and demeanor to callers. Use empathic language when callers share difficult circumstances or otherwise express negative emotions.
- I.** Record basic data within the statewide database for each I&R transaction. Recorded data must include caller zip code, city, and county of residence, age (if provided), gender, military status (if provided), call type (ex. Information, Referral), presenting needs, referrals provided and other required data as specified by HHSC/TIRN.
- J.** For a monthly call volume that is 10,000 or less, the contractor must answer 80% of calls within 60 seconds or less, have an abandoned percent of 10% or less, and have Rolled-Over/Not Answered (RONA) calls of 1% or less. For a monthly call volume that exceeds 10,000, the contractor must answer 45% of calls within 60 seconds or less, have an abandoned percent of 15% or less, and have Rolled-Over/Not Answered (RONA) calls of 1% or less. (A call is “abandoned” when the caller hangs up while waiting for an initial answer. RONA call occurs when an agent’s phone rings and the calls are not answered.)
- K.** Call Center Managers must periodically monitor recorded and active calls for all Call Specialists. Call Specialists must have opportunities to listen to their own recorded calls and receive feedback about these calls from their supervisors. HHSC/TIRN staff will monitor recorded or active calls for audio and process improvement.
- L.** For items listed under Section 2.2.2. (A through K) all outcomes will be measured by call documentation, reports, and monitoring performed by HHSC/TIRN staff.

2.2.3 Trainings, Meetings and Conference Calls:

- A.** Ensure and/or provide training to new and existing staff and/or provide training to staff related to the provision of comprehensive I&R service and database management as appropriate for their respective roles.
- B.** Attend meetings as required by HHSC/TIRN including, but not limited to, quarterly director’s meeting, emergency management and/or database management meetings.
- C.** Participate in conference calls as required by HHSC/TIRN.

2.2.4 Outreach:

- A.** Build and maintain relationships with local health and human services providers for the purpose of ensuring access to resource data. Outcome to be measured by written documentation of participation in community meetings and/or individual agency contact.
- B.** Conduct outreach throughout the designated service region to promote and educate the residents about 2-1-1 services. Outcome to be measured by written documentation of outreach efforts and evidence of outreach materials.
- C.** Participate in various collaborative initiatives as directed by HHSC/TIRN staff and those that enhance access to services within a designated service region. Outcome to be measured by written documentation of participation in community meetings and/or individual agency contact.
- D.** Engage in continuous improvement of 2-1-1 service and outreach. Outcome to be measured by written documentation of continuous improvement tools.

2.2.5 Disaster Response:

- A.** Participate in emergency management planning, response and recovery as directed by HHSC/TIRN staff.
- B.** Develop and maintain professional relationships with each of the Offices of Emergency Management in the AIC region. Outcome to be measured by written documentation of participation in local emergency management activities (e.g. trainings, exercises, meetings, local conferences.) Records shall be made available to HHSC/TIRN staff upon request by email.
- C.** Maintain written emergency Escalation of Services and COOP plans that specifically address disasters common to the area, and also prepare for emergencies in general. Plans should address specific types of emergencies including power outages, fires, medical emergencies, bomb threats, radiological threats, workplace violence and other incidents that may require different forms of response (i.e. duck, cover and hold during an earthquake, or sheltering in place during a radiological emergency.) Escalation of Services Plan must detail how the AIC will increase its capacity for service delivery both during and following its normal operating hours. COOP plans must include a process for contacting local police/emergency responders. Written procedures should include a plan for emergency evacuation of the facility following a disaster that impacts the immediate area surrounding the facility and potentially threatens staff safety. COOP Plan must also detail the AIC's means of continuing to take calls under reasonable circumstances. Outcome measured by the examination of written procedures.

- D. Develop and maintain professional relationships with local Public Health entities in the AIC service region. Outcome to be measured by written documentation of participation in local public health activities (i.e. trainings, exercises, meetings and/or local conferences.) Records shall be made available to HHSC/TIRN staff upon request by email.
- E. Monitor the AIC service region for emergency/disaster events and promptly provide situation reports to HHSC/TIRN or to the 2-1-1 Network, following Network protocol for the given circumstance. This emergency/disaster communication protocol will be provided by HHSC/TIRN by email. Outcome to be measured by written documentation of reports.
- F. Participate in the collection and dissemination of emergency management related information and referral as required by local, regional or statewide emergency/disaster events. Outcome to be measured by entry of timely, accurate and complete information into the state I&R system and by documentation of referrals and unmet needs.
- G. Maintain compliance with FEMA guidelines for National Incident Management System (NIMS)/Incident Command Structure (ICS) training.
- H. Front Line Supervisors and Resource Managers must complete the following NIMS/ICS training courses: IS-700, IS-100, IS-200, <http://training.fema.gov/is/nims.aspx> within the first 90 days of employment. Proof of certificates must be provided to HHSC/TIRN by email upon completion.

Either the Call Center Manager or the Director must complete all of the following NIMS/ICS training courses: IS-700, IS-800, IS-100, IS-200, ICS-300, <http://training.fema.gov/is/nims.aspx>
- I. Coordinate FEMA Training for new hires and assure completion within first year of employment. AIC shall maintain records of training completion in the form of printed certificates of completion. Outcome will be documented through records which shall be made available to HHSC/TIRN staff upon request.
- J. Be available for receiving inbound calls beyond regular business hours as designated by HHSC/TIRN staff during emergency/disaster events.
- K. Provide key AIC staff with 24-hour access to email communications. During emergency/disaster events or drills of such events, HHSC/TIRN staff may correspond with key AIC staff via email to verify 24-hour access.

2.2.6 Reporting:

- A.** Be able to produce Resource Data reports in writing to analyze and improve local data quality. Produce such reports monthly, and/or upon request from HHSC/TIRN staff by email. Be able to review Resource Data reports as provided by HHSC/TIRN staff, and use them to improve local data quality with minimal direction or assistance.
- B.** Be able to produce Data Indexing reports to ensure accurate and HHSC/TIRN policy-compliant indexing of local data records. Produce such reports monthly- one Taxonomy branch per month or upon request from HHSC/TIRN staff. Be able to review Data Indexing reports as provided by HHSC/TIRN staff, and use them to improve local data quality with minimal direction or assistance.
- C.** Be able to produce Call Data reports to analyze data collected by 2-1-1 Call Specialists during 2-1-1 transactions. Be able to produce such reports regarding calls handled locally and regarding local callers. Produce such reports regularly to adequately track call data trends, or upon request from HHSC/TIRN staff, or upon request from a local Office of Emergency Management. If resources permit produce such reports upon request from other local health and human service agencies.
- D.** For items listed under Section 2.2.6. A through C, all outcomes will be measured by documentation, reports made available upon request, and monitoring performed by HHSC/TIRN staff

2.2.7 Special Projects Mandated by HHSC/TIRN:

- A.** Participate in local and statewide special projects as directed by HHSC/TIRN to enhance I&R services within the designated services area/region including, but not limited to, the following:
 - 1. **Summer Food Program**: Respond to information and referral calls in reference to the Texas Department of Agriculture (TDA) Summer Food Program received in their region as well as submit data reports as required by HHSC for the duration of the project or as directed by HHSC/TIRN.
 - 2. **Child Care Information & Referral**: Respond to information and referral calls regarding child care services in their region as well as submit data reports as required by HHSC/TIRN for the duration of the project or as directed by HHSC/TIRN.
 - 3. **Title V**: Respond to information and referral calls from individuals who are seeking referrals to programs operated by the Department of State Health Services as well as submit data reports as required by HHSC for the duration of the project or as directed by HHSC.

4. **Military Specific Information & Referral**: Respond to calls from service members (active; veterans and/or retired) and their family members seeking assistance and provide referrals military specific and other resources requested or deemed appropriate. Additionally, the CONTRACTOR shall submit data reports as required by HHSC for the duration of the project or as directed by HSHC.
- B. Participate in special projects for which additional funding may or may not be available. Additionally, obtain written approval from HHSC/TIRN thirty (30) business days prior to implementing a special project(s) and/or agreeing to participate in special projects funded and/or mandated by any other entities which requires the use of HHSC/TIRN resources, including, but not limited to, the telephony platform, phones, phone lines and/or technological support team/services.

2.2.8 Special Projects Not Mandated by HHSC/TIRN:

A Special Project has a defined geographic region and seeks to benefit that region or some group within it. Special Projects usually involve some level of staff training, utilize resource information not generally available statewide, and impact call volume. Any large scale data sharing arrangement is also considered a Special Project.

To participate in a Special Project an AIC must receive written approval from HHSC/TIRN after submitting the Special Projects Form (Appendix B).

2.2.9 Outcomes:

In addition to the outcomes described above, desired outcomes for this project are as follows:

- A. Provide comprehensive access to health and human services information as defined in the AIRS/INFO LINE taxonomy, to consumers and professionals.
- B. Serve as coordinator of the comprehensive health and human service database for the assigned service region.
- C. Maintain and provide information necessary to support community planning activities, internal analysis, statewide analysis, and advocacy.
- D. Provide a level of professionalism that lends credibility to the I&R field and ensures a high level of service to consumers seeking health and human services information by having certified staff and maintaining AIRS accreditation.
- E. Prepare for and respond to disasters, in coordination with HHSC/TIRN staff as well as other emergency management entities.

- F. Develop and maintain professional relationships with HHSC's regional contacts.

2.2.10 Respondent Requirements:

Technical Requirements: Respondents must provide certain technical equipment and support some aspects of the telecommunications activity, which allows the HHSC/TIRN to function as a system.

- A. For this project, HHSC/TIRN will provide:
1. A Router / Voice Gateway.
 2. Uninterruptible Power Supply (UPS).
 3. An Ethernet Switch, if required based on HHSC/TIRN evaluation.
 4. Voice-over Internet Protocol phones for staff to conduct HHSC/TIRN business.
 5. PSTN lines to support 2-1-1 call needs. The number of lines will be determined by HHSC/TIRN staff.
 6. Technical support for HHSC/TIRN equipment.
 7. A patch panel for AIC stations.
 8. A standard rack to hold gear. The only equipment allowed on the HHSC/TIRN-supplied UPS is HHSC/TIRN-supplied equipment.
 9. The respondent is not permitted to access/change/modify hardware supplied by HHSC/TIRN unless directed to do so, in writing, by HHSC/TIRN staff.
 10. Sufficient bandwidth (through AVPN or other means) to handle call volume and other HHSC/TIRN needs.
 11. At the end of the contract term, contractor must return all HHSC/TIRN issued equipment within 60 days of expiration of contract unless otherwise specified by HHSC/TIRN staff.

- B.** The contractor must provide:
1. A broadband connection to the Internet.
 2. Cat 5 cable connection from the demarcation point to the HHSC/TIRN rack of gear.
 3. A dedicated electrical outlet for the HHSC/TIRN-supplied UPS. This UPS will power all of HHSC/TIRN-supplied equipment. The specifications for this outlet depends on site-specific requirements, but could range from NEMA 5-15P to NEMA L6-30.
 4. A dedicated server room that must remain locked at all times, be accessible only by select agency staff, and be used only for server and other equipment storage.
 5. Server room must have adequate ventilation and cooling. The temperature of the room must be maintained between 60° and 80° Fahrenheit at all times. The temperature and humidity may be monitored remotely.
 6. A direct employee or contracted employee to provide network and computer administration (IT).
 7. The AIC's broadband connection must have a firewall to prevent non-trusted activity.
 8. Wireless connectivity to HHSC/TIRN-supplied network, router or switch is prohibited.
 9. The firewall must be configured to allow activity as defined by HHSC/TIRN.
 10. The firewall must permit e-mail from HHSC addresses and those of HHSC/TIRN vendors.
 11. The computer must have virus protection software which must be able to de-select the scanning of network attached servers and be able to comply with other business requirements of HHSC/TIRN.
 12. The computer must be able to support Remote Access on an "as needed" basis.
 13. The browser software on the computer must allow for pop-ups.
 14. The AIC's broadband connection must have a firewall to prevent non-trusted activity.

15. All phones must have Ethernet wiring either directly or through a patch panel to the HHSC/TIRN-supplied router or switches. HHSC/TIRN will not allow additional switches to extend the reach to other phones. The exception is any switches supplied by HHSC/TIRN for Warm Centers.

C. Computer and Software Requirements:

HHSC/TIRN will establish defined computer and software requirements, which AICs will adhere to throughout the contract term. Due to the evolving nature of technology, these requirements are subject to update by HHSC/TIRN at any time.

D. Warm Center Requirements:

Warm Centers provide a process by which the 2-1-1 Texas Information & Referral Network (TIRN) rapidly responds to statewide and regional emergencies by performing expanded disaster-related activities beyond those of other AICs in the Network. Additional funding will be awarded for the performance of Warm Center activities. respondents may, but are not required to, apply as a Warm Center operation. As part of this RFP only three respondents will be selected to operate as Warm Centers.

Warm Centers must perform the following activities:

1. Conduct 24-hour I&R operations year-round and/or ramp up to 24 hour operations within a period of time not to exceed four hours or as directed by HHSC/TIRN staff.
2. Follow HHSC/TIRN published I&R Resource Manager, and other, disaster protocols.
3. Maintain a pool of trained individuals to take calls during a disaster event. Training shall include IS-700, ICS-100 and Relias training. AIC shall maintain records of training completion. Records shall be made available to HHSC/TIRN promptly upon request. These individuals are in addition to the AIC's regular I&R staff. They might not have the full training that a certified Call Specialist would have, but they must have the minimal skills to respond to a disaster-related inquiry and accurately record call data as per requirements outlined in Service Delivery Section 2.2.2.
4. Provide physical facilities to house a minimum of 20 additional FTEs at any given point during activation. These FTEs are in addition to regular AIC staff.
5. Provide appropriate technological hardware/software to support the additional staff.
6. Be able to continue operations during a hurricane event whether at the AIC facility or by re-deployment to staff the Disaster Kit.

7. Review, approve, return, reject and deactivate Relias submissions in compliance with HHSC/TIRN protocols during emergency/disaster events or as otherwise directed by HHSC/TIRN. Maintain a turnaround time of two hours or less.
8. Facilitate State of Texas Emergency Assistance Registry (STEAR) enrollments during normal and disaster/emergency operations as requested by individuals and/or facility staff.
9. Ensure all staff receive training provided by HHSC/TIRN related to the STEAR.
10. Develop and maintain professional relationships with each of the Offices of Emergency Management in the AIC region. Outcome to be measured by documented participation in local emergency management activities, i.e., trainings, exercises, meetings and/or local conferences. Records shall be made available to HHSC/TIRN promptly upon request.
11. Develop and maintain professional relationships with each local Public Health entities in the AIC region. Outcome to be measured by documented participation in local public health activities, i.e., trainings, exercises, meetings and/or local conferences. Records shall be made available to HHSC/TIRN promptly upon request.
12. Monitor the AIC region for emergency/disaster events and promptly provide situation reports to HHSC/TIRN.
13. Participate in the collection and dissemination of emergency management related information and referral as required by local, regional or statewide emergency/disaster events. Outcome to be measured by entry of timely, accurate and complete information into the Relias and by documentation of referrals and unmet needs in the Relias.
14. Maintain compliance with FEMA guidelines for National Incident Management System/Incident Command Structure training.
 - a. I&R Specialists: IS-700, ICS-100
 - b. Front Line Supervisors: IS-700, ICS-100, ICS-200
 - c. Management (Director, Disaster Coordinator): IS-700, IS-800, ICS-100, ICS-200, ICS-300
15. Coordinate FEMA Training for new hires and assure completion within 30 days of hire date. AIC shall maintain records of training completion in the form of printed certificates of completion. Records shall be made available to HHSC/TIRN promptly upon request.
16. Coordinate Relias online training for new hires within 30 days of hire date. AIC shall maintain records of training completion. Records shall be made available to HHSC/TIRN promptly upon request.

17. Be available for receiving inbound calls beyond regular business hours as designated by HHSC/TIRN during emergency/disaster events.
18. Provide AIC management with 24 hour access to email communications.
19. Maintain a Continuity of Operations Plan for the AIC. Plan shall be updated quarterly and provided in writing to HHSC/TIRN promptly upon request by email.
20. Provide desk space and computers for a minimum of 20 additional individuals acting as Call Specialists at any given point during activation. Computers must meet the same technology requirements as for regular Call Specialists. Phones will be provided by HHSC/TIRN. The Ethernet wiring for this space must be able to access a HHSC/TIRN-supplied router or switch.
21. Be able to make changes to Caller Intake forms if database software allows.

E. Additional Responsibilities:

Respondents must:

1. Ensure resources of HHSC/TIRN equipment are not repurposed.
2. Administer any subcontracting processes or subcontracts in full compliance with all state requirements specified in the contract.
3. Have at least one representative at each HHSC/TIRN mandated training, meeting, and conference call.
4. Assure that the funds provided under the HHSC/TIRN program are used ONLY for 2-1-1 program expenses as defined in this procurement.
5. Submit a Budget Worksheet (Appendix F), Budget Narrative and appropriate exhibit for each contract year.
6. Maintain the skills, knowledge, experience, and ability to deliver these services, to achieve these outcomes, to satisfy the technical requirements, and to meet all responsibilities, according to the current AIRS Standards (Section 2.2.10.G).
7. Be prepared to participate in and respond to audits, and to show clearly, upon request, that the funds provided under the program are used consistent with the requirements of this procurement.

F. Service Coverage:

Service regions consist of groups of contiguous counties, and are predefined by HHSC. Applications may be submitted to target one or

more of the current 25 regions viewable at <https://211texas.hhsc.state.tx.us/211/aicMap.do>. If a respondent proposes to serve any part of a region, the entire region must be served.

Each year the funding will be based on the previous fiscal year. The funding for 2-1-1 I&R programs is not intended to cover 100% of the costs incurred in provision of the program. Data in [***RFP Funding Amounts \(Appendix C\)***](#) is based on the previous fiscal year:

Call volumes change due to many variables beyond HHSC/TIRN's control. The causes for changes in call volumes could range from legislative assignments to emergency events such as hurricanes, pandemics, and other disasters.

The average handle time for a 2-1-1 call is between two and three minutes per call. The expected annual call volume for any region is equal to approximately 15% of the population of that region.

HHSC seeks, with this designation process, to ensure the broadest and most effective I&R services possible. If as a result of this RFP and subsequent awards, HHSC determines that the needs of individuals or communities in particular geographic or population areas have not been adequately addressed, HHSC may contract with other service provider(s) to address those service needs, regardless of service region or the respondent awarded the service region. In addition, should a chosen respondent be unable to continue to provide services, HHSC may contract with other service provider(s) to provide services in place of the chosen applicant.

G. Service Provider Qualifications:

1. Respondent must be accredited by the Alliance of Information and Referral Systems (AIRS), or have a current "conditional" accreditation status from AIRS.
2. Respondents with conditional status must achieve full accreditation prior to the contract award date.
3. Accreditation must be maintained for all awardees throughout the duration of the contract term.

4. Documentation of accreditation consists of a photocopy of the Certificate of Accreditation and must accompany the proposal, in the appendix section of the procurement. **Documentation of “conditional” accreditation status consists of a photocopy of a letter from AIRS showing that conditional status has been granted and is active at the time of application.**

H. **Staff Responsibilities and Minimum Requirements**

Six key staff positions and their respective responsibilities should be represented within a response to this RFP. Staff may serve in multiple capacities and responsibilities may therefore overlap at times. Responsibilities and minimum requirements for these positions are as follows:

1. **Program Director:** Responsible for overall provision and coordination of information and referral services and staff training. Minimum requirements:
 - Bachelor's Degree in a Human Services, Business, or related field, and a minimum of three years of work experience in a related field; or Master's Degree in a Human Services field or Business Administration and a minimum of one year of work experience in a related field.
 - Experience may be substituted on a year for year basis if the person holding this position does not have a Bachelor's degree in a human services or business field, in which case said person must have a minimum of seven (7) years of related experience.
 - Experience in a call center setting may be substituted on a two-year for one-year basis if the person holding this position does not have a Bachelor's degree in a Human Services or business field, in which case said person must have a minimum of three and one half years (3.5) of call center experience.
2. **Call Center Manager:** Responsible for call center operations including the ability to forecast call volume and schedule staff, training, and management of call volume sufficient to meet service level objectives. It is the Call Center Manager's responsibility to monitor the HHSC/TIRN-approved “Scoreboard” at all times during operating hours, and to know how to access the “Calendar”. Minimum requirements:
 - Bachelor's Degree in a Human Services, Business, or related field, and a minimum of one years of work experience in a related field; or Master's Degree in a Human Services field or Business Administration.
 - Experience may be substituted on a year for year basis if the person holding this position does not have a Bachelor's degree in a human services or business field, in which case said person must have a minimum of five (5) years of related experience.

- Experience in a call center setting may be substituted on a two-year for one-year basis if the person holding this position does not have a Bachelor's degree in a Human Services or business field, in which case said person must have a minimum of two and one half years (2.5) of call center experience.
3. **Resource Manager:** Responsible for creating and maintaining comprehensive database contribution of resources in the region as per AIRS Standards. This full-time position employee should hold the Certified Resource Specialist (CRS) certification from AIRS, or the proposal should include a plan that will result in a staff member's CRS certification within six (6) months of eligibility for the exam. Minimum requirements:
- Bachelor's Degree in a Human Services field or Library Science and one year of experience in a related field.
 - Experience may be substituted on a year for year basis if the person holding this position does not have a Bachelor's degree in a human services field or library sciences, in which case said person must have a minimum of five (5) years of related experience and must have a High School Diploma or GED.
 - Experience in a call center setting may be substituted on a two-year for one-year basis if the person holding this position does not have a Bachelor's degree in a Human Services or business field, in which case said person must have a minimum of two and one half years (2.5) of call center experience or social service delivery and must have a High School Diploma or GED.
4. **Call Specialist:** Responsible for handling the calls that come to the call center. Each Call Specialist should either hold a Certified Information and Referral Specialist (CIRS) certification from AIRS or the proposal must reference a professional development plan that results in each staff member's CIRS certification within six (6) months of eligibility for the exam. Minimum requirements:
- Bachelor's Degree in a Human Services field.
 - Experience may be substituted on a year for year basis if the person holding this position does not have a Bachelor's degree in a human services field, in which case said person must have a minimum of four (4) years of related experience and must have a High School Diploma or GED.
 - Experience in a call center setting may be substituted on a two-year for one-year basis if the person holding this position does not have a Bachelor's degree in a Human Services or business field, in which case said person must have a minimum of two years (2) of call center experience or in social service delivery and must have a High School Diploma or GED.
5. **IT Support Staff:** Responsible for providing support to the respondent organization, or it may be a contractor, or the respondent may hire a staff person to provide support.

- CCNA/CCNP Voice certification - Microsoft Certified IT professional.
 - IP telephony experience, specifically with Cisco phones in a call center environment.
6. **Community Outreach Coordinator:** Responsible for developing and maintaining cooperative relationships within the designated region for the purpose of promoting and expanding 2-1-1 services. Minimum requirements:
- Bachelor's Degree in a Human Services, Business, or related field, and a minimum of one years of work experience in a related field; or Master's Degree in a Human Services field or Business Administration.
 - Experience may be substituted on a year for year basis if the person holding this position does not have a Bachelor's degree in a human services or business field, in which case said person must have a minimum of five (5) years of related experience.
 - Experience in a call center setting may be substituted on a two-year for one-year basis if the person holding this position does not have a Bachelor's degree in a Human Services or business field, in which case said person must have a minimum of two and one half years (2.5) of call center experience.

2.3. Performance Measures and Associated Remedies

HHSC will monitor the performance of the contract issued under this RFP including measures referenced in Article 6, Section 6 Service Levels and Performance Measurement, of [UTCs \(Section J\)](#). All services and deliverables under the contract shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standard, custom, and practice.

Payments will be disbursed when HHSC is satisfied that the contractor has met the performance measures or has submitted a reasonable mitigation plan.

Performance measures echo national standards (AIRS Standards for Professional Information & referral And Quality Indicators, Version 7.0 revised April 2, 2013) set by the Alliance of Information and Referral Systems (AIRS). For a complete list of standards, see: [AIRS STANDARDS](#)

2.4. Eligible Respondents

1. Respondent MUST BE public and private non-profit and governmental entities that must comply with the criteria listed below. For-profit entities will not be eligible to apply for funds under the RFP.
2. Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located. A post office box may be used when the application is submitted, but the respondent must conduct business at a physical location in the service region. These conditions must be met prior to the date that the contract is awarded. At minimum the respondents must conduct the services stated Service Coverage Section 2.2.10.F, throughout all counties in the service region.
3. Respondents must have at least 30% of staff eligible for AIRS certification. These staff shall have work hours that are specifically dedicated to 2-1-1 activity which is in accordance with the Standards for Professional Information and Referral, Version 7.0 (Standards) as revised and published by the Alliance of Information and Referral Systems (AIRS) April 2, 2013 as revised and published April 2, 2013. At such time as an updated version of the AIRS Standards is published, this version will replace Version 7.0 as an outline of requirements of 2-1-1 activity by AICs. The Standards may be found at [AIRS STANDARDS](#).

Respondents must be either be accredited by the Alliance of Information and Referral Systems (AIRS), or have a “conditional” accreditation status from AIRS. **Documentation of accreditation consists of a photocopy of the current Certificate of Accreditation and must accompany the application. Documentation of “conditional” accreditation status consists of a photocopy of a letter from AIRS showing that conditional status has been granted and is active at the time of application.**
4. Respondents must be in good standing with the U.S. Internal Revenue Service.
5. Respondents may be ineligible for a contract award if the audit reports or financial statements submitted with the proposal identify concerns regarding the future viability of the applicant's organization, or material non-compliance or material weaknesses that are not satisfactorily addressed, as determined by HHSC.(Financial Capacity Section 3.15.1.2.3)

In compliance with Comptroller of Public Accounts and Texas Procurement and Support Services rules, a name search will be conducted using the websites listed in this section prior to the development of a contract. A respondent is not considered eligible to contract with HHSC if a name match is found on any of the following lists:

1. The Excluded Parties List System (EPLS) at:
<https://www.epls.gov/>
2. The Office of Inspector General (OIG) List of Excluded Individuals/Entities Search at:
<https://oig.hhsc.state.tx.us/Exclusions/search.aspx>
3. Texas Comptroller of Public Accounts (CPA) Debarment List located at:
http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/
4. REspondent must be listed on the following Secretary of State list if they are Professional Corporations, Professional Associations, Texas Corporations, and/or Texas Limited Partnership Companies at:
<https://direct.sos.state.tx.us/acct/acct-login.asp>

Respondents will not be considered eligible to submit a proposal unless the respondents meet the eligibility conditions to the stated criteria listed above at the time the proposal is submitted.

Respondents must continue to meet these conditions throughout the selection and funding process and the term of the contract. HHSC expressly reserves the right to review and analyze the documentation submitted and to request additional documentation, and determine the applicant's eligibility to compete for the contract award.

HHSC anticipates that the maximum amount of total funding available for contract(s) resulting from this solicitation will be about \$10 million for the first year.

HHSC does not guarantee funding at any level and may increase or decrease funds at any time during the term of a contract resulting from this procurement.

Use of Funds

1. Services will be procured in all counties of the State. See the following link for current regions <https://211texas.hhsc.state.tx.us/211/aicMap.do>.
2. Funds will be awarded for the purpose specifically defined in the RFP and must not be used for any other purpose. Funds must not be used to supplant local, State, or Federal funds.
3. Funds may be used for approved personnel, fringe benefits, staff travel, contractual services, other direct costs, and indirect costs, as allowed in the approved budget.
4. Funds must not be used for unallowable costs. For more information see Contractors Financial Procedures Manual located at:
<http://www.dshs.state.tx.us/contracts/cfpm.shtm>
5. Under this project the maximum amount of funds that can be utilized to cover indirect costs is ten percent (10%) of the total contract award.

3. General Instructions and Proposal Requirements

3.1. Vendor Conference

HHSC will hold a vendor conference on:

Date: May 1, 2015
Time: 9:00 AM Central Time (CT)
Location: HHSC,
909 W 45th Street
Bldg 2, Room 164.
Austin TX 78756

Vendor conference attendance is strongly recommended, but is not required.

Respondents may email questions for the conference to the HHSC Point of Contact (Section, HHSC Point of Contact) no later than five (5) days before the conference. HHSC will also give respondents the opportunity to submit written questions at the conference. All questions should reference the appropriate RFP page and section number. HHSC will attempt to respond to questions at the vendor conference, but responses are not official until posted in final form on [HHSC Contract Opportunities](#)

HHSC reserves the right to amend answers prior to the proposal submission deadline.

3.2. Questions and Comments

All questions and comments regarding this RFP should be sent to the HHSC Point of Contact (Section, HHSC Point of Contact.). Questions must reference the appropriate RFP page and section number, and must be submitted by the deadline set forth in Section 1.3. HHSC will not respond to questions received after the deadline. HHSC's responses to vendor questions will be posted to the [HHSC Contract Opportunities](#) http://www.hhsc.state.tx.us/about_hhsc/BusOpp/contract-opportunities.asp HHSC reserves the right to amend answers prior to the proposal submission deadline.

Respondents must notify HHSC of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the RFP by the deadline for submitting questions and comments. If a respondent fails to notify HHSC of these issues, it will submit a proposal at its own risk, and if awarded a contract:

- (1) shall have waived any claim of error or ambiguity in the RFP or resulting contract,
- (2) shall not contest HHSC's interpretation of such provision(s), and
- (3) shall not be entitled to additional compensation, relief or time by reason of the ambiguity, error, or its later correction.

3.3. Modification or Withdrawal of Proposal

Prior to the proposal submission deadline set forth in Procurement Schedule ([Section 1.3](#)) a respondent may:

- (1) withdraw its proposal by submitting a written request to the HHSC Point of Contact; or
- (2) modify its proposal by submitting a written amendment to the HHSC Point of Contact.

HHSC may request proposal modifications at any time.

HHSC reserves the right to waive minor informalities in a proposal and award a contract that is in the best interest of the State of Texas. A “minor informality” is an omission or error that, in HHSC’s determination, if waived or modified when evaluating proposals, would not give a bidder an unfair advantage over other bidders or result in a material change in the proposal or RFP requirements. When HHSC determines that a proposal contains a minor informality, it may at its discretion provide the respondent with the opportunity to correct.

3.4. News Releases

Prior to tentative award, a vendor may not issue a press release or provide any information for public consumption regarding its participation in the procurement. After tentative award, a vendor must receive prior written approval from HHSC before issuing a press release or providing information for public consumption regarding its participation in the procurement. Requests should be directed to the HHSC Point of Contact identified in Section 1.2.

This Section 3.4 does not preclude business communications necessary for a vendor to develop a proposal or required reporting to shareholders or governmental authorities.

3.5. Incomplete Proposals

HHSC may reject without further consideration a proposal that does not include a complete, comprehensive, or total solution as requested by the RFP.

3.6. State Use of Ideas

HHSC reserves the right to use any and all ideas presented in a proposal unless the respondent presents a valid legal case that such ideas are trade secret or confidential information, and identifies the information as such in its proposal (Section 3.13).

A respondent may not object to the use of ideas that are not the respondent’s intellectual property and so designated in the proposal that:

- (1) were known to HHSC before the submission of the proposal;
- (2) were in the public domain through no fault of HHSC; or
- (3) became properly known to HHSC after proposal submission through other sources or through acceptance of the proposal.

3.7. Property of HHSC

Except as otherwise provided in this RFP or the resulting contract, all products produced by a respondent, including without limitations the proposal, all plans, designs, software, and other contract deliverables, become the sole property of HHSC.

3.8. Copyright Restriction

HHSC will not consider any proposal that bears a copyright.

3.9. Additional Information

By submitting a proposal, the respondent grants HHSC the right to obtain information from any lawful source regarding the respondent's and its directors', officers', and employees':

- (1) past business history, practices, and conduct;
- (2) ability to supply the goods and services; and
- (3) ability to comply with contract requirements.

By submitting a proposal, a respondent generally releases from liability and waives all claims against any party providing HHSC information about the respondent. HHSC may take such information into consideration in evaluating proposals.

3.10. Multiple Responses

1. A respondent may submit one or more proposals as a prime contractor;
2. Each proposal must be separately marked and must reference a specific 2-1-1 Area Information Center Region and offer a complete solution in accordance with the RFP requirements.
3. HHSC may reject one more of the submissions.

3.11. No Joint Proposals

HHSC will not consider joint or collaborative proposals that require it to contract with more than one respondent.

3.12. Use of Subcontractors

Subcontractors providing services under the contract shall meet the same requirements and level of experience as required of the respondent. No subcontract under the contract shall relieve the respondent of the responsibility for ensuring the requested services are provided. Respondents planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors.

3.13. Texas Public Information Act

3.13.1 General Requirement for the Release of Proposals

Proposals will be subject to the Texas Public Information Act (the Act), located in Texas Government Code Chapter 552 and may be disclosed to the public upon request. Subject to the Act, respondents may protect trade secret and confidential information from public release. If the respondent asserts that information provided in the proposal is trade secrets or other confidential information, it must be clearly marked such information in boldface type and include the words "confidential" or "trade secret" at top of the page. Furthermore, the respondent must identify trade secret or confidential information, and provide an explanation of why the information is excepted from public disclosure, on the Respondent Information and Disclosures form.

HHSC will process any request from a member of the public in accordance with the procedures outlined in the Act. Respondents should consult the Texas Attorney General's website for information concerning the Act's application to proposals and potential exceptions to disclosure.

3.13.2 Publication of Major Contracts

Texas Government Code §322.020 requires HHSC to provide copies of "major contracts" to the Legislative Budget Board (LBB). If the contract resulting from this procurement falls within the Texas Government Code §322.020 definition of a "major contract," the LBB will provide the public with access to all contract documents. This includes the proposal, unless the respondent can demonstrate that all or part of the proposal is excepted from disclosure under the Texas Public Information Act. In such cases, the respondent will be responsible for preparing, for HHSC's approval, an appendix that describes the exempt information contained in the proposal without disclosing its content, as required by Texas Government Code §322.020 (d).

3.14. Instructions for Submitting Proposals

3.14.1 Number of Copies

Respondent must submit one (1) original and three (3) paper copies of the proposal. Mark one copy as the original and the three as a copy.

An authorized representative must sign the original in ink.

Respondent must submit one electronic copy of the entire proposal on a USB flash drive compatible with Microsoft Office 2010. USB flash drives shall contain all sections of the RFP as listed in Section 3.15 along with the other required documentation (applicable research, organization charts, job descriptions, resume, policies and procedures and forms). The USB drives should be organized with files that correspond to the Tabs shown in Section 3.15.

Any disparities between the contents of the original printed proposal and the electronic proposal will be interpreted in favor of HHSC.

HHSC will not accept telephone and facsimile proposals.

3.14.2 Submission

Submit all required copies of the proposal to HHSC Procurement and Contracting Services (PCS) Division no later than **2:00 PM CT on May 14, 2015**. All submissions will be date and time stamped when received by PCS. The clock in the PCS office is the official timepiece for determining compliance with the deadlines in this procurement. HHSC reserves the right to reject late submissions. It is the respondent's responsibility to appropriately mark and deliver the proposal to HHSC by the specified date.

Physical Address for hand delivery and overnight and commercial mail:

HHSC Procurement and Contracting Services (PCS) Division
Attn: Diana McIntosh
4405 North Lamar Boulevard MC2020
Austin, Texas 78756

The box or container used in submitting your proposal should be clearly marked with the

- 1. RFP number,**
- 2. RFP Name, and**
- 3. Proposal Due Date/Time.**

All proposals become the property of HHSC after submission.

Proposals may not include materials or pamphlets not specifically requested in this RFP.

3.14.3 Additional Requirements

All proposals must be:

- clearly legible;
- sequentially page-numbered and include the respondent's name at the top of each page;
- organized in the sequence outlined in Section 3.15;
- bound in a notebook or cover;
- correctly identified with the RFP number and submittal deadline;
- responsive to all RFP requirements;
- typed on 8½ by 11 paper;
- in Arial or Times New Roman font, size 12 for normal text, no less than size 10 for tables, graphs and appendices; and
- no more than 45 total pages (maximum of 30 pages for business proposal, 10 pages for technology proposal and 5 pages for budget narrative), excluding required forms, resumes and attachments.

Proposals may not include materials or pamphlets not specifically requested in this RFP.

3.15. Format and Content

The proposal must consist of the following parts:

- Part 1 - Business Proposal
- Part 2 - Technical Proposal
- Part 3 - Cost Proposal

3.15.1 Part 1 – Business Proposal

Complete proposals consist of the sections shown below. One original and three paper copies of your proposal should be placed in separate 3-4 inch binders, organized as below. The Business Proposal must include the following sections:

- Section 1 – Executive Summary
- Section 2 – Corporate Background and Experience
- Section 3 – Project Work Plan
- Section 4 – Value-added Benefits
- Section 5 – Assumptions
- Section 6 – Appendices
- Section 7 – HUB Subcontracting Plan, in accordance with Section 4
- Section 8 – Certifications and Other Required Forms

3.15.1.1. Section 1 – Executive Summary

In this section, condense and highlight the content of the Business Proposal to provide HHSC with a broad understanding of the respondent's approach to meeting the RFP's business requirements.

The summary must demonstrate an understanding of HHSC's goals and objectives for this procurement.

3.15.1.2. Section 2 – Corporate Background and Experience

This section details the respondent's corporate background and experience. If the respondent proposes to use subcontractor(s), it must describe any existing or ongoing relationships with the subcontractor(s), including project descriptions. The section should include the following information:

1. Corporate Background and Experience

Describe the respondent's corporate background as it relates to projects similar in scope and complexity to the project described in this RFP.

- a) Include a description and at least three (3) references from projects performed within the last five (5) years that demonstrate the Respondent's ability to perform the Scope of Work described in the RFP.
- b) Include contract dates and contact information (customer points of contact, address, telephone number and email address).
- c) The respondent must explain whether it performed the work as a prime contractor or subcontractor.
- d) If the respondent performed the work as a subcontractor, the respondent must describe the scope of subcontracted activities.
- e) If the proposal includes the use of subcontractors, include a similar description of each subcontractor's corporate background and experience.

2. Résumés

- a) Identify and describe the respondent's and its subcontractor's proposed labor skill set and provide résumés of all proposed key personnel (as defined by the respondent).

- b) Résumés must demonstrate experience germane to the position proposed, in Section VI. Résumés should include work on projects cited under the respondent's corporate experience, and the specific functions performed on such projects.
- c) Each résumé should include at least three (3) references from recent projects.
- d) References may not be the respondent's or subcontractor's employees.

Provide the names, a brief description of their experience and the responsibilities of the following key staff. * Note: Individuals may serve in multiple capacities.

- a) Area Information Center Director
- b) Call Center Manager
- c) Resource Manager
- d) Lead Information Specialist
- e) IT Support Staff
- f) Disaster Response Coordinator
- g) Community Outreach Staff

3. Financial Capacity

- a) Respondent must supply evidence of financial stability sufficient to demonstrate reasonable stability and solvency appropriate to the requirements of this procurement.
- b) Respondents must submit a current financial statement plus two (2) years of audited financial reports including all supplements, management discussion and analysis, and actuarial opinions. At a minimum, such financial statements and reports shall include: balance sheet; statement of income and expense; statement of changes in financial position; cash flows; and capital expenditures.
- c) If the respondent is a corporation that is required to report to the Securities and Exchange Commission, it must submit its two most recent SEC Forms 10K, Annual Reports.
- d) If any change in ownership is anticipated during the twelve (12) months following the proposal due date, the respondent must describe the circumstances of such change and indicate when the change is likely to occur.
- e) Respondent must complete and submit RFP attachments: Financial Capacity (Appendix D) and Internal Control Questionnaire (Appendix E).

4. Corporate Guarantee

- a) If the respondent is substantially or wholly owned or controlled, in whole or in part, by one or more other legal entities, the respondent must submit the information required under the "Financial Capacity" section above for each entity, including the most recent financial statement for each entity.
- b) The respondent must also include a statement that the entity or entities will unconditionally guarantee performance by the respondent of each and every obligation, warranty, covenant, term and condition of the contract.

If HHSC determines that an entity does not have sufficient financial resources to guarantee the respondent's performance, HHSC may require the respondent to obtain another acceptable financial instrument or resource from such entity, or to obtain an acceptable guarantee from another entity with sufficient financial resources to guarantee performance by another corporate (or other) entity, HHSC reserves the right to request that such entity unconditionally guarantee performance by the respondent in each and every term, covenant, and condition of the contract as executed by the parties.

5. Bonding

HHSC reserves the right to require the respondent to procure one or more performance, fidelity, payment or other bond, if during the term of the contract; HHSC in its sole discretion determines that there is a business need for such requirement.

3.15.1.3. Section 3 – Project Work Plan

Describe the respondent's proposed processes and methodologies for providing all components of the [Mission Results/Scope of Work described in Section 2](#), including the respondent's approach to meeting the [Project Schedule \(Section 2.1\)](#), this shall include:

1. Provide the name of the region(s) the respondent's organization desires to serve and statistics related to the population per region.
2. Provide a projection of the total number of calls the respondent's organization intends to handle each year of the contract per region the respondent desires to serve. Additionally, be sure to outline the strategy/strategies the respondent intends to use to meet its call projection goals.
3. Provide a detailed description of the strategy the respondent's organization will use to ensure the provision of information and referral service 24 hours per day; 7days a week within the region(s) the respondent desires to serve. Be sure to include a detailed description of the call quality assurance plan. The plan must comply with Section (insert) of the [AIRS Standards](#). If the proposal includes the use of subcontractors, include a description of each subcontractor's corporate background and experience providing

professional information and referral service as well as the name region(s) in which the subcontractor will be used to provide service.

4. Provide a projection of the total number of outreach activities and a description for each activity the respondent's organization intends to conduct to promote and educate the public about 2-1-1 services for each year of the contract per region the respondent's organization desires to service.
5. Provide a detailed description of the type (i.e., public presentations, use of billboards, airing public service announcements, staff booths, etc.) of outreach activities the respondent's organization intends to conduct within each county of the region(s) the respondent's organization intends to serve.
6. Provide a detailed description of how the respondent's organization plans to use outreach as a method to increase the number of households (i.e., number of calls handled) served by HHSC/TIRN within the region(s) it desires to serve for each year of the contract. While other methods may be used HHSC/TIRN is specifically interested in the use of outreach as a method to increase the number of household served by the program.
7. Provide a detailed description of how the respondent's organizations plan to build and maintain relationships with local health and human services providers for the purpose of ensuring access to resource data.
8. Using [Special Projects Form \(Appendix B\)](#) list all special projects in which the respondent's plans to participate that requires the use of HHSC/TIRN's Telephony system. The list must include the name of the project, project contact information, the start and end date as well as a brief description of the project. ***Applications submitted without Special Projects Form (Appendix B) will be considered incomplete and may result in the rejection of the entire proposal.**

Provide a detailed description of the respondent's organizations training plan. The description must include statements that specifically outline how the new and existing call specialists and resource specialists will be trained to provide professional information and referral service. Additionally, the description must include statements to indicate dates when the trainings will occur, list of training topics and method in which the training will be delivered

3.15.1.4. Section 4 - Project Milestones and Timeline

1. The project milestone and timeline document outlines major and minor milestones associated with the implementation of the project plan the respondent's organization will use to ensure the availability comprehensive of information and referral services within the region(s) the respondent's organization desires to serve.
2. The document must include a project timeline that outlines milestones associated dates to indicate when various activities described in the project narrative will occur within the regions(s) the respondent's organization desires to serve for each year of the project period.
3. Include the names of key staff that will be involved in implementing the project plan.

3.15.1.5. Section 5 - Warm Center Narrative

Under this RFP, only three respondents will be selected to operate as a Warm Center. Only respondents desiring to serve as a Warm Center must submit a narrative describing the strategy/strategies the respondent's organization's ability and capacity to meet the eligibility criteria to function as a Warm Center. Additionally, the respondent must provide a detailed description of the strategy/strategies the respondent intends to use to ensure the provision of the expanded disaster related activities outlined in Section 2.2.10 D – Warm Center Responsibilities.

3.15.1.6. Section 6 – Value-added Benefits

Describe any services or deliverables that are not required by the RFP that the respondent proposes to provide at no additional cost to HHSC. Respondents are not required to propose value-added benefits, but inclusion of such benefits may result in a more favorable evaluation.

3.15.1.7. Section 7 – Assumptions

State any business, economic, legal, programmatic, or practical assumptions that underlie the respondent's response to the Business Proposal. HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFP are deemed rejected by HHSC.

3.15.1.8. Section 8 – Appendices

Include the following appendices to the respondent's Business Proposal:

Appendix B Special Projects Form
Appendix D Financial Capacity
Appendix E Internal Control Questionnaire
Appendix F Cost Proposal - Budget Worksheet
Appendix G Data Use Agreement

3.15.1.9. Section 9 – HUB Subcontracting Plan

Attach the respondent's Historically Underutilized Business (HUB) Subcontracting Plan. Instructions for completing this section are in Section 4 of this RFP.

3.15.1.10. Section 10 – Certifications and Other Required Forms

Respondents must submit the following required forms with their proposals:

Child Support Certification;
Debarment, Suspension, Ineligibility, and Voluntary Exclusion of Covered Contracts;
Federal Lobbying Certification;
Nondisclosure Statement;
Required Certifications;
Respondent Information and Disclosures and
Anti-Trust Certification

The required forms are located on HHSC's website, under the [*HHSC Business Opportunities*](#) link. HHSC encourages respondents to carefully review all of these forms and submit questions regarding their completion prior to the deadline for submitting questions ([Section 1.3](#)).

3.15.2 Part 2 – Technical Proposal

Respondents must provide a detailed description of the proposed technical solution, which must support all business activities and requirements described in the RFP. The Technical Proposal must reflect a clear understanding of the nature of the work undertaken, and must include a detailed description of the proposed system(s).

The Technical Proposal must include a description of the following system components, at a minimum:

- Section 1 – Technology Architecture
- Section 2 – Capacity Management and System Availability
- Section 3 – Software and Hardware Components
- Section 4 – Systems Integration
- Section 5 – System Administration, Support, and Maintenance
- Section 6 – System Security and Disaster Recovery
- Section 7 – Performance Monitoring and Management
- Section 8 – Value-added Benefits
- Section 9 – Assumptions
- Section 10 – Appendices

3.15.2.1 Section 1 – Technology Architecture

Provide a detailed description of the proposed technology architecture and include one or more diagrams that detail the relationships between key technical components.

3.15.2.2 Section 2 – System Availability and Capacity

1. The respondent is responsible for delivering a cost-effective, high-availability environment that minimizes the frequency and impact of system failures, reduces downtime, and minimizes recovery time in the event of catastrophic failure.
2. In this section, provide details on the respondent's approach to providing a highly available system.
3. In addition, provide details on the proposed approach to monitoring system performance and use and planning, sizing and controlling the system as capacity needs change.

3.15.2.3 Section 3 – Software and Hardware Components

3. Provide details on the software and hardware components the respondent proposes to use in its system.

4. This includes, but is not limited to, the proposed server topology, specifications for the hardware components, and data storage components.
3. The respondent should also include details on the tools and utilities used to design, build, test, deploy, report, monitor, and operate the system and its components.

3.15.2.4 Section 4 – Systems Integration

Describe the respondent's approach to integrating the proposed system with other information systems.

3.15.2.5 Section 5 – System Administration, Support, and Maintenance

1. Detail the respondent's approach to administering the system and system components.
2. Detail the proposed approach to system support, including the levels of support offered and the process for requesting support.
3. In addition, provide a summary of the respondent's proposed strategy for maintaining and repairing the system.

3.15.2.6 Section 6 – System Security and Disaster Recovery

1. Detail on the respondent's approach to security architecture, including the development and implementation measures that will provide security and protection for the system.
2. Describe the proposed backup and recovery processing approach, and proposed virus protection strategy.
3. Describe the respondent's general approach to reestablishing operations in the event of a catastrophe, as well as its approach to providing HHSC/TIRN with a disaster recovery plan.
4. Provide specifications on any hardware and software components utilized by the proposed security and disaster recovery solutions.

3.15.2.7 Section 7 – Performance Monitoring and Management

1. Describe the respondent's proposed methodology for monitoring and reporting system performance, as well as the respondent's proposed approach to technology management. This includes the methods for centrally managing system resources such as servers, backup, archiving, and recovery equipment, databases and applications.
2. Address methods for auditing, tracing and scanning the system.
3. Provide details on the use of specialized tools the respondent will use to automate and track monitoring and management activities.

3.15.2.8 Value-added Benefits

Describe any enhancements or additions to the system that are not required by the RFP that the respondent proposes to provide at no additional cost to HHSC. Respondents are not required to proposed Value-added benefits, but inclusion of such benefits may result in a more favorable evaluation.

3.15.2.9 Section 9 – Assumptions

State any business, economic, legal, programmatic, or practical assumptions that underlie the respondent's response to the Technical Proposal. HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFP are deemed rejected by HHSC.

3.15.2.10 Section 10 – Appendices

Include the following appendices to the respondent's Technical Proposal:

1. Appendix A Area Information Center Map
2. Appendix B Special Project Requests SP-SPA-01
3. Appendix C 2014 RFP Funding Amounts
4. Appendix D Financial Capacity
5. Appendix E Internal Control Questionnaire
6. Appendix F Cost Proposal - Budget for 2-1-1 Services Contract

3.15.3 Part 3 – Cost Proposal

Respondents must complete [Cost Proposal Form \(Appendix F\)](#). This form must be placed in a separate, sealed package, clearly marked with the respondent's name, the RFP number, and the RFP submission date.

Respondents must base their [Cost Proposal \(Appendix F\)](#) on the Scope of Work described in [Section 2](#). This section should include any business, economic, legal, programmatic, or practical assumptions that underlie in the [Cost Proposal \(Appendix F\)](#). HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFP are deemed rejected by HHSC.

Respondents must separately identify value-added benefits, cost-savings and cost-avoidance methods and measures, and the effect of such methods on the [Cost Proposal \(Appendix F\)](#) and Scope of Work.

The [Cost Proposal \(Appendix F\)](#) must include a statement(s) of the total amount of funds requested by the respondent's organization and a categorical budget justification for the initial Fiscal Year 2016 budget period. The budget narrative must include a detailed description of costs associated with the following categories:

- A. Personnel:** Include in the description a list of each position and brief job description using fifty words or less for each listed position. Calculate personnel salaries by multiplying the monthly salary or wages by the percentage of personnel time by the number of months which the salary is to be paid from this budget.

Note: HHSC/TIRN expects respondent's organization to maintain the level of staffing denoted in narrative at all times.

- B. Fringe Benefits:** Itemize the cost of fringe benefits paid for employees, including employer contributions for Social Security, retirement, insurance and unemployment compensation. Fringe benefits requested must represent the actual benefits paid for employees.
- C. Travel:** Include the projected costs of transportation, lodging, meals, and related expenses for official staff business travel conducted in carrying out the contract, if approved to operate as an Area Information Center. Costs must be listed for in-state and out-of-state travel. Respondent organizations that do not have written travel policies must use state agency travel reimbursement rates outlined in the chart below.

In-State Meals and Lodging	<p>Refer to the federal Domestic Maximum Per Diem Rates at: http://www.gsa.gov/portal/category/100120</p> <p>For areas not listed, the rates are:</p> <ul style="list-style-type: none"> • Lodging In-State: up to \$85 • Meals In-State: up to \$36
Out-of-State Meals and Lodging	<p>Refer to the federal Domestic Maximum Per Diem Rates at: http://www.gsa.gov/portal/category/100120</p> <p>For areas not listed, use the rate for the nearest city or county.</p>
Non-overnight Meals	Not to exceed \$36
Automobile Mileage	56 cents per mile

Please note the rates indicated above are subject to change.

- D. Equipment:** Equipment is defined as tangible nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than one year. Equipment includes the following controlled assets with an acquisition cost of \$500 or more: desktop and laptop computers, non-portable printers and copiers, emergency management equipment, communication devices, systems and media equipment. The description of these costs must include a list of each item to be purchased and explain how the equipment will be used to carry out the contract, if approved to operate as an Area Information Center.
- E. Supplies:** Under this category, outline the costs of materials and supplies necessary to carry out the project. Be sure to include costs such as general office supplies and any equipment, not listed on the exception list that has a purchase price, including freight, of less than \$5,000.00 or less per item.
- F. Contractual:** Under this RFP, contractual costs are defined as costs incurred when the respondent's organization intends to delegate part of the activities identified in the scope of work to a third party, the cost of providing these activities is recorded in this category. Contracts for administrative services are not included in this category; they are properly classified in the Other category.
- G. Other:** Under this RFP, other costs are defined as all other allowable direct costs the respondent's organization may incur that are not listed in any of the above categories are to be included in this category. Some of the major costs allowed costs are that can be budgeted in this category are as follows:
- Contracts for administrative services
 - Space and equipment rental
 - Utilities and telephone expenses
 - Data processing services
 - Printing and reproduction expenses
 - Postage and shipping
 - Contract clerical or other personnel services
 - Janitorial services
 - Exterminating services
 - Security services
 - Insurance and bonds
 - Equipment repairs or service maintenance agreements
 - Memberships
 - Advertising
 - Registration fees
 - Audit Costs
- H. Indirect Costs:** Under this project the maximum amount of funds that can be utilized to cover indirect costs is ten percent (10%) of total contract award.

The budget narrative must be in a narrative format. Budget narrative submitted in any other format will not be accepted. The following documents must be completed and submitted as attachments to the budget narrative:

- Appendix D - Financial Capacity
- Appendix E - Internal Control Questionnaire.
- Appendix F - Cost Proposal Budget Worksheet

Applications submitted without the above referenced Appendices will be considered incomplete and may result in the rejection of the entire proposal.

Cost Proposal - [Budget Worksheet \(Appendix F\)](#) includes the format for submitting budget proposals. respondents must complete this form and place it in a separate, sealed package, clearly marked with the applicant's name, the RFP number, and the RFP submission date.

The budget narrative must be based on the Scope of Work described in Article 2. This section should include any business, economic, legal, programmatic, or practical assumptions that underlie the [Cost Proposal \(Appendix F\)](#). HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFP are deemed rejected by HHSC.

respondents must separately identify value-added benefits, cost-savings and cost-avoidance methods and measures, and the effect of such methods on the [Cost Proposal \(Appendix F\)](#) and Scope of Work.

4. Historically Underutilized Business Participation

In accordance with Texas Government Code Chapter 2161, Subchapter F, §2161.252 (b) a proposal that does not contain a HUB Subcontracting Plan (HSP) is non-responsive and will be rejected without further evaluation. In addition, **if HHSC determines that the HSP was not developed in good faith, it will reject the proposal for failing to comply with material RFP specifications.**

4.1 Introduction

HHSC is committed to promoting full and equal business opportunities for businesses in state contracting in accordance with the goals specified in the State of Texas Disparity Study. HHSC encourages the use of Historically Underutilized Businesses (HUBs) through race, ethnic and gender-neutral means. HHSC has adopted administrative rules relating to HUBs and a Policy on the Utilization of HUBs which is located on HHSC's website.

Pursuant to Texas Government Code §2161.181 and §2161.182 and HHSC's HUB policy and rules, HHSC is required to make a good faith effort to increase HUB participation in its contracts. HHSC may accomplish the goal of increased HUB participation by contracting directly with HUBs or indirectly through subcontracting opportunities.

4.2 HHSC's Administrative Rules

HHSC has adopted the CPA's HUB rules as its own. HHSC's rules are located in the Texas Administrative Code Title 1, Part 15, Chapter 392, Subchapter J and the CPA rules are located in Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter B. If there are any discrepancies between HHSC's administrative rules and this RFP, the rules shall take priority.

4.3 Statewide Annual HUB Utilization Goal

The CPA has established **statewide annual HUB utilization goals** for different categories of contracts in Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter B, §20.13 of the HUB rules. In order to meet or exceed the **statewide annual HUB utilization goals**, HHSC encourages outreach to certified HUBs. Contractors shall make a good faith effort to include certified HUBs in the procurement process.

This procurement is classified as an **All Other Services** procurement under the CPA rule and therefore has a **statewide annual HUB utilization goal of 26.0%** per fiscal year.

4.4 Required HUB Subcontracting Plan

In accordance with Texas Government Code Chapter 2161, Subchapter F, §2161.252 each state agency that considers entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals) shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract.

In accordance with Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter B, §20.14(a)(1)(C) of the HUB Rule, state agencies may determine that subcontracting is probable for only a subset of the work expected to be performed or the funds to be expended under the contract. If an agency determines that subcontracting is probable on only a portion of a contract, it shall document its reasons in writing for the procurement file.

HHSC has determined that subcontracting opportunities are probable for this RFP. As a result, the respondent must submit an HSP with its proposal. The HSP is required whether a respondent intends to subcontract or not.

In the HSP, a respondent must indicate whether it is a Texas certified HUB. Being a certified HUB does not exempt a respondent from completing the HSP requirement.

HHSC shall review the documentation submitted by the respondent to determine if a good faith effort has been made in accordance with solicitation and HSP requirements. During the good faith effort evaluation, HHSC may, at its discretion, allow revisions necessary to clarify and enhance information submitted in the original HSP.

If HHSC determines that the respondent's HSP was not developed in good faith, the HSP will be considered non-responsive and will be rejected as a material failure to comply with advertised specifications. The reasons for rejection shall be recorded in the procurement file.

4.5 CPA Centralized Master Bidders List

Respondents may search for HUB subcontractors in the CPA's Centralized Master Bidders List (CMBL) HUB Directory, which is located on the CPA's website at <https://mycpa.cpa.state.tx.us/tpasscmbldsearch/index.jsp>.

For this procurement, HHSC has identified the following class and item codes for potential subcontracting opportunities:

National Institute of Governmental Purchasing (NGIP) Class/Item Code(s):

952-74: Referral Services
952-90: Training and Instructional (For Clients, Not Staff)
915-49: High Volume Call Answering Services
961-02: Administrative Services, All kinds
948-07 Administrative Services, Health

Respondents are not required to use, nor limited to using, the class and item codes identified above, and may identify other areas for subcontracting.

HHSC does not endorse, recommend nor attest to the capabilities of any company or individual listed on the CPA's CMBL. The list of certified HUBs is subject to change, so respondents are encouraged to refer to the CMBL often to find the most current listing of HUBs.

4.6 HUB Subcontracting Procedures – If a Respondent Intends to Subcontract

An HSP must demonstrate that the respondent made a good faith effort to comply with HHSC's HUB policies and procedures. The following subparts outline the items that HHSC will review in determining whether an HSP meets the good faith effort standard. A respondent that intends to subcontract must complete the HSP to document its good faith efforts.

4.6.1 Identify Subcontracting Areas and Divide Them into Reasonable Lots

A respondent should first identify each area of the contract work it intends to subcontract. Then, to maximize HUB participation, it should divide the contract work into reasonable lots or portions, to the extent consistent with prudent industry practices.

4.6.2 Notify Potential HUB Subcontractors

The HSP must demonstrate that the respondent made a good faith effort to subcontract with HUBs. The respondent's good faith efforts shall be shown through utilization of all methods in conformance with the development and submission of the HSP and by complying with the following steps:

Divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices. The respondent must determine which portions of work, including goods and services, will be subcontracted.

Use the appropriate method(s) to demonstrate good faith effort. The respondent can use either method(s) 1, 2, 3, 4 or 5:

4.6.2.1 Method 1: Respondent Intends to Subcontract with only HUBs:

The respondent must identify in the HSP the HUBs that will be utilized and submit written documentation that confirms 100% of all available subcontracting opportunities will be performed by one or more HUBs; or,

4.6.2.2 Method 2: Respondent Intends to Subcontract with HUB Protégé(s):

The respondent must identify in the HSP the HUB Protégé(s) that will be utilized and should:

include a fully executed copy of the Mentor Protégé Agreement, which must be registered with the CPA prior to submission to HHSC, and
identify areas of the HSP that will be performed by the Protégé.

HHSC will accept a Mentor Protégé Agreement that has been entered into by a respondent (Mentor) and a certified HUB (Protégé) in accordance with Texas Government Code §2161.065.

When a respondent proposes to subcontract with a Protégé(s), it does not need to provide notice to three (3) HUB vendors for that subcontracted area.

Participation in the Mentor Protégé Program, along with the submission of a Protégé as a subcontractor in an HSP, constitutes a good faith effort for the particular area subcontracted to the protégé; **or**,

4.6.2.3 Method 3: Respondent Intends to Subcontract with HUBs and Non-HUBs (Meet or Exceed the Goal):

The respondent must identify in the HSP and submit written documentation that one or more HUB subcontractors will be utilized and that the aggregate expected percentage of subcontracts with HUBs will meet or exceed the goal specified in this solicitation. When utilizing this method, only HUB subcontractors that have existing contracts with the respondent for five years or less may be used to comply with the good faith effort requirements.

When the aggregate expected percentage of subcontracts with HUBs meets or exceeds the goal specified in this solicitation, respondents may also use non-HUB subcontractors; **or**,

4.6.2.4 Method 4: Respondent Intends to Subcontract with HUBs and Non-HUBs (Does Not Meet or Exceed the Goal):

The respondent must identify in the HSP and submit documentation regarding both of the following requirements:

Written notification to minority or women trade organizations or development centers to assist in identifying potential HUBs of the subcontracting opportunities the respondent intends to subcontract.

Respondents must give minority or women trade organizations or development centers at least seven (7) working days prior to submission of the respondent's response for dissemination of the subcontracting opportunities to their members. A list of minority and women trade organizations is located on CPA's website under the Minority and Women Organization Links.

- Written notification to at least three (3) HUB businesses of the subcontracting opportunities that the respondent intends to subcontract. The written notice must be sent to potential HUB subcontractors prior to submitting proposals and must include:
 - a description of the scope of work to be subcontracted;
 - information regarding the location to review project plans or specifications;
 - information about bonding and insurance requirements;
 - required qualifications and other contract requirements; and
 - a description of how the subcontractor can contact the respondent.
- Respondents must give potential HUB subcontractors a reasonable amount of time to respond to the notice, at least seven (7) working days prior to submission of the

respondent's response unless circumstances require a different time period, which is determined by the agency and documented in the contract file.

- Respondents must also use the CMBL, the HUB Directory, and Internet resources when searching for HUB subcontractors. Respondents may rely on the services of contractor groups, local, state and federal business assistance offices, and other organizations that provide assistance in identifying qualified respondents for the HUB program.

4.6.3 Written Justification of the Selection Process

HHSC will make a determination if a good faith effort was made by the respondent in the development of the required HSP. One or more of the methods identified in the previous sections may be applicable to the respondent's good faith efforts in developing and submission of the HSP. HHSC may require the respondent to submit additional documentation explaining how the respondent made a good faith effort in accordance with the solicitation.

A respondent must provide written justification of its selection process if it chooses a non-HUB subcontractor. The justification should demonstrate that the respondent negotiated in good faith with qualified HUB bidders and did not reject qualified HUBs who were the best value responsive bidders.

4.6.2.5 Method 5: Respondent Does Not Intend to Subcontract

When the respondent plans to complete all contract requirements with its own equipment, supplies, materials and/or employees, it is still required to complete an HSP.

The respondent must complete the "Self Performance Justification" portion of the HSP, and attest that it does not intend to subcontract for any goods or services, including the class and item codes identified in Section 4.5. In addition, the respondent must identify the sections of the proposal that describe how it will complete the Scope of Work using its own resources or provide a statement explaining how it will complete the Scope of Work using its own resources. The respondent must agree to comply with the following if requested by HHSC:

- provide evidence of sufficient respondent staffing to meet the RFP requirements;
- provide monthly payroll records showing the respondent staff fully dedicated to the contract;
- allow HHSC to conduct an on site review of company headquarters or work site where services are to be performed and,
- provide documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the Scope of Work.

4.7 Post-award HSP Requirements

The HSP shall be reviewed and evaluated prior to contract award and, if accepted, the finalized HSP will become part of the contract with the successful respondent(s).

After contract award, HHSC will coordinate a post-award meeting with the successful respondent to discuss HSP reporting requirements. The contractor must maintain business records documenting compliance with the HSP and must submit monthly subcontract reports to

HHSC by completing the HUB HSP [*Prime Contractor Progress Assessment Report*](#). This monthly report is required as a condition for payment to report to the agency the identity and the amount paid to all subcontractors.

As a condition of award, the Contractor is required to send notification to all selected subcontractors as identified in the accepted/approved HSP. In addition, a copy of the notification must be provided to the agency's Contract Manager and/or HUB Program Office within 10 days of the contract award.

During the term of the contract, if the parties in the contract amend the contract to include a change to the scope of work or add additional funding, HHSC will evaluate to determine the probability of additional subcontracting opportunities. When applicable, the Contractor must submit an HSP change request for HHSC review. The requirements for an HSP change request will be covered in the post-award meeting.

When making a change to an HSP, the Contractor will obtain prior written approval from HHSC before making any changes to the HSP. Proposed changes must comply with the HUB Program good faith effort requirements relating to the development and submission of a HSP.

If the Contractor decides to subcontract any part of the contract after the award, it must follow the good faith effort procedures outlined in Section 4.6 of this RFP (e.g., divide work into reasonable lots, notify at least three (3) vendors per subcontracted area, provide written justification of the selection process, and/or participate in the Mentor Protégé Program).

For this reason, HHSC encourages respondents to identify, as part of their HSP, multiple subcontractors who are able to perform the work in each area the respondent plans to subcontract. Selecting additional subcontractors may help the selected contractor make changes to its original HSP, when needed, and will allow HHSC to approve any necessary changes expeditiously.

Failure to meet the HSP and post-award requirements will constitute a breach of contract and will be subject to remedial actions. HHSC may also report noncompliance to the CPA in accordance with the provisions of the Vendor Performance and Debarment Program.

5. Proposal Evaluation

HHSC will use a formal evaluation process to select the successful respondent(s). HHSC will consider capabilities or advantages that are clearly described in the proposal, which may be confirmed by oral presentations, site visits, demonstrations, and references contacted by HHSC. HHSC reserves the right to contact individuals, entities, or organizations that have had dealings with the respondent or proposed staff, whether or not identified in the proposal.

HHSC will more favorably evaluate proposals that offer no or few exceptions, reservations, or limitations to the terms and conditions of the RFP, including the awarding agency's [UTCs \(Appendix J\)](#).

5.1 Evaluation Criteria

HHSC will evaluate proposals based on the following best value criteria, listed in order of precedence:

1. **Business Proposal**: The business proposal will be evaluated on the applicant's description of its capacity and experience with providing comprehensive information and referral service to include but not limited to the following:
 - a) Service delivery.
 - b) Quality and reliability of services.
 - c) Capacity to provide services to meet agency's needs.
 - d) Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements.
 - e) The extent to which the services meet the needs of the client(s).
 - f) Additionally, how well the respondent describes the strategies it proposes to use to ensure the provision of such services in the region(s) it desires to service and requirements outlined in this RFP.
 - g) Compliance with applicable HHSC statewide standards validated by criteria adopted by HHSC by rule.
2. **Budget Narrative**: The budget narrative will be evaluated on how well the respondent describes how funds, if awarded, will be used for the provision of comprehensive information and referral services outlined in this RFP. As well as the respondents financial capacity to operate as an Area Information Center. Total cost to the agency of procuring the applicant's services must be stated also.
3. **Technology Narrative**: The technology narrative will be evaluated on how well the respondent describes the strategies it plans to use to meet the technology requirements outlined in this RFP that support the provision of comprehensive information and referral service.

Respondents are not required to propose a warm center option and will not be evaluated more or less favorably based on the warm center option. If applying for the warm center option, the following criteria will be evaluated:

- **Warm Center Narrative:** The warm center narrative, if applicable, will be evaluated separately based on the applicant's description of its capacity/ability to function as a warm center and the strategies proposed to meet warm center service requirements.

5.2 Initial Compliance Screening

HHSC will perform an initial screening of all proposals received. Unsigned proposals and proposals that do not include all required forms and sections are subject to rejection without further evaluation.

In accordance with Section 3.3, HHSC reserves the right to waive minor informalities in a proposal and award contracts that are in the best interest of the State of Texas.

5.3 Competitive Field Determinations

HHSC may determine that certain proposals are within the field of competition for admission to discussions. The field of competition consists of the proposals that receive the highest or most satisfactory evaluations. HHSC may, in the interest of administrative efficiency, place reasonable limits on the number of proposals admitted to the field of competition.

5.4 Oral Presentations and Site Visits

HHSC may, at its sole discretion, request oral presentations, site visits, and/or demonstrations from one or more respondents admitted to the field of competition. HHSC will notify selected respondents of the time and location for these activities, and may supply agendas or topics for discussion. HHSC reserves the right to ask additional questions during oral presentations, site visits, and or demonstrations to clarify the scope and content of the written proposal.

The respondent's oral presentation, site visit, and/or demonstration must substantially represent material included in the written proposal, and should not introduce new concepts or offers unless specifically requested by HHSC.

5.5 Best and Final Offers

HHSC may, but is not required to, permit respondents to prepare one or more revised offers. For this reason, respondents are encouraged to treat their original proposals, and any revised offers requested by HHSC, as best and final offers.

5.6 Discussions with Respondents

HHSC may, but is not required to, conduct discussions with all, some, or none of the respondents admitted to the field of competition for the purpose of obtaining the best value for HHSC. It may conduct discussions for the purpose of:

1. obtaining clarification of proposal ambiguities;

2. requesting modifications to a proposal; and/or
3. obtaining a best and final offer.

HHSC may make an award prior to the completion of discussions with all respondents admitted to the field of competition if HHSC determines that the award represents best value to the State of Texas.

APPENDICES

Appendix A 2-1-1 Texas Information & Referral Network

The current 24 Regions is viewable at the following link :

<https://211texas.hhsc.state.tx.us/211/aicMap.do>

Appendix B Special Project Forms

211 Texas Information & Referral Network (TIRN)
909 W 45th St, Bldg 555 MC-2077
Austin, TX 78751
Phone: (512) 483-5118
Fax: (512) 206-5531
www.211Texas.org

SPECIAL PROJECT REQUEST SP-SPA-01

Submit a written request to TIRN no less than 30 business days prior to the date the project is expected to be implemented. The request must have all of the fields (page 1 and 2) completed. TIRN will provide a response (approved or denied) to the Area Information Center (AIC) within 20 business days from the date the request is received by TIRN. In the instance additional response time is needed, TIRN will notify the requesting AIC in writing prior to or on the 20th business day. All requests must be submitted electronically to Debi Smith via email Debi.Smith@hhsc.state.tx.us.

Submission Date: _____ Date Received by TIRN: _____

AIC: _____

Address: _____

City, State, Zip Code: _____

Person Requesting Project: _____

Special Project Begin Date: _____

Special Project End Date: _____

Title of Special Project: _____

Anticipated call volume: _____

(estimated 0-100+ calls per day)

Target population: _____

Method of outreach: _____

Training outside the scope of general I&R: _____

Anticipated reports: _____

(single, quarterly, annually)

Provide description of how call volume will be monitored: _____

Describe how the project will be monitored and evaluated: _____

Anticipated impact on AIC staff: _____

(Administrative, call & resource specialists)

SPECIAL PROJECT REQUEST SP-SPA-01

Anticipated impact on other AIC's and/or 211 Texas System: _____

(Statewide, back-up and after-hours)

Justification for use of State owned telephony equipment (known benefit to callers, benefit to local agency):

Approved Date: _____ Approved by TIRN: _____

Signature

Reconsideration of a denied request: If request is denied, a reason for the denial will be provided at the time the denial is issued. The AIC receiving the denial may submit a "request for reconsideration" within ten (10) days of the date of the denial. TIRN will provide a response (approved or denied) to the "request for reconsideration" within ten (10) business days of the date the request is received.

If a second denial is issued, the AIC requesting the approval may request a "reconsideration meeting" within five (5) business days of the second denial. A decision will be rendered by TIRN within five (5) business days of the meeting. The decision resulting from the "reconsideration meeting" is final. All requests for consideration must be submitted electronically to TIRN via email Debi.Smith@hhsc.state.tx.us.

Declined Date: _____ Declined by TIRN: _____

Signature

Reason for request being denied:

Appendix C 2014 RFP Funding Amounts

2-1-1 Texas Information and Referral Network RFP 2014 RFP Funding Amounts Appendix C

AIC REGION	Maximum Funding Amount
Alamo	\$679,629.63
Bryan College Station	\$324,080.00
Central Texas	\$291,000.00
Coastal Bend	\$323,826.10
Concho Valley	\$194,630.00
Deep East Texas	\$195,568.16
East Texas	\$329,000.00
Golden Crescent	\$218,000.00
Gulf Coast	\$1,196,549.00
Heart of Texas	\$389,000.00
Middle Rio	\$186,000.00
North Central Texas - Dallas	\$1,148,428.00
North Central Texas - Fort Worth	\$619,223.00
North East Texas	\$211,362.00
North Texas	\$199,997.00
Panhandle	\$286,334.00
Permian Basin	\$289,000.00
Rio Grande	\$243,090.56
South Central	\$870,000.00
South East Texas	\$327,000.00
South Plains	\$236,909.01
South Texas	\$159,025.00
Texoma	\$390,695.00
Tip of Texas	\$405,206.54
West Texas	\$295,000.00
Warm Center Funding for three regions	\$75,000.00 each Region

Appendix D Financial Capacity

2-1-1 Texas Information and Referral Network RFP

Financial Capacity

Appendix D

Please respond to the following for HHSC to evaluate the financial capacity of your organization to administer the 2-1-1 Texas Information and Referral Network contract.

1. Complete and submit Appendix D, Internal Control Questionnaire.
2. Submit copies of your organization's annual financial report for the two most recently completed years. Indicate below if these have been audited by an independent auditor.
3. Has your organization had an independent organization-wide audit under OMB Circular A-133?
4. If so, submit copies of the two most recent audit reports, with management letters and management responses.
5. Describe your organization's experience complying with Office of Management and Budget Cost Principles (OMB Circulars A-87, A-122 or A-21, as applicable to your organization).
6. Complete the following table on the five largest federal or other external grants or contracts that your organization has administered in the past three years.

What organization provided the grant or contract funding? (Contact Person, Organization Name, Address, Phone, E-mail)	What was the purpose of the grant or contract?	How long has (or did) the grant or contract last (duration)?	How much funding was received annually during the most recently completed year?	Have there been any questioned, deferred or disallowed costs?
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$

Appendix E Internal Control Questionnaire

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
SECTION 1 BUDGET AND PLANNING					
1.1	SEGREGATION OF DUTIES				
	1.1.1	Are responsibilities for budget preparation, adoption, execution, and reporting each assigned to different staff members?			
1.2	PROCEDURAL CONTROLS				
	1.2.1	Do personnel responsible for budget preparation:			
	1.2.1.1	Have an awareness of budgets and budgetary procedures?			
	1.2.1.2	Prepare budgets for all <u>significant</u> activities?			
	1.2.1.3	Prepare a budget calendar to provide orderly submission and to obtain approval of the budget?			
	1.2.1.4	Develop and prepare initial budget submissions by major departments and activity centers?			
	1.2.1.5	Obtain review of departmental budgets by the finance or budget officer, make corrections of oversights by departments, and integrate budgets with organization's goals and objectives?			
	1.2.1.6	Prepare the budget in sufficient detail to provide a meaningful tool with which to monitor subsequent performance (as established by the Strategic Plan)?			
	1.2.1.7	Budget inter-fund and inter-departmental transfers, if appropriate?			
	1.2.2	Do personnel responsible for budget adoption:			
	1.2.2.1	Hold budget hearings to obtain citizen input, if appropriate?			
	1.2.2.2	Submit the budget through the proper executive channels to the applicable governing body for approval?			
	1.2.2.3	Submit the budget through the proper executive channels to the applicable governing body for approval?			
	1.2.2.4	Clearly communicate to operating departments the effects of budget modification mandates (increases or decreases)?			
	1.2.2.5	Record in the accounting system estimated revenues, for later comparison to actual amounts realized or incurred as appropriate?			
	1.2.2.6	Record in the accounting system budgets approved by grantors in connection with grant activity?			
	1.2.3	Do the personnel responsible for budget execution:			
	1.2.3.1	Formally adopt and communicate procedures establishing authority and responsibility for transfers between budget categories?			
	1.2.3.2	Use an allotment system to control the flow of expenditures or commitments?			

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
		1.2.3.3	Obtain approval from the accounting department as to the availability of funds, before issuing a purchase order or making an expenditure commitment?				
		1.2.3.4	Establish controls to ensure knowledge of outstanding commitments when liabilities and expenditures are recorded on an encumbrance or obligation basis?				
	1.2.4	Do personnel responsible for budget reporting:					
		1.2.4.1	Compare actual expenditures to budget with reasonable frequency (monthly) and on a timely basis?				
		1.2.4.2	Discuss budget reports with departmental personnel, obtaining explanations for significant variations from budget?				
SECTION 2 CASH							
2.1	SEGREGATION OF DUTIES						
	2.1.1	Are responsibilities for collection and deposit preparation functions adequately segregated from those for recording cash receipts and general ledger entries?					
	2.1.2	Are responsibilities for cash receipts functions adequately segregated from those for cash disbursements?					
	2.1.3	Are responsibilities for disbursement preparation and disbursement approval functions adequately segregated from those for recording or entering cash disbursements information on the general ledger?					
	2.1.4	Are responsibilities for the disbursement approval function adequately segregated from those for the disbursement, voucher preparation, and purchasing functions?					
	2.1.5	Are responsibilities for entries in the cash receipt and disbursement records adequately segregated from those for general ledger entries?					
	2.1.6	Are responsibilities for preparing and approving bank account reconciliations adequately segregated from those for other cash receipt or disbursement functions?					
	2.1.7	If EDP is used, is the segregation of duties principle maintained within processing activities?					
2.2	PROCEDURAL CONTROLS						
	2.2.1	Do collections procedures provide for timely deposits of all receipts?					
	2.2.2	Do collections procedures provide for controls at each collection location, to assure timely deposit and accurate recording of collections?					
	2.2.3	Timely notice of cash receipts at separate collection locations given to a central accounting department?					
	2.2.4	Daily reported receipts at separate collection locations compared to records of a general accounting department?					
	2.2.5	Restrictive endorsements placed on incoming checks as soon as received?					

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA			YES	NO	N/A	COMMENTS
	2.2.6	Receipts accounted for and balanced to collections records daily?				
	2.2.7	Pre-numbered forms accounted for, including a record of voided forms?				
	2.2.8	Adequate records maintained to assure correct handling and final disposition of items held in suspense?				
	2.2.9	Suspense accounting eliminated by direct deposit of money to the correct fund, as much as possible?				
	2.2.10	Delay of deposits avoided by making sure fund distribution is immediately determinable?				
SECTION 3 DISBURSEMENTS						
	3.1.1	Control over warrant, sight draft, or check-signing machines, as to signature plates and usage?				
	3.1.2	Warrants, sight drafts, and checks to be signed after disbursement has had final approval?				
	3.1.3	Immediate notification to banks of newly authorized warrant, sight draft, and check signers?				
	3.1.4	Procedures providing for immediate notification to banks when warrant or check signers leave the unit or are otherwise no longer authorized to sign?				
	3.1.5	Furnishing invoices and supporting documents to the signer prior to signing the warrant or check to help assure funds are disbursed only for authorized purposes; and to help assure laws, rules, and regulations are followed?				
	3.1.6	Invoices and Supporting documents cancelled at the time disbursement is signed?				
	3.1.7	Warrants, sight-drafts, and checks cross-referenced to vouchers?				
	3.1.8	Warrants, sight drafts and checks controlled and accounted for, with safeguards over those unused and voided?				
	3.1.9	Setting reasonable limits on amounts payable by facsimile signature?				
	3.1.10	Prompt recording of signed and issued warrants, sight drafts and checks?				
	3.1.11	Requiring two signatures on warrants or checks over a stated amount?				
	3.1.12	Using plates only under the signer's control and recording of machine reading by the signer or an appropriate designee, to ascertain all signed warrants, sight drafts, or checks are properly accounted for by comparison to document control totals?				
	3.1.13	Direct delivery to the mail of signed warrants or checks, making them inaccessible to persons who requested, prepared, or recorded them?				
	3.1.14	Prohibiting the drawing of warrants or checks to "cash" or "bearer"?				
	3.1.15	Controls to ensure all payments are made on a timely basis and in accordance with all purchase orders and contracts?				
	3.1.16	Controls to ensure duplicate payments are not made?				
	3.1.17	Are original invoices (no copies) totaling the amount of the				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
	disbursement attached to each voucher before payment?				
3.1.18	Controls to ensure each cash disbursement is properly vouchered and approved by the proper authorities before the disbursement occurs?				
3.2	Do custody procedures provide for the following?				
3.2.1	Maintenance of controls over the supply of unused and voided warrants or checks?				
3.2.2	Proper authorization of bank accounts?				
3.2.3	Periodic reviews of and formal reauthorization of depositories?				
3.2.4	Controls and physical safeguards surrounding petty cash funds?				
3.2.5	Maintenance of adequate fidelity insurance coverage?				
3.2.6	Maintenance of separate bank accounts for each fund, or, adequate fund control over pooled cash?				
3.3	Do detailed accounting procedures include the following?				
3.3.2	Procedures ensuring collections and disbursements are recorded accurately and promptly in the correct fund or account?				
3.3.3	Procedures for authorizing and recording inter-bank and inter-fund transfers and providing for proper accounting for those transactions?				
3.4	Do general ledger procedures provide for the following?				
3.4.1	Delivery of bank statements and paid warrants or checks in unopened envelopes directly to the employee preparing the reconciliation?				
3.4.2	Comparison of warrants, sight drafts, or checks in appropriate detail with disbursement records?				
3.4.3	Examination of signature and endorsements, at least on a test basis?				
3.4.4	Accounting for numerical sequence of warrants, sight drafts, or checks used?				
3.4.5	Comparison of book balances used in reconciliations with balances in general ledger accounts?				
3.4.6	Comparison of deposit amounts and dates with cash receipt entries?				
3.4.7	Footings of cash books?				
3.4.8	Review and approval of all reconciliations and investigation of unusual reconciling items by an official not responsible for receipts and disbursements, including recording evidence of the review and approval, by signing the reconciliation?				
3.4.9	Periodic investigation of checks outstanding for a considerable time?				

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
SECTION 4 REVENUES AND RECEIVABLES					
4.1	SEGREGATION OF DUTIES				
	4.1.1	Are responsibilities for billing for services and fees adequately segregated from those for collection and accounting?			
	4.1.2	Are responsibilities for maintaining detail accounts receivable records adequately segregated from those for collection and general ledger posting?			
	4.1.3	Are responsibilities for collection, control, credit issuance, and deposit of funds activities adequately segregated from those for maintaining accounting records?			
	4.1.4	Are responsibilities for entries in the cash receipts records adequately segregated from those for general ledger entries?			
	4.1.5	If EDP is used, is the principle of segregation of duties maintained within processing activities?			
4.2	BILLING/REMITTANCE VERIFICATION				
	4.2.1	Procedures designed for ensuring timely payment of amounts due?			
	4.2.2	Numerical batch-processing controls over billings?			
	4.2.3	Procedures to prevent interception or alteration by unauthorized persons of billings or statements after preparation, but before mailing?			
	4.2.4	Prompt investigation of disputes with billing amounts?			
	4.2.5	Controls providing reasonable assurances restricted revenues are expended only for restricted purposes?			
	4.2.6	Protecting records of receivables from destruction and unauthorized access?			
	4.2.7	Monthly balancing of control accounts with detailed ledgers?			
	4.2.8	Are receivable amounts aged monthly and reviewed by authorized personnel?			
4.3	ACCOUNTS RECEIVABLE RECORDKEEPING				
	4.3.1	Controls in system to ensure individual receivable records are posted only from authorized source documents?			
	4.3.2	Reconciling the aggregate collections on accounts receivable against postings to individual receivable accounts?			
	4.3.3	Periodic review of receivable accounts for credit balances?			
4.4	GENERAL LEDGER PROCEDURES				
	4.4.1	Regular preparation of trial balances of individual receivable accounts?			
	4.4.2	Reconciliation of trial balances with general ledger control accounts and investigation of reconciling items by other than accounts receivable clerks?			
	4.4.3	Periodic review of aged accounts receivable balances by supervisory personnel?			
	4.4.4	Timely and direct notification to the accounting department			

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
	of billings and collection activity?				
SECTION 5 GRANT MONITORING					
5.1.2	Has the organization properly assigned responsibility for monitoring grant activities?				
5.1.2	Does the organization have procedures to monitor compliance with the following?				
5.1.2.1	Financial reporting requirements?				
5.1.2.2	Use of funds and other conditions in accordance with grant terms?				
5.1.2.3	Timely billing of amounts due under grants?				
5.1.3	Does the organization have a system for obtaining grantor approval before incurring expenditures in excess of budgeted amounts or for unbudgeted expenditures?				
5.1.4	Are processing of grant revenues and disbursements subject to the same degree of controls applicable to the organization's other transactions (budget, purchasing, etc.)?				
5.1.5	Are processing of grant revenues and disbursements subject to the same degree of controls applicable to the organization's other transactions (budget, purchasing, etc.)?				
5.1.6	Does standard subrecipient agreement require the subrecipient to comply with primary grant agreement conditions as well as grantee's and subgrantee's standards?				
5.1.7	Are reasonable procedures and controls in place to provide assurances of compliance with eligibility requirements established by grants or subgrants?				
5.1.8	Has the organization established an indirect cost allocation plan if applicable?				
5.1.8.1	Is the plan approved by federal/cognizant agency?				
SECTION 6 CAPITAL ASSETS					
6.1	SEGREGATION OF DUTIES				
6.1.1	Are responsibilities for initiating capital asset transactions adequately segregated from those for final approval, or committing organizational resources?				
6.1.2	Are responsibilities for the periodic physical inventories of capital assets assigned to responsible officials having no custodial or record keeping responsibilities?				
6.2	PROCEDURAL CONTROLS				
6.2.1	Identification of those individuals authorized to initiate capital asset transactions and clear definition of their authority?				
6.2.2	Guidelines with respect to key consideration, such as prices to be paid, acceptable vendors and terms, asset quality standards, and financing the expenditures?				
6.2.3	Preparation of a separate capital projects budget?				

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA			YES	NO	N/A	COMMENTS
	6.2.4	Required written executive or governing body approval for all significant capital asset projects or acquisitions?				
	6.2.5	Procedures for authorizing, approving, and documenting sales or other dispositions of capital assets?				
	6.2.6	Procedures for approving decisions regarding financing alternatives and accounting principles, practices, and methods?				
	6.2.7	Procedures for obtaining grantor approval, if required, for the use of grant funds for capital asset acquisitions?				
	6.2.8	Subjecting grant-funded acquisitions to the same controls as internally funded acquisitions?				
	6.2.9	Requiring supplemental authorizations, including, if appropriate, those of the grantor agency, for expenditures in excess of originally approved amounts?				
	6.2.10	Detail property records for all significant self-constructed, donated, purchased, or leased assets?				
	6.2.11	Accountability for each asset?				
	6.2.12	Physical safeguards over assets?				
	6.2.13	Investigating differences between records and physical counts and adjusting the records to reflect shortages?				
	6.2.14	Subjecting lease transactions to control procedures similar to those required for other capital expenditures?				
	6.2.15	Periodically comparing detail property records with existing assets?				
	6.2.16	Properly identifying equipment by numbered tags or other means of positive identification?				
	6.2.17	Carrying fully depreciated assets in the accounting records as a means of providing accounting control?				
	6.2.18	Monitoring the appropriate disposition of property acquired with grant funds?				
6.3	Do general ledger procedures include the following?					
	6.3.1	Periodic reconciliation of the detail property records with the general ledger control accounts?				
	6.3.2	Distinguish between capital-projects fund expenditures and operating budget expenditures?				
	6.3.3	Identify operating budget expenditures to be capitalized as capital assets?				
	6.3.4	Distinguish between capital and operating leases?				
	6.3.5	Govern depreciation methods and practices?				
	6.3.6	When costs are charged against federal grants, depreciation policies or methods of computing allowances in accordance with standards outlined in OMB circulars or grantor agency regulations?				
	6.3.7	When costs are not charged against federal grants, depreciation charged to grants should be adjusted accordingly?				
	6.3.8	Are the accounting records adjusted promptly (both the asset and related allowance for depreciation) when items of plant and equipment are retired, sold, or transferred?				

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
SECTION 7 PROCUREMENT AND PAYABLES					
7.1	SEGREGATION OF DUTIES				
	7.1.1	Are responsibilities for the requisitioning, purchasing, and receiving functions adequately segregated from those for the invoice processing, accounts payable, and general ledger functions?			
	7.1.2	Are responsibilities for the purchasing function adequately segregated from those for the requisitioning and receiving functions?			
	7.1.3	Are responsibilities for the invoice processing and accounts payable functions adequately segregated from those for the general ledger functions?			
	7.1.4	Are responsibilities for the disbursement preparation and disbursement approval functions adequately segregated from those for recording cash disbursements and general ledger entries?			
	7.1.5	Are responsibilities for the disbursement approval function adequately segregated from those for the disbursement preparation function?			
	7.1.6	Are responsibilities for entries in the cash disbursement records adequately segregated from those for general ledger entries?			
	7.1.7	If EDP is used, is the principle of segregation of duties maintained within processing activities?			
7.2	PROCEDURAL CONTROLS				
	7.2.1	Do requisitioning procedures and controls include the following?			
	7.2.1.1	Initiation of purchases of goods and services by properly authorized requisitions bearing the approval of officials designated to authorize requisitions?			
	7.2.1.2	Using and accounting for prenumbered requisition forms?			
	7.2.1.3	Indicating the activity, function or department to be charged on the purchase requisition by the person requesting the purchase?			
	7.2.1.4	Before commitment, verification by the accounting and budget department sufficient unobligated funds remain under the appropriation to meet the proposed expenditure?			
	7.2.1.5	Having technical specifications accompanying requests for special purpose (non-stock items) materials or personal services?			
	7.2.2	Do purchasing procedures and controls include the following?			
	7.2.2.1	Structuring purchase authorizations to give appropriate recognition to the nature and size of purchases and to the experience of purchasing personnel?			
	7.2.2.2	Purchase order, contract issuance, and contract approval procedures?			
	7.2.2.3	Use of competitive bidding procedures?			

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
		7.2.2.4	If practical, rotation on a regular basis of contract or purchasing officer's areas of responsibility?				
		7.2.2.5	In contracts for materials, services, or facilities acquired on other than a fixed-price basis, requirements for an audit of contractor's costs prior to approving for payment?				
		7.2.2.6	Procedures for public advertisement of non-stock item procurement?				
		7.2.2.7	Periodic review of recurring purchases and documentation of the justification for informal, rather than competitive, bids?				
		7.2.2.8	Established, documented, and distributed policies regarding conflicts of interest and acceptable business practices?				
		7.2.2.9	Issuing purchase orders and contracts under numerical or some other suitable control?				
		7.2.2.10	Obtaining an adequate number of price quotations before placing orders not subject to competitive bidding?				
		7.2.2.11	Prohibiting split orders to avoid higher levels of approval?				
		7.2.2.12	Maintenance, by the purchasing department, of price lists and other appropriate records of price quotations?				
		7.2.2.13	Maintenance of a record, by the purchasing department, of suppliers who have not met quality or other performance standards?				
		7.2.2.14	Modification of procedures for disbursement of funds under grant or loan agreements and related regulations imposing requirements differing from the organization's normal policies?				
		7.2.2.15	Controls to identify, before order entry, costs and expenditures not allowable under grant programs?				
		7.2.2.16	Maintenance of an adequate record of open purchase orders and agreements?				
		7.2.2.17	Predetermining selection criteria for awarding personal service or construction contracts and requiring adequate documentation of the award process?				
		7.2.2.18	Subjecting changes to contracts or purchase orders to the same controls and approvals as the original agreement?				
	7.2.3	Do receiving procedures and controls include the following?					
		7.2.3.1	Preparation of receiving reports for all purchased goods?				
		7.2.3.2	Procedures for filing claims against carriers or vendors for shortages or damaged materials?				
		7.2.3.3	Taking steps to ensure goods received are				

2-1-1 Texas Information and Referral Network RFP

Appendix E

Internal Control Questionnaire

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			accurately counted and examined, to ensure they meet quality standards?				
		7.2.3.4	Numerically accounting for or otherwise controlling receiving reports, to ensure all receipts are reported to the accounting department?				
		7.2.3.5	Sending copies of receiving reports directly to purchasing, accounting, and (if appropriate) inventory record keeping?				
		7.2.3.6	With respect to procurements of special-purpose materials, services, or facilities, assigning a technical representative to monitor and evaluate contractor performance and to approve receipt of services?				
		7.2.3.7	If a receiving department is not used, adequate procedures to ensure goods for which payment is made have been received; verification, by someone other than the individual approving payment, that goods have been received and they meet quality standards?				
	7.2.4	Does invoice processing include the following?					
		7.2.4.1	Copies of purchase orders and receiving reports to be obtained directly from issuing departments?				
		7.2.4.2	Invoice quantities, prices, and terms to be compared with those on the purchase order?				
		7.2.4.3	Invoice quantities to be compared with those on the receiving report?				
		7.2.4.4	Accuracy of calculations to be checked, as appropriate?				
		7.2.4.5	Timely payment of invoices, to avail the entity of available discounts?				
		7.2.4.6	Procedures ensuring the accounts payable system is properly accounting for unmatched receiving reports and invoices?				
		7.2.4.7	Procedures for processing invoices not involving materials or supplies (for example, lease or rental payments, utility bills, etc.)?				
		7.2.4.8	Comparison of monthly statements with accounts payable balances?				
		7.2.4.9	Reconciliation of subsidiary ledgers with control accounts monthly?				
		7.2.4.10	Access to EDP master vendor file, if applicable, limited to employees authorized to make changes?				
		7.2.4.11	Maintenance by accounting department of a current list of those authorized to approve expenditures?				
		7.2.4.12	Procedures for submission and approval of reimbursement to employees for travel and				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			other expenses?				
		7.2.4.13	Review of the distribution of charges in the accounting department by a person competent to pass on the propriety of the distribution?				
		7.2.4.14	Review and approval of invoices (vouchers) for completeness of supporting documents and required clerical checking by a senior employee?				
		7.2.4.15	If an invoice is received from a supplier not previously dealt with, taking steps to ascertain the supplier actually exists?				
		7.2.4.16	Making payments only on the basis of original invoices?				
		7.2.4.17	Assigning responsibility for ensuring all cash discounts are taken?				
		7.2.4.18	Referring differences in invoice and purchase order price, terms, shipping arrangements, or quantities to the purchasing department for review and approval?				
		7.2.4.19	Promptly notifying the accounting and purchasing departments of returned purchases and correlating such purchases with vendor credit advices?				
		7.2.4.20	Reviewing the program and expenditure account to be charged for propriety and budget conformity?				
		7.2.4.21	Having check signers or other responsible officials determine restricted revenues are expended only for restricted purposes?				
		7.2.4.22	If applicable, procedures to ensure adjustment of the reserve for encumbrances, when invoices are prepared for payment?				
	7.2.5	Do procedures for accounts payable, encumbrances, or obligations included the following?					
		7.2.5.1	Regular comparison of statements from vendors with recorded amounts payable?				
		7.2.5.2	Periodic reconciliation of outstanding purchase orders to the reserve for encumbrances?				
		7.2.5.3	Recording encumbrance entries based only on approved purchase orders?				
		7.2.5.4	Procedures ensuring accounts payable and encumbrances are applied against the appropriate account?				
	7.2.6	Do general ledger procedures include the following?					
		7.2.6.1	Regular preparation of trial balances of reserve for encumbrances and accounts payable?				
		7.2.6.2	Checking the footing and testing the trial balances to the individual items, as well as comparing the total to the general ledger balance, by an employee other than the accounts payable clerk?				
		7.2.6.3	Posting transactions between funds in all				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			affected funds, in the same accounting period, and on a timely basis?				
	7.2.7	Do subgrant and subrecipient monitoring procedures include the following					
		7.2.7.1	Awarding and disbursing funds grants only on the basis of approved applications?				
		7.2.7.2	Defining (for example, in regulations) and communicating to subgrantees or subrecipients their reporting and compliance requirements?				
		7.2.7.3	Procedures to monitor compliance with grant terms?				
		7.2.7.4	Subjecting financial operations of subgrantees or subrecipients to periodic and timely audit?				
		7.2.7.5	Sufficiently timely monitoring of subgrantees or subrecipients to permit curtailment of any abuse before completing funds disbursement?				
		7.2.7.6	Disbursing funds to subgrantees or subrecipients only on an as-needed basis?				
		7.2.7.7	An appropriate level of subaward approval authority?				
		7.2.7.8	Investigation of failure by subgrantees or subrecipients to meet financial reporting requirements on a timely basis?				
		7.2.7.9	Requiring subgrantees or subrecipients to evidence correction of previously detected deficiencies before approval of an extension or renewal of an award?				
		7.2.7.10	Review of audited financial statements or other compliance requirements on a timely basis and investigation of unusual items?				
SECTION 8 EMPLOYEE COMPENSATION							
8.1	SEGREGATION OF DUTIES						
	8.1.1	Are responsibilities for supervision and time-keeping functions adequately segregated from personnel, payroll processing, disbursement, and general ledger functions?					
	8.1.2	Are responsibilities for the payroll processing function adequately segregated from the general ledger function?					
	8.1.3	Is payroll distribution supervised by employees who are not responsible for hiring or firing employees, do not approve time reports, and take no part in payroll preparation?					
	8.1.4	Are responsibilities for initiating payments under employee benefit plans adequately segregated from accounting and general ledger functions?					
	8.1.5	Is reconciliation of the payroll fund or bank account done regularly by employees independent of all other payroll transaction processing activities?					
	8.1.6	If EDP is used, is the principle of segregation of duties maintained in processing activities?					
8. PROCEDURAL CONTROLS							
	8.2.1	Do personnel procedures and controls include the following?					
		8.2.1.1	Properly authorizing, approving, and				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			documenting all changes in employment (additions and terminations), salary and wage rates, and payroll deductions?				
		8.2.1.2	Promptly reporting notices of additions, separations, and changes in salaries, wages, and deductions to the payroll processing function?				
		8.2.1.3	Maintaining appropriate payroll records for accumulated employee benefits (vacation, pension data, sick leave, etc.)?				
		8.2.1.4	Written personnel policies?				
		8.2.1.5	Establishing controls to ensure payroll costs charged to grants are in compliance with grant agreements?				
		8.2.1.6	Ensuring payroll and personnel policies governing compensation are in accordance with the requirements of grant agreements?				
	8.2.2	Do supervision/time-keeping procedures and controls include the following?					
		8.2.2.1	Review and approval, by the employee's supervisor, of hours worked, overtime hours, and other special benefits?				
		8.2.2.2	Procedures for time keeping and attendance records?				
		8.2.2.3	Review for completeness and for the employee's supervisor's approval of time cards or other time reports?				
		8.2.2.4	Procedures for authorizing, approving, and recording vacations, holidays, and sick leave and for approving and controlling compensatory time?				
	8.2.3	Do payroll processing procedures and controls include the following?					
		8.2.3.1	Controls over payroll preparation?				
		8.2.3.2	Approval and documentation of changes to the EDP master payroll file?				
		8.2.3.3	Limiting access to the EDP master payroll file to employees who are authorized to make changes?				
		8.2.3.4	Review and approval of completed payroll registers before disbursements are made?				
		8.2.3.5	Review of documents supporting employee benefit payments (such as accumulated vacation or sick leave) before disbursements are made?				
		8.2.3.6	Review for reasonableness of comparisons (reconciliations) of gross pay for current to prior period payrolls by a knowledgeable person not otherwise involved in payroll processing?				
		8.2.3.7	Review of the payroll (examination of authorizations for changes noted on reconciliations) by an employee not involved in its preparation?				
		8.2.3.8	Balancing the distribution of dollars and hours of				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			gross pay with payroll registers and review by someone independent, but knowledgeable of this area?				
		8.2.3.9	Including in the review a comparison to amounts budgeted?				
		8.2.3.10	Prohibiting payroll advances to officials and employees, or subjecting them to appropriate review?				
	8.2.4	Do payroll disbursement procedures and controls include the following?					
		8.2.4.1	Strong encouragement for all employees to receive payroll disbursement through "direct deposit" to their bank account?				
		8.2.4.2	Keeping the signature plates and use of the payroll check-signing machines under control of the official whose name appears on the signature plate, or under control of an employee to whom that responsibility has been delegated?				
		8.2.4.3	Maintaining a log to reconcile the counter on the check-signing machine with the number of checks issued in each payroll disbursement?				
		8.2.4.4	Maintaining a separate payroll fund, or an imprest-basis payroll bank account?				
		8.2.4.5	Regularly reconciling the payroll fund or bank account?				
		8.2.4.6	Comparing, by someone independent of the payroll department, payroll check endorsements, on a test basis, with signatures on file?				
		8.2.4.7	If payment is made in cash, requiring signed receipts; and having someone independent of the payroll department compare the signed receipts, on a test basis, with signatures on file?				
		8.2.4.8	Controlling the supply of unused payroll checks?				
		8.2.4.9	Requiring employees' to provide identification before being given checks or pay envelopes?				
		8.2.4.1	Prohibiting employees from accepting another's pay?				
		8.2.4.1	Returning unclaimed wages to a custodian independent of the payroll department?				
		8.2.4.1	Having employees who distribute checks or pay envelopes make a report of unclaimed wages directly to the accounting department?				
		8.2.4.1	Making payments of unclaimed wages at a later date, only upon presentation of appropriate evidence of employment and with approval by an officer or employee who is not responsible for payroll preparation or time reporting?				
		8.2.4.1	Comparing W-2 forms to payroll records and mail by employees not otherwise involved in the payroll process?				
		8.2.4.1	Procedures for investigating returned W-2				

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			forms?				
	8.2.5	Do general ledger procedures and controls include the following?					
		8.2.5.1	Adequate account coding procedures for classification of employee compensation and benefit costs, so such costs are recorded in the proper general ledger account?				
		8.2.5.2	Proper recording or disclosure of accrued liabilities for unpaid employee compensation and benefit costs?				
SECTION 9 ELECTRONIC DATA PROCESSING							
9.1	SEGREGATION OF DUTIES						
	9.1.1	Is the EDP department independent from the accounting and operating departments for which it processes data?					
	9.1.2	Are duties within the data-processing function as adequately segregated?					
9.2	PROCEDURAL CONTROLS						
	9.2.1	Controls over preparation and approval of input transactions outside the EDP department and controls prohibiting the EDP department from initiating transactions?					
	9.2.2	Having the user exercise control procedures over input to ensure all approved input is processed correctly through the system (and only once)?					
	9.2.3	Having controls over on-line systems to restrict access to authorized employees?					
	9.2.4	On-line systems controls to prevent documents from being keyed into the system more than once and to permit tracing from the computer output to data source and vice versa?					
	9.2.5	User controls over rejected transactions through the use of a computerized suspense file of rejected transactions or an auxiliary manual system?					
	9.2.6	Procedures within the data processing control function, providing proper control of data between the user and the EDP department?					
	9.2.7	Program controls over entry of data into on-line systems?					
	9.2.8	Editing and validation of input data?					
	9.2.9	Controls for balancing transaction and master files					
	9.2.10	Procedures within the data processing control function concerning review and distribution of output?					
	9.2.11	Controls over changes to system software?					
	9.2.12	Procedures to protect against a loss of important files, programs, or equipment					
	9.2.13	Documentation of the data processing system to provide for continuation of the organization, even if important data processing employees leave?					
	9.2.14	User-approved written specifications for new systems and modifications to existing application systems?					
	9.2.15	Procedures to test and implement new systems and to test modifications to existing application systems?					
SECTION 10 FINANCIAL REPORTING							

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA		YES	NO	N/A	COMMENTS
10.1	SEGREGATION OF DUTIES				
	10.1.1	Are responsibilities for the final review and approval of financial reports adequately segregated from those for the preparation of the reports?			
	10.1.2	Are responsibilities for maintaining the general ledger adequately segregated from those for maintaining subsidiary ledgers?			
	10.1.3	Are responsibilities for maintaining the general ledger adequately segregated from those for the custody of assets?			
	10.1.4	Are the responsibilities for preparation and approval functions adequately segregated from those for journal entries?			
	10.1.5	If EDP is used, is the principle of segregation of duties maintained within processing activities?			
10.2	PROCEDURAL CONTROLS				
	10.2.1	Do general ledger procedures and controls include the following?			
	10.2.1.1	A formal plan of organization for the unit of government under which reporting responsibilities are clearly defined and reasonably aligned?			
	10.2.1.2	General ledger control over all assets and transactions for all departments of the organization?			
	10.2.1.3	Written accounting policy and procedural manuals distributed to appropriate personnel?			
	10.2.1.4	Updating the accounting policy and procedural manuals, as necessary?			
	10.2.1.5	Procedures to ensure only authorized persons can alter or establish a new accounting principle, policy, or procedure to be used by the organization?			
	10.2.1.6	Security for accounting records?			
	10.2.1.7	A formal policy regarding conflicts of interest?			
	10.2.1.8	Requiring written representations from appropriate personnel as to compliance with accounting policies and procedures and with ethics policies?			
	10.2.1.9	Prohibiting loans to officials or employees?			
	10.2.1.10	Periodically evaluating the adequacy and effectiveness of the internal accounting controls related to the organization's transaction systems (procurement, revenues, receivables, etc.)?			
	10.2.1.11	Implementing measures to correct weaknesses?			
	10.2.2	Do closing procedures and controls include the following?			
	10.2.2.1	Procedures and policies for closing the			

2-1-1 Texas Information and Referral Network RFP**Appendix E****Internal Control Questionnaire**

Instructions: For each question, check either N/A, Yes or No.

If the response is N/A or No, provide an explanation in the comments section.

AREA				YES	NO	N/A	COMMENTS
			accounts for a reporting period, sufficient to ensure accounts are closed, adjusted, and reviewed on a timely basis?				
		10.2.2.2	Procedures to ensure all accounting systems have included all transactions applicable to the reporting period?				
		10.2.2.3	Review and approval of valuation reserves or other account balances based on estimates?				
		10.2.2.4	Having all journal entries reviewed, approved, and supported by adequate descriptions or documentation?				
		10.2.2.5	Controls to ensure only authorized individuals can initiate entries?				
	10.2.3	Do combining procedures and controls include the following?					
		10.2.3.1	Procedures to ensure orderly and effective accumulation of financial data?				
		10.2.3.2	Procedures for orderly processing of financial data received from departments and other accounting units?				
		10.2.3.3	Procedures to permit recording and review of special entries generated in the combining process?				
	10.2.4	Do preparation, review, and approval procedures and controls include the following?					
		10.2.4.1	Procedures to ensure financial reports are supported by either underlying account records or other documentation?				
		10.2.4.2	Procedures providing reasonable assurances all data required to be included in legal, as well as public reports, are properly disclosed?				
		10.2.4.3	Procedures to ensure financial reports are prepared on a consistent basis?				
		10.2.4.4	Review and approval of financial reports at appropriate levels of management and, if appropriate, the governing body before public release?				
		10.2.4.5	Procedures to ensure all requirements for filing of financial reports are met?				

Appendix F Cost Proposal - Budget Worksheet

(Cost Proposal - Budget Worksheet attached as separate document to RFP)

Appendix G General Definitions

General Definitions

Alliance of Information and Referral Systems (AIRS) Standards: A code of prescriptive guidelines for every aspect of Information and Referral operation and service delivery; includes criteria for database development, provisions for socially responsible use of technology, and rules for use of taxonomy, among many other protocols. The Standards spell out the requirements for AIRS membership, which itself is a procurement and contractual requirement of HHSC/TIRN for its Area Information Centers.

Appendix: Additional information and/or forms that are available at the end of this solicitation document.

Award: The act of accepting a bid, thereby forming a contract between the state and a respondent.

Budget: A financial schedule documented in the contract that describes how funds will be used and/or describes the basis for reimbursement for the provision of contracted services. Types of budget may include categorical (line item), fee for service, or lump sum. ***The Budget Section is required and is posted with this RFP as a separate package on the ESD.***

Budget Period: The duration of the budget (stated in the number of months the contract will reflect from begin date to end date of the term of the contract). Each contract renewal will have its own budget period.

Call Center: A centralized office or facility that is equipped to handle large amounts of customer telephone requests for an organization.

Call Center Manager: Responsible for call center operations including the ability to forecast call volume and schedule staff, training, and management of call volume sufficient to meet service level objectives.

Call Specialist: Responsible for handling the calls that come to the call center.

Case Management:— An individualized approach of identifying and assessing barriers to medical, education and essential support needs, the provision of related services (when necessary), and implementing strategies to address each need to ensure that clients receive timely and appropriate services.

Centralized Master Bidders List (CMBL): A database maintained by TPASS containing the names and addresses of registered vendors which have provided contact information and information on goods or services they offer.

Conflict of Interest: Set of facts or circumstances in which either a respondent or anyone acting on its behalf in connection w HHSC/TIRN HHSC.

Community Outreach Coordinator: Responsible for developing and maintaining cooperative relationships within the designated region for the purpose of promoting and expanding 2-1-1 services

Contract: A written document referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties. A HHSC contract is assembled using a core contract (base), one or more program attachments, and other required exhibits (general provisions, etc.).

Contract Term: The period of time during which the contract or program attachment will be effective from begin date to end, or renewal date. The contract term may or may not be the same as the budget period.

Contractor: The entity HHSC/TIRN has contracted with to provide services. The contractor is the entity responsible to HHSC/TIRN even if there is a subcontractor that delivers all or a portion of the services.

Contractual Costs: costs incurred when the applicant organization intends to delegate part of the activities identified in the scope of work to a third party, the cost of providing these activities is recorded in this category

Cost Reimbursement: A payment mechanism by which contractors are reimbursed for allowable costs incurred up to the total award amount specified in the contract. Costs must be incurred in carrying out approved activities, and must be based on an approved eight -category line-item (categorical) budget. Amounts expended in support of providing services and goods, if any, in accordance with the contract terms and conditions must be billed on a monthly basis for reimbursement unless otherwise specified in the contract. Reimbursement is based on actual allowable costs incurred that comply with the cost principles applicable to the grant and subgrants.

Data Use Agreement: Agreement is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR's rights and obligations with respect to the Confidential Information and the limited purposes for which the CONTRACTOR may create, receive, maintain, use, disclose or have access to Confidential Information. **45 CFR 164.504(e)(1)-(3)** This DUA also describes HHS's remedies in the event of CONTRACTOR's noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

Debarment: An exclusion from contracting or subcontracting with state agencies on the basis of cause set forth in Title 34, Texas Administrative Code Chapter 20, Subchapter C, §20.105 et seq.

Department of State Health Services: The agency responsible for administering physical and mental health-related prevention, treatment, and regulatory programs for the State of Texas.

Due Date: Established deadline for submission of a document or deliverable.

Effective Date: The date the contract term begins.

Equipment: Equipment is defined as tangible nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than one year

Fee For Service: Payment mechanism for services that are reimbursed on a set rate per unit of service (also known as unit rate).

Fully Executed: When a contract is signed by each of the parties to form a legal binding contractual relationship. No costs chargeable to the proposed contract will be reimbursed before the contract is fully executed.

Indirect Costs: Costs incurred for a common or joint purpose benefiting more than one project or cost objective of respondent's organization and not readily identified with a particular project or cost objective. Typical examples of indirect costs may include general administration and general expenses such as salaries and expenses of executive officers, personnel administration and accounting; depreciation or use allowances on buildings and equipment; and costs of operating and maintaining facilities.

General Provisions: Basic provisions that are essential in administering the contract, which include assurances required by law, compliance requirements, applicable federal and state statutes and circulars, financial management standards, records and reporting requirements, funding contingency, sanctions, and terms and conditions of payment.

Health and Human Services Commission (HHSC): The state agency that has oversight responsibilities for designated health and human services agencies, including DSHS, and administers certain health and human services programs including the Texas Medicaid Program, Children's Health Insurance Program (CHIP), and Medicaid waste, fraud, and abuse investigation.

HHSC Contract Opportunities: Website that shows all current contract opportunities within HHSC

Health Service Region (HSR): For administrative purposes, HHSC/TIRN has grouped counties within specified geographic areas into 11 HSRs.

Household: The number of people residing together for which legal responsibility exists.

Inreach: Activities that are conducted with the purpose of informing and educating existing clients within an organization about services they are not receiving, but may be eligible to receive.

IT Support Staff: Responsible for providing support to the applicant organization, or it may be a contractor, or the applicant may hire a staff person to provide support.

NEMA 5-15-P: NEMA 5 devices are three-wire grounding devices (hot-neutral-ground) rated for 125 V maximum, with the 5–15, 5–20 and 5–30 being grounded versions of the 1–15, 1–20 and 1–30, respectively

NEMA L6-30: **NEMA 6** devices are three-wire grounding devices (hot-hot-ground) used for 208 V and 240 V circuits and rated for 250 V maximum, with the 6–15, 6–20 and 6–30 being grounding versions of the 2–15, 2–20 and 2–30, respectively

Performance Measures: A means of objectively assessing programs, products, activities, or services.

Priority Population: The target population to be served through the program.

Procurement and Contracting Services Division (PCS): Central contracting unit within Health and Human Services Commission (HHSC) that is responsible for statewide procurements and their certifications. PCS oversees, coordinates, and assists the Divisions with procurement needs, issues competitive procurements, finalizes development, and executes contracts. PCS maintains the official contract file from procurement to contract closeout.

Program: Depending upon the context, either a coordinated group of activities carried out by HHSC/TIRN, as authorized by state or federal law, for a specific purpose (“Program”) or HHSC/TIRN staff located in a program, region, or hospital that identify and request procurement needs (“Program”) The Program partners with CSCU on procurements.

Program Attachment: An attachment to the contract that provides details for a particular statement of work to be performed under the contract such as services to be delivered, performance measures or deliverables, funding, and reporting requirements. There may be multiple program attachments associated with a core contract. A program attachment is typically for a one-year term, with a contracting cycle made up of several one-year program attachment renewals.

Program Manager: Responsible for overall provision and coordination of information and referral services and staff training

Project: All work to be performed as a result of a contract or solicitation.

Project Period: The anticipated duration of the entire Project stated in total number of budget periods.

Proposal: A response by one party to another which is intended to create legal relations on acceptance by the party.

Readiness: Respondent has the specified attributes to support a given service, the ability to meet program and contractual requirements, and the capacity to achieve service levels based on awarded funds.

Respondent: A person or entity that submits a response to a solicitation. For purposes of this document, “respondent” is intended to include such phrases as “offeror”, “applicant”, “bidder”, “responder”, or other similar terminology employed by HHSC/TIRN to describe the person or entity that responds to a solicitation.

Respondent Information and Disclosure Form: General Respondent Information Form detailing information on the organization, contact information, subcontractor information, conflicts of interest, Litigation, Exceptions or Reservations to the RFP, and Texas Public Information Act,

Resource Manager: Responsible for creating and maintaining comprehensive database contribution of resources in the region as per AIRS Standards.

Scope of Work: A description of the services and/or goods, if any, for each service type, to be obtained as a result of a solicitation for a project period. The scope of work is a document written in the early stages of procurement to explain what HHSC/TIRN plans to purchase.

Service Delivery: Information and Referral (I&R) phone calls delivered by HHSC/TIRN-supplied telephone technology

Solicitation: The process of notifying prospective contractors of an opportunity to provide goods or services to the state (e.g., this RFP).

Statement of Work: The part of the contract that describes the services and/or goods to be delivered by the HHSC/TIRN contractor specifying the type, level and quality of service, that directly relate to program objectives.

Subcontract : A written agreement between the HHSC/TIRN contractor and a third party to provide all or a specified part of the services, goods, work, and materials required in the original contract. The contractor remains entirely responsible to HHSC/TIRN for performance of all requirements of the contract with HHSC/TIRN. The contractor must closely monitor the subcontractor’s performance. Subcontracting can be done only when expressly allowed in the program attachment.

Vendor: A type of contractor or subcontractor that provides services, and HHSC/TIRN-funded Program. Under a vendor contract, the vendor will have few if any administrative requirements. (For example, a vendor might be required only to submit a summary report of services delivered and an invoice.) A vendor generally will deliver services to HHSC/TIRN -funded clients in the same manner the vendor would deliver those services to its non- HHSC/TIRN -funded clients.

A vendor contractor generally has most of the following characteristics:

- a) provides goods and services within normal business operations,
- b) provides similar goods and services to many different purchasers,
- c) operates in a competitive environment,
- d) is not subject to compliance requirements of the federal or state program,
- e) provides goods and services that are ancillary to the operation of the program.

Note: Characteristics a, b, c, and d do not apply to vendor contractors that are universities.

Vendor Identification Number (Vendor ID No.): Fourteen-digit number needed for any entity, whether vendor or subrecipient, to contract with the State of Texas and which must be established with the State Comptroller's Office. It consists of a ten-digit identification number (IRS number, state agency number, or social security number) +check digit + 3 digit mail code. The Vendor ID No. includes all the numbers in the TINs (defined above), including a three digit mail code for a total of 14-digits.

Warm Center: An Area Information Center: that must conduct 24-hour I&R operations year round and/or ramp up to 24 hour operations within a period of time not to exceed four (4) hours or as directed by HHSC/TIRN staff; that must also be prepared to increase its call handling capacity on short notice through the use of trained volunteers and non-permanent staff; and that executes certain resource management functions during active Disasters/Events.

Work Plan: A plan that describes how services will be delivered to the eligible population and includes specifics such as what types of clients will be served, who will be responsible for the work, timelines for completion of activities, and how services will be evaluated when complete. To be an enforceable part of the contract, details from the work plan must be approved by HHSC/TIRN and incorporated in the contract.

Appendix H Acronyms

ACRONYMS

AIC	2-1-1 Area Information Center
AIRS	Alliance of Information and Referral Systems
CCNA	Cisco Certified Network Associate
CCNP	Cisco Certified Network Professional
COOP	Continuity of Operations
CIRS	Certified Information and Referral Specialist
CMBL	Centralized Master Bidders List
CPA	Texas Comptroller Public Accounts
CRS	Certified Resource Specialist
EPLS	Excluded Parties List
FEMA	Federal Emergency Management Agency
FTE	Full Time Equivalent
GED	General Education Department
HHSC	Texas Health and Human Services Commission
HSP	HUB Subcontracting Plan
HHS	Health and Human Services
HUB	Historically Underutilized Business
I&R	Information and Referral
ICS	Incident Command Structure
IT	Informational Technology
LBB	Legislative Budget Board
NIGP	National Institute of Government Purchase
NIMS	National Incident Management System
OIG	Office of Inspector General
OBM	Office of Management and Budget Costs
PCS	Procurement and Contract Services
RFP	Request for Proposal
RONA	Rolled-Over Not Answered
STEAR	State of Texas Emergency Assistance Registry
TDA	Texas Department of Agriculture
The Act	Texas Public Information Act
TIRN	2-1-1 Texas Information and Referral Network
UPS	Uninterruptible Power Supply
UTC	HHSC's Uniform Contract Terms and Conditions
VPN	Virtual Private Network

Appendix I HUB Checklist & Subcontracting Plan

1. **If all (100%) of your subcontracting opportunities will be performed using only HUB vendors, complete:**
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors
 - ☐ Section 2 c. – Yes
 - ☐ Section 4 – Affirmation
 - ☐ HSP GFE Method A (Attachment A) – Complete this attachment for each subcontracting opportunity
2. **If any of your subcontracting opportunities will be performed using HUB protégés, complete:**
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB protégés (Skip Section 2 c and 2 d)
 - ☐ Section 4 – Affirmation
 - ☐ HSP GFE Method B (Attachment B) – Complete Section B-1, Section B-2, and B-4 only for each HUB Protégé subcontracting opportunity as applicable.
3. **If you are subcontracting with HUB vendors and Non-HUB vendors, and the aggregate percentage* of subcontracting with HUB vendors meets or exceeds the HUB Goal the contracting agency identified in the solicitation, complete:**
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
 - ☐ Section 2 c. – No
 - ☐ Section 2 d. – Yes
 - ☐ Section 4 – Affirmation
 - ☐ HSP GFE Method A (Attachment A) – Complete this attachment for each subcontracting opportunity
4. **If you are subcontracting with HUB vendors and/or Non-HUB vendors, and the aggregate percentage* of subcontracting with HUB vendors does not meet or exceed the HUB Goal the contracting agency identified in the solicitation, complete:**
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
 - ☐ Section 2 c. – No
 - ☐ Section 2 d. – No
 - ☐ Section 4 – Affirmation
 - ☐ HSP GFE Method B (Attachment B) – Complete this attachment for each subcontracting opportunity

***Aggregate percentage of the contract expected to be subcontracted to HUBs with which you have had contracts in place for five (5) years or less.**

5. **If you are not subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., equipment, supplies, materials, and/or employees), complete:**

- ☐ Section 1 – Respondent and Requisition Information
- ☐ Section 2 a. – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
- ☐ Section 3 – Self Performing Justification
- ☐ Section 4 – Affirmation



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

Please thoroughly read the instructions contained in this HUB Subcontracting Plan. When completing the HUB plan, you must:

- First, find the method that applies to you; see the HHSC Quick Checklist and RFP Section 4 Historically Underutilized Business Participation to make this determination.
- If you are awarded this contract, you must notify all subcontractors of their selection as a subcontractor and provide a copy of the notification to the HHSC HUB Office at HHSCHub@hhsc.state.tx.us within 10 days of receiving the contract award.

This contract is classified as an All Other Services contract under the CPA rule, and therefore has a Statewide Annual HUB utilization goal of 26.0% per fiscal year.

Respondents may search for HUB subcontractors on the CPA Centralized Master Bid List (CMBL), HUB Directory, which is located on the CPA website <https://mycpa.cpa.state.tx.us/tpasscmbllsearch/index.jsp>

SECTION-1: RESPONDENT AND REQUISITION INFORM

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: RFP No. 529-16-0006 Bid Open Date: _____

(mm/dd/yyyy)

2-1-1 TIRN SERVICES FOR INFORMATION AND REFERRAL SERVICES
Enter your company's name here: _____

HHSC CONTRACT NO. 529-16-0006-00026
Requisition #: RFP No. 529-16-0006

SECTION-2: SUBCONTRACTING INTENTIONS RESPONDENT

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b, of this SECTION and continue to Item c of this SECTION.)
☐ - **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>five (5) years or less</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>).

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
☐ - **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you have a continuous contract* in place with for five (5) years or less meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
☐ - **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: RFP No. 529-16-0006

SECTION-2: SUBCONTRACTING INTENTIONS RESPONDENT (CONTINUATION SHEET)

- a. This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

**Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.*

Enter your company's name here: _____

Requisition #: RFP No. 529-16-0006

SECTION-3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

- ☐ - **Yes** (If **Yes**, in the space provided below **list the specific page(s)/section(s)** of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)
- ☐ - **No** (If **No**, in the space provided below **explain how** your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

SECTION-4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature_____
Printed Name_____
Title_____
Date
(mm/dd/yyyy)**Reminder:**

- If you responded "**Yes**" to **SECTION 2, Items c or d**, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" **for each** of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "**No**" **SECTION 2, Items c and d**, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" **for each** of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method A (Attachment A)

Enter your company's name here: _____

Requisition #: RFP No. 529-16-0006

IMPORTANT: If you responded “**Yes**” to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>.

SECTION A-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION A-2: SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB

[illegible]

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

HSP Good Faith Effort - Method B (Attachment B)

Enter your company's name here: _____ Requisition #: RFP No. 529-16-0006

IMPORTANT: If you responded "Yes" to SECTION 2, Items c or d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - Yes (If **Yes**, to continue to SECTION B-4.)

☐ - No / Not Applicable (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://mycpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB Status code "A" signifies that the company is a Texas certified HUB.
- List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			- Yes - No
			- Yes - No
			- Yes - No

- Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.

- List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		- Yes - No
		- Yes - No

Enter your company's name here: _____ Requisition #: RFP No. 529-16-0006

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID Number (Required if Texas certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



2-1-1 Texas Information and Referral Network (TIRN)
Appendix J HHSC Uniform Terms and Conditions

RFP No. 529-16-0006

V1.5

Appendix J - HHSC Uniform Terms and Conditions V1.5



Health and Human Services Commission

**HHSC Uniform Terms and Conditions
Version 1.5**

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Article 1. Introduction

Section 1.01 Inducements.

In making the award of the Agreement, the Health and Human Services Commission (HHSC) relies on CONTRACTOR's assurances of the following:

(1) CONTRACTOR and its subcontractors are established providers of the types of services described in the Solicitation;

(2) CONTRACTOR and its subcontractors have the skills, qualifications, expertise, financial resources, and experience necessary to perform the services described in the Solicitation, CONTRACTOR's Proposal, and the Agreement in an efficient, cost-effective manner, with a high degree of quality and responsiveness, and has performed similar services for other public or private entities;

(3) CONTRACTOR has thoroughly reviewed, analyzed, and understood the Solicitation, has timely raised all questions or objections to the Solicitation, and has had the opportunity to review and fully understand the HHSC's current program and operating environment for the activities that are the subject of the Agreement and the needs and requirements of the State during the Agreement term;

(4) CONTRACTOR has had the opportunity to review and understand the State's stated objectives in entering into the Agreement and, based on such review and understanding, CONTRACTOR currently has the capability to perform in accordance with the terms and conditions of the Agreement;

(5) CONTRACTOR also has reviewed and understands the risks associated with the HHSC Programs as described in the Solicitation, including the risk of non-appropriation of funds.

Accordingly, HHSC desires to engage CONTRACTOR to perform the services described in the Agreement under the terms and conditions set forth in the Agreement.

Section 1.02 Construction of Agreement.

(a) *Scope of Introductory Article.*

The provisions of any introductory article to the Agreement are intended to be a general introduction and are not intended to expand the scope of the Parties' obligations under the Agreement or to alter the plain meaning of the terms and conditions of the Agreement.

(b) *References to the "State."*

References in the Agreement to the "State" mean the State of Texas unless otherwise indicated and will be interpreted, as appropriate, to mean or include 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.

(c) *Severability.*

If any provision of the Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.

(d) *Survival of terms.*

Termination or expiration of the Agreement for any reason will not release either Party from any liabilities or obligations set forth in the Agreement that:

(1) The Parties agree will survive the termination or expiration; or

(2) Remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

(e) *Headings.*

The article and section headings in the Agreement are for reference and convenience only and may not be considered in the interpretation of the Agreement.

(f) *Global drafting conventions.*

(1) The terms "include," "includes," and "including" are terms of inclusion and enlargement, and where used in the Agreement, should be read as if followed by the phrase "without limitation."

(2) Any references to "sections," "appendices," or "attachments" are references to sections, appendices, or attachments of the Agreement.

(3) Any references to agreements, contracts, statutes, or administrative rules or regulations in the Agreement are references to these documents as amended, modified, or supplemented from time to time during the term of the Agreement.

Section 1.03 No implied authority.

The authority delegated to CONTRACTOR by HHSC is limited to the terms of the Agreement. HHSC is the state agency designated by the Texas Legislature to administer the HHSC Programs, and no other state agency grants CONTRACTOR any authority related to the Agreement unless directed through HHSC. CONTRACTOR may not rely upon implied authority and is not delegated authority under the Agreement to:

- (1) make public policy;
- (2) promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of HHSC Programs; or
- (3) unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of HHSC regarding HHSC Programs or the Agreement.

To the fullest extent possible, CONTRACTOR is required to assist HHSC in communications and negotiations with state and federal governments and agencies as directed by HHSC.

Section 1.04 Legal Authority.

(a) HHSC is authorized to enter into the Agreement under Chapter 531 or 533, Texas Government Code; Section 2155.144, Texas Government Code; or Chapter 62, Texas Health & Safety Code. CONTRACTOR is authorized to enter into the Agreement pursuant to the authorization of its governing board or controlling owner or officer.

(b) The person or persons signing and executing the Agreement on behalf of the Parties, or representing themselves as signing and executing the Agreement on behalf of the Parties, warrant and guarantee that he, she, or they have been duly authorized to execute the Agreement and to validly and legally bind the Parties to all of its terms, performances, and provisions.

Article 2. Definitions

As used in the Agreement, the following terms and conditions have the meanings assigned below:

"Agreement" means the formal, written, and legally enforceable agreement and amendments between the Parties.

"Change" means any alteration, adjustment, exchange, substitution, or modification of the Services under the Agreement that are authorized in accordance with Article 7 of the Agreement.

"Change Order Request" means a request to make a change in the Services or Deliverables under the Agreement.

"Children's Health Insurance Program" or "CHIP" means the health insurance program authorized and funded pursuant to Title XXI, Social Security Act (42 U.S.C. §§ 1397aa-1397jj) and administered by HHSC.

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552; and
- (9) Other Confidential Information as designated in the Agreement.

"CONTRACTOR" means the Party identified in the Agreement as the individual or entity that is required to perform the Services and related obligations under the Agreement.

"Corrective Action Plan" means the detailed written plan required by HHSC to correct or resolve a material deficiency or breach of the Agreement.

"Deliverable" means a work product prepared, developed, or procured by CONTRACTOR as part of the Services under the Agreement for the use or benefit of HHSC or the State of Texas.

"Disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.

“Effective Date” means the date of complete execution of the Agreement unless another date is agreed to by the Parties as the date on which the Agreement takes effect. For purposes of the Agreement, the term includes any period under which work is performed in accordance with a properly executed Letter of Intent between HHSC and CONTRACTOR.

“Electronic and information resources (EIR)” --Includes information technology and any equipment or interconnected system or subsystem of equipment used to create, convert, duplicate, or deliver data or information. EIR includes telecommunications products (such as telephones), information kiosks and transaction machines, web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, thermostats or temperature control devices, and medical equipment that contain information technology that is integral to its operation, are not information technology. If the embedded information technology has an externally available web or computer interface, that interface is considered EIR. Other terms such as, but not limited to, Information and Communications Technology (ICT), Electronic Information Technology (EIT), etc. can be considered interchangeable terms with EIR for purposes of the Agreement.

“Health and Human Services Commission” or **“HHSC”** means the administrative agency within the executive department of Texas state government established under Chapter 531, Texas Government Code or its designee, including, but not limited to, the Texas Health and Human Services Agencies.

“HHSC Programs” means the public health and human service programs administered by HHSC, including but not limited to Medicaid and CHIP.

“Initial Term” means the period between the Effective Date and the original expiration date of the Agreement.

“Material Subcontract” means any Subcontract that exceeds, or is reasonably expected to exceed, \$100,000 per year. Any Subcontracts between the CONTRACTOR and a single entity that are split into separate agreements by time period, program, or service area, etc., may be consolidated for the purpose of this definition.

“Material Subcontractor (or Major Subcontractor)” means any entity with a Material Subcontract with CONTRACTOR.

“Medicaid” means the medical assistance entitlement program authorized and funded pursuant to Title XIX, Social Security Act (42 U.S.C. § 1396 *et seq.*) and administered by HHSC.

“Other Confidential Information” any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHSC that is expressly designated as Other Confidential Information in the Agreement.

“Parties” means HHSC and CONTRACTOR, collectively.

“Party” means either HHSC or CONTRACTOR, individually.

“Proposal” means the proposal submitted by the CONTRACTOR in response to the Solicitation.

“Public information” means information that:

- (1) Is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body;
- (2) The governmental body owns or has a right of access to; and
- (3) Is not Confidential Information.

“Solicitation” means the written invitation for bids, request for offers, request for proposals, or similar instrument that is posted on the HHSC Website and/or Electronic State Business Daily, seeking responses from qualified vendors for needed goods and services. This term also includes "price requests" and "pricing requests" sent to Department of Information Resources vendors to get pricing, based on a specific scope of work, through a Cooperative Contract or DBITS contract. and any addendums under which the Agreement was awarded and is executed.

“Scope of Work” means the description of Services and Deliverables specified in the Agreement, the Solicitation, and any agreed modifications.

“Services” means the tasks, functions, and responsibilities assigned and delegated to CONTRACTOR under the Agreement.

“Software” means all operating system and applications software used or created by CONTRACTOR to provide the Services under the Agreement.

“Subcontract” means any written agreement between CONTRACTOR and other party to fulfill the requirements of the Agreement. All subcontracts are required to be in writing.

“Subcontractor” means any individual or entity that has entered into a subcontract with CONTRACTOR.

“Turnover Plan” means the written plan developed by CONTRACTOR, approved by HHSC, and to be employed in the event that the work described in the Agreement transfers to the State or another vendor from CONTRACTOR. HHSC may require CONTRACTOR to develop a Turnover Plan at any time during the term of the Agreement at HHSC’s discretion. The Turnover Plan describes CONTRACTOR’s policies and procedures that will assure:

- (1) The least disruption in the delivery of services during the transition to a substitute vendor; and
- (2) Cooperation with HHSC and the substitute vendor in transferring information and services to a substitute vendor.

Article 3. General Terms and Conditions

Section 3.01 Agreement elements.

(a) Entire Agreement.

The Agreement between the Parties will consist of the document bearing the signatures of the Parties, Exhibits, or Attachments to that document, these Uniform Terms and Conditions, the Solicitation (CONTRACTOR’s Proposal and any agreed to modifications (incorporated by reference).

(b) Order of precedence.

Unless otherwise agreed, in the event of any conflict or contradiction between or among these documents, the documents will control in the following order of precedence:

- (1) The final executed document that bears the signature of the Parties, including any Exhibits or attachments, and all amendments to that document;
- (2) These Uniform Terms and Conditions, including any attachments;
- (3) The Solicitation and any addendums, corrections, and clarifications. ;
- (4) CONTRACTOR’s Proposal and any agreed to modifications.

Section 3.02 Funding.

The Agreement is conditioned on the availability of state and federal appropriated funds. CONTRACTOR will have no right of action against HHSC in the event that HHSC is unable to perform its obligations under the Agreement as a result of the suspension, termination, withdrawal of funding to HHSC, the failure to fund HHSC, or lack of sufficient funding of HHSC for any activities or functions contained within the scope of the Agreement. If funds become unavailable, the provisions of Article 11 (Remedies and Disputes) will apply. HHSC will use all reasonable efforts to ensure that such funds are available, and will negotiate in good faith with CONTRACTOR to resolve any CONTRACTOR claims for payment that represent accepted Services or Deliverables that are pending at the time funds become unavailable. HHSC will make best efforts to provide reasonable written advance notice to CONTRACTOR upon learning that funding for the Agreement may be discontinued.

Section 3.03 Delegation of authority.

Whenever, by any provision of the Agreement, any right, power, or duty is imposed or conferred on HHSC, the right, power, or duty so imposed or conferred is possessed and exercised by HHSC’s Executive Commissioner unless any right, power, or duty is delegated to the duly appointed agents or employees of HHSC. HHSC’s Executive Commissioner will reduce any delegation of authority to writing and provide a copy to CONTRACTOR on request.

Section 3.04 No waiver of sovereign immunity.

The Parties agree that no provision of the Agreement is in any way intended to constitute a waiver by HHSC or the State of Texas of any immunities from suit or from liability that HHSC or the State of Texas may have by operation of law.

Section 3.05 Force majeure.

A Party will not be liable for any failure or delay in performing its obligations under the Agreement if such failure or delay is due to any cause beyond the reasonable control of the Party, including, but not limited to, unusually severe weather, strikes, natural disasters, fire, civil disturbance, epidemic, war, court order, or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of a force majeure event as described above or otherwise waive this right as a defense.

Section 3.06 Other Health and Human Services Agencies’ participation in the Agreement.

In addition to providing the Services specified for HHSC, CONTRACTOR agrees to allow other Health and Human Service Agencies the option to participate in the Agreement under the same terms and conditions. Each

agency that elects to obtain services under this section will issue a purchase order to CONTRACTOR, referring to, and incorporating by reference, the terms and conditions specified in the Agreement.

Section 3.07 Most favored customer.

The CONTRACTOR agrees that if during the term of the Agreement, the CONTRACTOR enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the Agreement will, at HHSC's option, be amended to accord equivalent advantage to HHSC.

Section 3.08 Publicity.

(a) No Use

Except as provided in the paragraphs below, CONTRACTOR must not use the name of, or directly or indirectly refer to, HHSC, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Agreement or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations (other than proposals or reports submitted to HHSC, an administrative agency of the State of Texas, or a governmental agency or unit of another state or the Federal government).

(b) Limited Exception

CONTRACTOR may publish, at its sole expense, results of CONTRACTOR performance under the Agreement with HHSC's prior review and approval, which HHSC may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from HHSC and any Federal agency, as appropriate. CONTRACTOR will provide HHSC at least three (3) copies of any such publication prior to public release. CONTRACTOR will provide additional copies at the request of HHSC. CONTRACTOR may include information concerning the Agreement's terms, subject matter, and estimated value in any report to a governmental body to which the CONTRACTOR is required by law to report such information.

Section 3.09 Assignment.

(a) Assignment by CONTRACTOR.

CONTRACTOR will not assign all or any portion of its rights under or interests in the Agreement or delegate any of its duties without prior written consent of HHSC. Any written request for assignment or delegation must be accompanied by written acceptance of the assignment or delegation by the assignee or delegation by the delegate. Except where otherwise agreed in writing by HHSC, assignment or delegation will not release CONTRACTOR from its obligations under the Agreement.

(b) Assignment by HHSC.

CONTRACTOR understands and agrees HHSC may in one or more transactions assign, pledge, or transfer the Agreement. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

(c) Assumption.

Each party to whom a transfer is made must assume all or any part of CONTRACTOR'S or HHSC's interests in the Agreement, the product, and any documents executed with respect to the Agreement, including, without limitation, the assignor's obligation for all or any portion of the purchase payments, in whole or in part.

Section 3.10 Cooperation with other vendors and prospective vendors.

(a) Supplemental Contracts

HHSC may award supplemental contracts for work related to the Agreement, or any portion thereof. HHSC reserves the right to award the Contract as a joint venture between two or more potential vendors, if such an arrangement is in the best interest of HHSC. CONTRACTOR agrees to cooperate with such other vendors, and will not commit or permit any act that may interfere with the performance of work by any other vendor.

(b) Access

At HHSC's request, CONTRACTOR will allow parties interested in responding to HHSC Solicitations to have reasonable access during normal business hours to software, systems documentation, and site visits to the CONTRACTOR's facilities. All such parties inspecting the facilities and software and systems documentation may be required to agree to use the information so obtained only in the State of Texas and only for the purpose of responding to the Solicitation.

Section 3.11 Renegotiation and repurchase rights.

(a) Renegotiation of Agreement terms.

Notwithstanding anything in the Agreement to the contrary, HHSC may at any time during the term of the Agreement exercise the option to notify CONTRACTOR that HHSC has elected to renegotiate certain terms of the

Agreement within the scope of the Agreement and as permitted by law. Upon CONTRACTOR's receipt of any notice under this Section, CONTRACTOR and HHSC will undertake good faith negotiations of the subject terms of the Agreement.

(b) *Reprocurement of the services or procurement of additional services.*

Notwithstanding anything in the Agreement to the contrary, whether or not HHSC has accepted or rejected CONTRACTOR's Services or Deliverables provided during any period of the Agreement, HHSC may at any time issue requests for proposals or offers to other potential contractors for performance of any portion of the Services covered by the Agreement or services similar or comparable to the Services performed by CONTRACTOR under the Agreement.

(c) *Termination rights upon reprocurement.*

If HHSC elects to procure the Services or any portion of the Services from another vendor in accordance with this Section, HHSC will have the termination rights set forth in Article 11.

Section 3.12 *Solicitation errors and omissions.*

CONTRACTOR will not take advantage of any errors or omissions in the Solicitation or the resulting Agreement. CONTRACTOR must promptly notify HHSC of any errors or omissions that are discovered. Failure to notify HHSC of any errors will constitute a waiver of those errors.

Section 3.13 *Attorneys' fees.*

In the event of any litigation, appeal, or other legal action to enforce any provision of the Agreement, CONTRACTOR agrees to pay all expenses of such action, including attorneys' fees and costs if HHSC is the prevailing or substantially prevailing Party.

Section 3.14 *Preferences under service contracts.*

CONTRACTOR is required in performing the Agreement to purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside the State.

Section 3.15 *Ensuring timely performance.*

The Parties acknowledge the need to ensure uninterrupted and continuous performance of the Scope of Work under the Agreement, therefore, HHSC may terminate the Agreement or apply any other remedy as noted in Article 11 (Remedies and Disputes) if CONTRACTOR's performance is not timely.

Article 4. Contractor Personnel Management

Section 4.01 *Qualifications, retention and replacement of CONTRACTOR employees.*

CONTRACTOR agrees to maintain the organizational and administrative capacity and capabilities to carry out all duties and responsibilities under the Agreement. The personnel CONTRACTOR assigns to perform the duties and responsibilities under the Agreement will be properly trained and qualified for the functions they are to perform. CONTRACTOR does not warrant the quality of training for which the State is responsible. Notwithstanding transfer or turnover of personnel, CONTRACTOR remains obligated to perform all duties and responsibilities under the Agreement without degradation and in accordance with the terms of the Agreement.

Section 4.02 *Responsibility for CONTRACTOR personnel.*

(a) *Employment and Agency*

CONTRACTOR's employees and subcontractors will not in any sense be considered employees of HHSC or the State of Texas, but will be considered CONTRACTOR's employees for all purposes. Except as provided in the Agreement, neither CONTRACTOR nor any of CONTRACTOR's employees or subcontractors may act in any sense as agents or representatives of HHSC or the State of Texas.

(b) *E-Verify System*

By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.

(c) *Liability*

CONTRACTOR's employees must be paid exclusively by CONTRACTOR for all services performed. CONTRACTOR is responsible for and must comply with all requirements and obligations related to such employees under local, state or federal law, including minimum wage, social security, unemployment insurance, state and federal income tax, and workers' compensation obligations. CONTRACTOR assumes sole and full responsibility for its acts and omissions and the acts and omissions of its personnel and subcontractors.

CONTRACTOR AGREES THAT ANY CLAIM ON BEHALF OF ANY PERSON ARISING OUT OF EMPLOYMENT OR ALLEGED EMPLOYMENT (INCLUDING, BUT NOT LIMITED TO, CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS) ARE THE SOLE RESPONSIBILITY OF CONTRACTOR AND ARE NOT THE RESPONSIBILITY OF HHSC, AND THAT CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE STATE FROM ANY AND ALL SUCH CLAIMS ASSERTED AGAINST THE STATE.

CONTRACTOR understands that any person who alleges a claim arising out of employment or alleged employment by CONTRACTOR will not be entitled to any compensation, rights, or benefits from HHSC (including, but not limited to, tenure rights, medical and hospital care, sick and annual/vacation leave, severance pay, or retirement benefits).

Section 4.03 Cooperation with HHSC and state administrative agencies.

(a) *Cooperation with HHSC contractors.*

CONTRACTOR agrees to reasonably cooperate with and work with the State's contractors, subcontractors and third-party representatives as requested by HHSC. To the extent permitted by HHSC's financial and personnel resources, HHSC agrees to reasonably cooperate with CONTRACTOR and to use its best efforts to ensure that HHSC's other HHSC Programs contractors reasonably cooperate with CONTRACTOR.

(b) *Cooperation with state and federal administrative agencies.*

CONTRACTOR must ensure that CONTRACTOR personnel will cooperate with HHSC or other state or federal administrative agency personnel at no charge to HHSC for purposes relating to the administration of HHSC programs including, but not limited to the following purposes:

- (1) The investigation and prosecution of fraud, abuse, and waste in the HHSC programs;
- (2) Audit, inspection, or other investigative purposes; and
- (3) Testimony in judicial or quasi-judicial proceedings relating to the Services under the Agreement or other delivery of information to HHSC or other agencies' investigators or legal staff.

Section 4.04 Conduct of and responsibility for CONTRACTOR personnel.

(a) *Conduct*

While performing the Services or Deliverables, CONTRACTOR's personnel and subcontractors must:

- (1) Comply with applicable Agreement terms, State and federal rules, regulations, HHSC's policies, and HHSC's requests regarding personal and professional conduct; and
- (2) Otherwise conduct themselves in a businesslike and professional manner.

(b) *Removal*

If HHSC determines in good faith that a particular employee or subcontractor is not conducting himself or herself in accordance with this Section, HHSC may provide CONTRACTOR with notice and documentation concerning such conduct. Upon receipt of such notice, CONTRACTOR must promptly investigate the matter and, at HHSC's request, take appropriate action that may include:

- (1) Removing the employee from the project;
- (2) Providing HHSC with written notice of such removal; and
- (3) Replacing the employee with a similarly qualified individual acceptable to HHSC.

Nothing in the Agreement will prevent CONTRACTOR, at the request of HHSC, from replacing any personnel who HHSC determines are not adequately performing their assigned responsibilities or who, in the reasonable opinion of HHSC's Project Director, after consultation with CONTRACTOR, are unable to work effectively with the members of the HHSC's staff. In such event, CONTRACTOR will provide replacement personnel with equal or greater skills and qualifications as soon as reasonably practicable. Replacement of Key Personnel will be subject to HHSC review and approval. The Parties will work together in the event of any such required replacement so as not to disrupt the overall project schedule.

(c) *Sole Control*

CONTRACTOR agrees that anyone employed by CONTRACTOR to fulfill the terms of the Agreement is an employee of CONTRACTOR and remains under CONTRACTOR's sole direction and control.

CONTRACTOR agrees to be responsible for the following with respect to its employees:

- (1) Any and all employment taxes or other payroll withholding;
- (2) Damages caused by CONTRACTOR's employees acting within or outside the scope of their duties under the Agreement; and
- (3) Determination of the hours to be worked and the duties to be performed by CONTRACTOR's employees.

CONTRACTOR agrees and will inform its employees and subcontractor(s) that there is no right of action against HHSC for any duty owed by CONTRACTOR under the Agreement. CONTRACTOR understands that HHSC does not assume liability for the actions of, or judgments rendered against, the CONTRACTOR, its employees, agents or subcontractors. CONTRACTOR agrees that it has no right to indemnification or contribution from HHSC for any judgments rendered against CONTRACTOR or its subcontractors. HHSC's liability to the CONTRACTOR's employees, agents and subcontractors, if any, will be governed by the Texas Tort Claims Act, as amended or modified (Tex. Civ. Pract. & Rem. Code § 101.001 *et seq.*).

Section 4.05 Responsibility for subcontractors.

CONTRACTOR remains fully responsible for obligations, services, and functions performed by its subcontractors to the same extent as if such obligations, services, and functions were performed by CONTRACTOR'S employees, and for purposes of the Agreement such work will be deemed work performed by CONTRACTOR. HHSC reserves the right to require the replacement of any subcontractor found by HHSC to be unacceptable.

CONTRACTOR must not disclose Confidential Information of HHSC or the State of Texas to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of CONTRACTOR under the Agreement.

CONTRACTOR must identify any subcontractor that is a newly-formed subsidiary or entity, whether or not an affiliate of CONTRACTOR, substantiate the proposed subcontractor's ability to perform the subcontracted Services, and certify to HHSC that no loss of service will occur as a result of the performance of such subcontractor. The CONTRACTOR will assume responsibility for all contractual responsibilities whether or not the CONTRACTOR performs them. Further, HHSC considers the CONTRACTOR to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Agreement.

At least 30 days prior to executing a Material Subcontract or other agreement with a third party with a value greater than \$100,000.00, CONTRACTOR must submit a copy of the agreement to HHSC for HHSC's review at HHSC's option. HHSC reserves the right to: (1) reject the agreement or require changes to any provisions that do not comply with the requirements or duties and responsibilities of the Agreement or create significant barriers for HHSC in monitoring compliance with the Agreement; (2) object to the selection of the subcontractor; or (3) object to the subcontracting of the Services and Deliverables proposed to be subcontracted.

Section 4.06 HHSC's ability to contract with subcontractors.

The CONTRACTOR may not limit or restrict, through a covenant not to compete, employment agreement or other contractual arrangement, HHSC's ability to contract with subcontractors or former employees of the CONTRACTOR.

Article 5. Governing Law and Regulations

Section 5.01 Governing law and venue.

The Agreement is governed by the laws of the State of Texas and interpreted in accordance with Texas law. Provided CONTRACTOR first complies with the procedures set forth in Section 11.11, Dispute Resolution, proper venue for a claim arising from the Agreement will be in a court of competent jurisdiction in Travis County, Texas.

Section 5.02 CONTRACTOR responsibility for compliance with laws and regulations.

CONTRACTOR is responsible for compliance with all laws, regulations, and administrative rules that govern the performance of the Services including all State and Federal tax laws, State and Federal employment laws, State and Federal regulatory requirements, and licensing provisions.

CONTRACTOR is responsible for ensuring each of its employees, agents, or subcontractors who provide Services or Deliverables under the Agreement are properly licensed, certified, or have proper permits to perform any activity related to the Services.

CONTRACTOR warrants that the Services and Deliverables comply with all applicable Federal, State, and County laws, regulations, codes, ordinances, guidelines, and policies. **CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM AND AGAINST ANY LOSSES, LIABILITY, CLAIMS, DAMAGES, PENALTIES, COSTS, FEES, OR EXPENSES ARISING FROM OR IN CONNECTION WITH CONTRACTOR'S NEGLIGENCE OR**

CONTRACTOR'S FAILURE TO COMPLY WITH OR VIOLATION OF ANY SUCH LAW, REGULATION, CODE, ORDINANCE, OR POLICY.***Section 5.03 Compliance with immigration laws.***

CONTRACTOR must comply with the requirements of the Immigration and Nationality Act (8 U.S.C § 1101 et seq.) and all subsequent immigration laws and amendments.

Section 5.04 Compliance with anti-discrimination laws, regulations, and rules.

CONTRACTOR must comply with state and federal anti-discrimination laws, including:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
- (b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794);
- (c) Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*);
- (d) Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107);
- (e) Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688);
- (f) Food Stamp Act of 1977 (7 U.S.C. § 200 *et seq.*); and
- (g) HHSC's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to the Agreement.

CONTRACTOR must comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued under these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

CONTRACTOR must comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 and 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. Applicable state and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. CONTRACTOR must ensure that its policies do not have the effect of excluding or limiting the participation of persons in its programs, benefits, and activities on the basis of national origin. CONTRACTOR also must take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

CONTRACTOR must comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services will not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Upon request, CONTRACTOR will provide HHSC with copies of all of the CONTRACTOR'S civil rights policies and procedures.

CONTRACTOR must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under the Agreement. This notice must be delivered no more than ten calendar days after receipt of a complaint. Notice provided under this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
TTY Toll Free: (877) 432-7232
Fax: (512) 438-5885.

Section 5.05 Compliance with environmental protection laws.

CONTRACTOR must comply with state and federal environmental laws, including, without limitation:

- (a) *Pro-Children Act of 1994.*

CONTRACTOR must comply with the Pro-Children Act of 1994 (20 U.S.C. § 6081 *et seq.*), as applicable, regarding the provision of a smoke-free workplace and promoting the non-use of all tobacco products.

(b) *National Environmental Policy Act of 1969.*

CONTRACTOR must comply with any applicable provisions relating to the institution of environmental quality control measures contained in the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*) and Executive Order 11514 ("Protection and Enhancement of Environmental Quality").

(c) *Clean Air Act and Water Pollution Control Act regulations.*

CONTRACTOR must comply with any applicable provisions relating to required notification of facilities violating the requirements of Executive Order 11738 ("Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans").

(d) *State Clean Air Implementation Plan.*

CONTRACTOR must comply with any applicable provisions requiring conformity of federal actions to State (Clean Air) Implementation Plans under §176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 *et seq.*).

(e) *Safe Drinking Water Act of 1974.*

CONTRACTOR must comply with applicable provisions relating to the protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (21 U.S.C. § 349; 42 U.S.C. §§ 300f to 300j-9).

Section 5.06 Compliance with Fraud, Waste, and Abuse requirements.

CONTRACTOR, CONTRACTOR's personnel, and all subcontractors must comply with all fraud, waste, and abuse requirements found in [HHS Circular C-027](#).

Section 5.07 Electronic and Information Resources Accessibility Standards.(a) *Applicability.*

The following Electronic and Information Resources (EIR) requirements apply to the Agreement because CONTRACTOR performs services that include EIR that: (i) HHSC employees are required or permitted to access; or (ii) members of the public are required or permitted to access. This Section does not apply to incidental uses of EIR in the performance of the Agreement, unless the Parties agree that the EIR will become property of the State of Texas or will be used by HHSC's clients or recipients after completion of the Agreement. Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a Product.

(b) *Definitions.*

For purposes of this Section:

"Accessibility Standards" means accessibility standards and specifications for Texas agency and institution of higher education websites and EIR set forth in 1 Tex.Admin. Code Texas Administrative Code, Chapter 206 and/or Chapter 213

"Electronic and Information Resources" means information resources, including information resources technologies, and any equipment or interconnected system of equipment that is used in the creation, conversion, duplication, or delivery of data or information. The term includes telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.

"Electronic and Information Resources Accessibility Standards" means the accessibility standards for electronic and information resources contained in 1 Tex.Admin. Code Chapter 213.

"Product" means information resources technology that is, or is related to, EIR.

"Web Site Accessibility Standards/ Specifications" means standards contained in Volume 1 Tex. Admin. Code Chapter 206.(c) Accessibility Requirements.

Under Tex. Gov't Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHSC must procure Products and services that comply with the Accessibility Standards when those Products are available in the commercial marketplace or when those Products are developed in response to a procurement solicitation. Accordingly, CONTRACTOR must provide electronic and information resources and associated Product documentation and technical support that comply with the Accessibility Standards.

(c) *Evaluation, Testing, and Monitoring.*

(1) HHSC may review, test, evaluate and monitor CONTRACTOR's Products and services, as well as associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing.

Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or service, nor (2) the absence of review, testing, evaluation or monitoring, will result in a waiver of the State's right to contest the CONTRACTOR's assertion of compliance with the Accessibility Standards.

(2) CONTRACTOR agrees to cooperate fully and provide HHSC and its representatives timely access to Products, records, and other items and information needed to conduct such review, evaluation, testing, and monitoring.

(d) *Representations and Warranties.*

(1) CONTRACTOR represents and warrants that: (i) as of the Effective Date of the Agreement, the Products and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the state or an HHS Agency's client or recipient after the Contract expiration or termination, the Products will continue to comply with Accessibility Standards after the expiration or termination of the Contract Term, unless HHSC or its clients or recipients, as applicable, use the Products in a manner that renders it noncompliant.

(2) In the event CONTRACTOR becomes aware, or is notified that the Product or service and associated documentation and technical support do not comply with the Accessibility Standards, CONTRACTOR represents and warrants that it will, in a timely manner and at no cost to HHSC, perform all necessary steps to satisfy the Accessibility Standards, including remediation, replacement, and upgrading of the Product or service, or providing a suitable substitute.

(3) CONTRACTOR acknowledges and agrees that these representations and warranties are essential inducements on which HHSC relies in awarding this Agreement.

(4) CONTRACTOR's representations and warranties under this subsection will survive the termination or expiration of the Contract and will remain in full force and effect throughout the useful life of the Product.

(e) *Remedies.*

(1) Under Tex. Gov't Code § 2054.465, neither CONTRACTOR nor any other person has cause of action against HHSC for a claim of a failure to comply with Tex. Gov't Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.

(2) In the event of a breach of CONTRACTOR's representations and warranties, CONTRACTOR will be liable for direct, consequential, indirect, special, or liquidated damages and any other remedies to which HHSC may be entitled under this Contract and other applicable law. This remedy is cumulative of any other remedies to which HHSC may be entitled under this Contract and other applicable law.

Section 5.08 Prohibition Against Performance Outside the United States.

(a) *Authority*

(1) HHSC is responsible for administering several public programs that require the collection and maintenance of information relating to persons who apply for and receive services from HHSC programs. This information consists of, among other things, personal financial and medical information and information designated "Confidential Information". Some of this information may, within the limits of the law and this Agreement, be shared from time to time with CONTRACTOR or a subcontractor for purposes of performing the Services or providing the Deliverables under this Agreement.

(2) HHSC is also responsible for collecting and maintaining personal information, including personal financial and medical information, concerning persons employed by HHSC and other health and human services agencies. Some of this information may be shared from time to time with CONTRACTOR or a subcontractor or collected and maintained by CONTRACTOR or a subcontractor for purposes of performing the Services or providing the Deliverables under this Agreement.

(3) HHSC is legally responsible maintaining the confidentiality and integrity of information relating to applicants and recipients of HHSC services and employees of HHS agencies and ensuring that any person or entity that receives such information, including CONTRACTOR and any subcontractor, is similarly bound by these obligations.

(4) HHSC also is responsible for the development and implementation of computer software and hardware to support HHSC programs. These items are paid for, in whole or in part, with state and federal funds. The federal agencies that fund these items maintain a limited interest in the software and hardware so developed or acquired.

(5) Some of the software used or developed by HHSC may also be subject to statutory restrictions on the export of technology to foreign nations, including but not limited to the Export Administration Regulations, 15 C.F.R. Parts 730-774.

(b) *Prohibition*

(1) In view of these obligations, and to ensure accountability, integrity, and the security of the information maintained by or for HHSC and the work performed on behalf of HHSC

HHSC DETERMINES THAT IT IS NECESSARY AND APPROPRIATE TO REQUIRE THAT:

(A) ALL WORK PERFORMED UNDER THIS AGREEMENT MUST BE PERFORMED EXCLUSIVELY WITHIN THE UNITED STATES; AND

(B) ALL INFORMATION OBTAINED BY CONTRACTOR OR A SUBCONTRACTOR UNDER THIS AGREEMENT MUST BE MAINTAINED WITHIN THE UNITED STATES.

(2) HHSC, without prior written approval, forbids the performance of any work or the maintenance of any information relating or obtained pursuant to this Agreement to occur outside of the United States except as specifically authorized or approved by HHSC.

(c) *Meaning of "within the United States" and "outside the United States."*

(1) As used in this Section 17.01, the term "within the United States" means any location inside the territorial boundaries comprising the republic of the United States of America, including of any of the 48 coterminous states in North America, the states of Alaska and Hawaii, and the District of Columbia.

(2) Conversely, the phrase "outside the United States" means any location that is not within the territorial boundaries comprising the republic of the United States of America, including of any of the 48 coterminous states in North America, the states of Alaska and Hawaii, and the District of Columbia.

(d) *Maintenance of Confidential Information*

(1) CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not allow any Confidential Information that CONTRACTOR receives from or on behalf of HHSC to leave the United States by any means (physical or electronic) at any time, for any period of time, for any reason.

(2) CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not permit any person to have remote access to HHSC information, systems, or Deliverables from a location outside the United States.

(e) *Performance of Work under Agreement*

(1) Unless otherwise approved in advance by HHSC in writing, and subject to the exceptions specified in paragraph (e) of this Section 17.01, CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must perform all services under this Agreement, including all tasks, functions, and responsibilities assigned and delegated to CONTRACTOR under this Agreement, within the United States.

(A) This obligation includes all Services, including but not limited to information technology services, processing, transmission, storage, archiving, data center services, disaster recovery sites and services, customer support, medical, dental, laboratory and clinical services.

(B) All custom software prepared for performance of this Agreement, and all modifications of custom, third party, or vendor proprietary software, must be performed within the United States.

(2) Unless otherwise approved in advance by HHSC in writing, and subject to the exceptions specified in this Section, CONTRACTOR and all subcontractors, vendors, agents, and service providers of or for CONTRACTOR must not permit any person to perform work under this Agreement from a location outside the United States.

(f) *Exceptions*

(1) COTS Software. The foregoing requirements will not preclude the acquisition or use of commercial off-the-shelf (COTS) software that is developed outside the United States or hardware that is generically configured outside the United States.

(2) Foreign-made Products and Supplies. The foregoing requirements will not preclude CONTRACTOR from acquiring, using, or reimbursing products or supplies that are manufactured outside the United States, provided such products or supplies are commercially available within the United States for acquisition or reimbursement by HHSC.

(3) HHSC Prior Approval. The foregoing requirements will not preclude CONTRACTOR from performing work outside the United States that HHSC has approved in writing and that HHSC has confirmed will not involve the sharing of Confidential Information outside the United States.

(g) *Disclosure*

CONTRACTOR must disclose all Services and Deliverables under or related to this Agreement that CONTRACTOR intends to perform or has performed outside the United States, whether directly or via subcontractors, vendors, agents, or service providers.

(h) *Remedy*

(1) CONTRACTOR's violation of this Section will constitute a material breach of the Agreement. CONTRACTOR will be liable to HHSC for all actual and consequential damages in accordance with the UTC.

(2) For breach of the requirements under this Section, HHSC may terminate the Agreement with Notice to CONTRACTOR at least 1 calendar day before the effective date of such termination.

Article 6. Service Levels and Performance Measurement

Section 6.01 Performance measurement.

Satisfactory performance of the Agreement will be measured by:

- (1) Adherence to the Agreement, including all representations and warranties;
- (2) Compliance with project work plans, schedules, and milestones as proposed by CONTRACTOR in its Proposal and as revised by CONTRACTOR and finally approved by HHSC;
- (3) Delivery of the Services and Deliverables in accordance with the service levels and availability proposed in Contractor's Proposal and as finally approved or accepted by HHSC;
- (4) Results of audits performed by HHSC or its representatives in accordance with Article 8;
- (5) Timeliness, completeness, and accuracy of required Deliverables; and
- (6) Achievement of performance measures developed by CONTRACTOR and HHSC and as modified from time to time by written agreement during the Initial Term of the Agreement.

Article 7. Amendments, Modifications, and Change Order Requests

Section 7.01 Amendments and modifications.

(a) *Amendments and modifications resulting from changes in law or contract.*

The Agreement may be amended by mutual written agreement of the Parties if changes in federal or state laws, rules, regulations, policies, guidelines or circumstances affect the performance of the work. The Parties will develop a business plan for negotiating appropriate change order and amendment procedures.

(b) *Modifications resulting from imposition of remedies.*

The Agreement may be modified under the terms of Article 11 (relating to Remedies and Disputes).

Section 7.02 Required compliance with amendment modification procedures.

No different or additional services, work, or products will be authorized or performed except those that are within scope and that are memorialized in an amendment or modification of the Agreement that is executed in compliance with this article. No waiver of any term, covenant, or condition of the Agreement will be valid unless executed in compliance with this article. CONTRACTOR will not be entitled to payment for any services, work or products that are not authorized by a properly executed Agreement amendment or modification, or through the express authorization of HHSC.

Article 8. Audit and Financial Compliance

Section 8.01 Record retention and audit.

CONTRACTOR must maintain, and require its subcontractors to maintain, supporting information and documents that are adequate to ensure that payments are made and paid in accordance with applicable Federal and State requirements, and are sufficient to ensure the accuracy and validity of CONTRACTOR invoices. These documents, including all original claims forms, will be maintained and retained by CONTRACTOR or its subcontractors for a period of seven years after the date of submission of the final billing or until the resolution of all litigation, claim, financial management review, or audit pertaining to the Agreement, whichever is longer. CONTRACTOR agrees to timely repay any undisputed audit exceptions taken by HHSC in any audit of the Agreement.

Section 8.02 Access to records, books, and documents.**(a) Notice**

Upon reasonable notice, CONTRACTOR must provide, and cause its subcontractors to provide, the officials and entities identified in this Section with prompt, reasonable, and adequate access to any records, books, documents, and papers that are directly pertinent to the performance of the Agreement.

(b) Access

CONTRACTOR and its subcontractors must provide the access described in this Section upon HHSC's request. This request may include the following purposes:

- (1) Examination;
- (2) Audit;
- (3) Investigation;
- (4) Contract administration; or
- (5) The making of copies, excerpts, or transcripts.

(c) Entities

The access required must be provided to the following officials or entities:

- (1) The United States Department of Health and Human Services or its designee;
- (2) The Comptroller General of the United States or its designee;
- (3) Medicaid program personnel from HHSC or its designee;
- (4) The Office of Investigations and Enforcement of HHSC;
- (5) Any independent verification and validation contractor or quality assurance contractor, when acting on behalf of HHSC;
- (6) The Office of the State Auditor of Texas or its designee;
- (7) A State or Federal law enforcement agency;
- (8) A special or general investigating committee of the Texas Legislature or its designee; and
- (9) Any other entity identified by HHSC.

(d) Accommodations

CONTRACTOR agrees to provide the access described wherever CONTRACTOR maintains the books, records, and supporting documentation described above. CONTRACTOR further agrees to provide such access in reasonable comfort and to provide any furnishings, equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this Section. CONTRACTOR will require its subcontractors to provide comparable access and accommodations.

Upon request, CONTRACTOR must provide copies of the information described in this Section free of charge to HHSC and the entities described in subsection (c).

Section 8.03 Audits and inspections of Services and Deliverables.

Upon notice from HHSC where possible, CONTRACTOR will provide, and will cause its subcontractors to provide, such auditors and inspectors as HHSC may from time to time designate, with access to:

- (1) CONTRACTOR service locations, facilities, or installations;
- (2) CONTRACTOR Software and Equipment; and
- (3) CONTRACTOR records.

CONTRACTOR must provide as part of the Services any assistance that such auditors and inspectors reasonably may require to complete such audits or inspections.

Section 8.04 Response/compliance with audit or inspection findings.

(a) CONTRACTOR must take action to ensure its or a subcontractor's compliance with a correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services and Deliverables or any other deficiency contained in any audit, review, or inspection conducted under the Agreement. This action will include CONTRACTOR'S delivery to HHSC, for HHSC'S approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).

(b) CONTRACTOR must bear the expense of compliance with any finding of noncompliance under the Agreement that is:

- (1) Required by a Texas or Federal law, regulation, rule or other audit requirement relating to CONTRACTOR's business;
- (2) Performed by CONTRACTOR as part of the Services and Deliverables; or
- (3) Necessary due to CONTRACTOR's noncompliance with any law, regulation, rule or audit requirement imposed on CONTRACTOR.

(c) As part of the Services, CONTRACTOR must provide to HHSC upon request a copy of those portions of CONTRACTOR's and its subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Agreement.

Section 8.05 Audit of CONTRACTOR fees.

(a) CONTRACTOR will provide, and will cause its subcontractors to provide, to HHSC and its designees access to financial records and supporting documentation reasonably requested by HHSC.

(b) In addition to the normal monthly review and payment of administrative vouchers, HHSC may audit the Fees charged to HHSC to determine whether such Fees are accurate and in accordance with the Agreement.

(c) If, as a result of such audit, HHSC determines that CONTRACTOR has overcharged the State, HHSC will notify CONTRACTOR of the amount of such overcharge and CONTRACTOR will promptly pay to HHSC the amount of the overcharge, plus interest. Interest on such overpayment amount will be calculated from the date of receipt by the CONTRACTOR of the overcharged amount until the date of payment to HHSC, and will be calculated at the Department of Treasury's Median Rate (resulting from the Treasury's auction of 13-week bills) for the week in which liability is assessed, but in no event to exceed the highest lawful rate of interest. In the event any such audit reveals an overcharge to HHSC, CONTRACTOR will reimburse HHSC for the cost of such audit.

Section 8.06 SAO Audit.

The CONTRACTOR understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an investigation in connection with those funds. The CONTRACTOR further agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. The CONTRACTOR will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through CONTRACTOR and the requirement to cooperate is included in any subcontract it awards.

Article 9. Terms and Conditions of Payment

Section 9.01 Rights of set-off.

(a) General right of set-off.

With respect to any undisputed amount that a Party in good faith determines should be reimbursed to it or is otherwise payable to it by the other Party under the Agreement, the Party seeking the set-off may deduct the entire amount owed against the charges otherwise payable or expenses owed to it under the Agreement until such time as the entire amount determined to be owed has been paid.

(b) Duty to make payments.

HHSC will be relieved of its obligation to make any payments to the CONTRACTOR until such time as all set-off amounts have been credited to HHSC and the CONTRACTOR will be relieved of its obligation to make any payments to HHSC until such time as such amounts have been credited to the CONTRACTOR.

Section 9.02 Expenses.

Except as provided in the Agreement, all other expenses incurred by the CONTRACTOR in connection with its provision of the Services or Deliverables will not be reimbursed by HHSC unless agreed to by HHSC. CONTRACTOR will be responsible for payment of all expenses related to salaries, benefits, employment taxes, and insurance for its Staff. In addition, the costs associated with transportation, delivery, and insurance for each Deliverable will be paid by CONTRACTOR.

Section 9.03 Disputed fees.

If HHSC disputes payment of all or any portion of an invoice from the CONTRACTOR, HHSC will notify the CONTRACTOR of the dispute and both Parties will attempt in good faith to resolve the dispute. HHSC will not be required to pay any disputed portion of a CONTRACTOR invoice unless and until the dispute is resolved. Notwithstanding any such dispute, the CONTRACTOR must continue to perform the Services and produce Deliverables in compliance with the terms of the Agreement pending resolution of such dispute so long as all undisputed amounts continue to be paid to CONTRACTOR.

Section 9.04 Liability for taxes.

HHSC is not responsible in any way for the payment of any federal, state or local taxes related to or incurred in connection with the CONTRACTOR'S performance of the Agreement. CONTRACTOR must pay and discharge any and all such taxes, including any penalties and interest. In addition, HHSC is exempt from Federal excise taxes, and will not pay for any personal property taxes or income taxes levied on CONTRACTOR or on any taxes levied on employee wages.

Section 9.05 Liability for employment-related charges and benefits.

CONTRACTOR will perform work under the Agreement as an independent contractor and not as agent or representative of HHSC. CONTRACTOR is solely and exclusively liable for all taxes and employment-related charges incurred in connection with the performance of the Agreement. HHSC will not be liable for any employment-related charges or benefits of CONTRACTOR, such as workers compensation benefits, unemployment insurance and benefits, or fringe benefits.

Section 9.06 No additional consideration.

CONTRACTOR will not be entitled to nor receive from HHSC any additional consideration, compensation, salary, wages, or any other type of remuneration for services rendered under the Agreement. CONTRACTOR will not be entitled by virtue of the Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. In addition, the costs associated with transportation, delivery, and insurance relating to the CONTRACTOR'S performance of the Agreement will be paid for by the CONTRACTOR.

Section 9.07 No increase in rates.

CONTRACTOR will not increase rates during the term of the Agreement, except as authorized in Article 7.

Article 10. Disclosure and Confidentiality of Information**Section 10.01 Confidentiality.****(a) HHSC Data Use Agreement**

The HHSC Data Use Agreement, Attachment A to these UTCs, is incorporated into the Agreement and describes CONTRACTOR's rights and obligations with respect to the Confidential Information and the limited purposes for which the CONTRACTOR may create, receive, maintain, use, disclose or have access to Confidential Information.

Section 10.02 Requests for public information.

(a) HHSC agrees that it will promptly notify CONTRACTOR of a request for disclosure of public information filed in accordance with the Texas Public Information Act, Texas Government Code Chapter 552, which consists of the CONTRACTOR's Confidential Information, including information to which CONTRACTOR believes it has a proprietary or commercial interest. HHSC will deliver a copy of the request for public information to CONTRACTOR.

(b) With respect to any information that is the subject of a request for disclosure, CONTRACTOR is required to demonstrate to the Texas Office of Attorney General the specific reasons why the requested information is confidential or otherwise excepted from required public disclosure under law. CONTRACTOR will provide HHSC with copies of all such communications.

(c) CONTRACTOR must make information defined as public information not otherwise excepted from disclosure under the Texas Public Information Act, Texas Government Code Chapter 552, available to HHSC in a format agreeable to HHSC, accessible by the public, and at no additional charge to HHSC.

(d) To the extent authorized under the Texas Public Information Act, HHSC agrees to safeguard from disclosure information received from CONTRACTOR that the CONTRACTOR believes to be Confidential Information. CONTRACTOR must clearly mark such information as Confidential Information or provide written notice to HHSC that it considers the information confidential.

(e) To the extent allowed under the Texas Public Information Act, Texas Government Code Chapter 552, CONTRACTOR agrees that any consultant reports received by HHSC in connection with the Agreement, may be distributed by HHSC, in its discretion, to any other state agency and the Texas legislature. Any distribution may include posting on HHSC's website or the website of a standing committee of the legislature.

Section 10.03 Privileged Work Product.

(a) CONTRACTOR acknowledges that HHSC asserts that Privileged Work Product may be prepared in anticipation of litigation and that CONTRACTOR is performing the Services with respect to Privileged Work Product as an agent of HHSC, and that all matter related thereto is protected from disclosure by the Texas Rules of Civil Procedure, Texas Rules of Evidence, Federal Rules of Civil Procedure, or Federal Rules of Evidence.

(b) HHSC will notify CONTRACTOR of any Privileged Work Product to which CONTRACTOR has or may have access. After the CONTRACTOR is notified or otherwise becomes aware that such documents, data, database, or communications are Privileged Work Product, only CONTRACTOR personnel for whom such access is necessary for the purposes of providing the Services may have access to Privileged Work Product.

(c) If CONTRACTOR receives notice of any judicial or other proceeding seeking to obtain access to HHSC's Privileged Work Product, CONTRACTOR will:

- (1) Immediately notify HHSC; and
- (2) Use all reasonable efforts to resist providing such access.

(d) If CONTRACTOR resists disclosure of HHSC's Privileged Work Product in accordance with this Section, HHSC will, to the extent authorized under Civil Practices and Remedies Code or other applicable State law, have the right and duty (i) to represent CONTRACTOR in such resistance; (ii) to retain counsel to so represent CONTRACTOR; or (iii) to reimburse CONTRACTOR for reasonable attorneys' fees and expenses incurred in resisting such access. HHSC will make the sole determination as to which of the preceding duties it will undertake.

(e) If a court of competent jurisdiction orders CONTRACTOR to produce documents, disclose data, or otherwise breach Contractor's confidentiality obligations or maintenance obligations regarding the confidentiality, proprietary nature, and secrecy of Privileged Work Product, CONTRACTOR will not be liable for breach of such obligation.

Section 10.04 Unauthorized acts.

Each Party agrees to:

- (1) Notify the other Party promptly of any unauthorized possession, use, or knowledge, or attempt thereof, of any of the other Party's Confidential Information by any person or entity that may become known to it;
- (2) Promptly furnish to the other Party full details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist the other Party in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential Information;
- (3) Cooperate with the other Party in any litigation and investigation against third Parties deemed necessary by such Party to protect its proprietary rights; and
- (4) Promptly prevent a reoccurrence of any such unauthorized possession, use, or knowledge of Confidential Information.

Section 10.05 Legal action.

A party may not commence any legal action or proceeding with a third party with respect to any unauthorized possession, use, or knowledge, or attempt thereof, of the other Party's Confidential Information by any person or entity, if that action or proceeding identifies the other Party or its Confidential Information without such Party's consent.

Article 11. Remedies and Disputes

Section 11.01 Understanding and expectations.

The remedies described in this Article are directed to CONTRACTOR's timely and responsive performance of the Services and Deliverables, and to the creation of a flexible and responsive relationship between the Parties.

Section 11.02 Tailored remedies.

(a) Understanding of the Parties.

CONTRACTOR agrees and understands that HHSC may pursue tailored contractual remedies for noncompliance with the Agreement. At any time and at its discretion, HHSC may impose or pursue one or more remedies for each item of noncompliance and will determine remedies on a case-by-case basis. HHSC's pursuit or non-pursuit of a tailored remedy does not constitute a waiver of any other remedy that HHSC may have at law or equity.

(b) Notice and opportunity to cure for non-material breach.

(1) HHSC will notify CONTRACTOR in writing of specific areas of CONTRACTOR performance that fail to meet performance expectations, standards, or schedules, but that, in the determination of HHSC, do not result in a material deficiency or delay in the implementation or operation of the Services.

(2) CONTRACTOR will, within three business days (or another date approved by HHSC) of receipt of written notice of a non-material deficiency, provide HHSC a written response that:

(A) Explains the reasons for the deficiency, CONTRACTOR's plan to address or cure the deficiency, and the date and time by which the deficiency will be cured; or

(B) If CONTRACTOR disagrees with HHSC's findings, explains its reasons for disagreeing with HHSC's findings.

(3) CONTRACTOR's proposed cure of a non-material deficiency is subject to the approval of HHSC. CONTRACTOR's repeated commission of non-material deficiencies or repeated failure to resolve any such deficiencies may be regarded by HHSC as a material deficiency and entitle HHSC to pursue any other remedy provided in the Agreement or any other appropriate remedy HHSC may have at law or equity.

(c) *Corrective action plan.*

(1) At its option, HHSC may require CONTRACTOR to submit to HHSC a detailed written plan (the "Corrective Action Plan") to correct or resolve a material deficiency or breach of the Agreement.

(2) The Corrective Action Plan must provide:

- (A) A detailed explanation of the reasons for the cited deficiency;
- (B) CONTRACTOR's assessment or diagnosis of the cause;
- (C) A specific proposal to cure or resolve the deficiency; and
- (D) CONTRACTOR's timeline for cure or resolution of the deficiency

(3) The Corrective Action Plan must be submitted by the deadline set forth in HHSC's request for a Corrective Action Plan. The Corrective Action Plan is subject to approval by HHSC, which will not be withheld unreasonably.

(4) HHSC will notify CONTRACTOR in writing of HHSC's final disposition of HHSC's concerns regarding the Corrective Action Plan. If HHSC accepts CONTRACTOR's proposed Corrective Action Plan, HHSC may:

- (A) Condition such approval on completion of tasks in the order or priority that HHSC may prescribe;
- (B) Disapprove portions of CONTRACTOR's proposed Corrective Action Plan; or
- (C) Require additional or different corrective action(s).

(5) At any time during this remedial process, HHSC reserves the right to:

- (A) Suspend all, or part of, the Agreement, and to withhold further payment for the suspended portions of the Agreement; or
- (B) Prohibit CONTRACTOR from incurring additional obligations of funds during investigation of the pending corrective action, if necessary, by CONTRACTOR or a decision by HHSC to terminate the Agreement for cause.

(6) If HHSC rejects CONTRACTOR's written explanation or proposed Corrective Action Plan, HHSC may issue a Stop Work Order to CONTRACTOR or any of its subcontractors or suppliers. HHSC may delay the implementation of the Stop Work Order if it affects the completion of any of the Services in accordance with the approved schedule or work plan.

(7) HHSC's acceptance of a Corrective Action Plan under this Section will not:

- (A) Excuse CONTRACTOR's prior substandard performance;
- (B) Relieve CONTRACTOR of its duty to comply with performance standards; or
- (C) Prohibit HHSC from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance.

(d) *Administrative remedies.*

(1) At its discretion, HHSC may impose one or more of the following remedies for each item of noncompliance and will determine the scope and severity of the remedy on a case-by-case basis:

- (A) Assess liquidated damages in accordance with the terms of the Agreement if provided in the Agreement;
- (B) Conduct accelerated monitoring of the CONTRACTOR. Accelerated monitoring includes more frequent or more extensive monitoring by HHSC or its agent;
- (C) Require additional, more detailed, financial or programmatic reports to be submitted by CONTRACTOR;
- (D) Decline to renew or extend the Agreement;
- (E) Withhold or recoup payment for the noncompliant Service or Deliverable; or
- (F) Terminate the Agreement in accordance with Section 11.03.

(2) For purposes of the Agreement, an item of noncompliance means a specific action of CONTRACTOR that:

- (A) Violates a provision of the Agreement;
- (B) Fails to meet an agreed measure of performance; or
- (C) Represents a failure of CONTRACTOR to be reasonably responsive to a reasonable request of HHSC relating to the Services and Deliverables for information, assistance, or support within the timeframe specified by HHSC.

(3) HHSC will provide notice to CONTRACTOR of the imposition of an administrative remedy in accordance with this Section, with the exception of accelerated monitoring, which may be unannounced. HHSC may require CONTRACTOR to file a written response as part of the Tailored Remedy approach.

(4) The Parties agree that a State or Federal statute, rule, regulation, or Federal guideline will prevail over the provisions of this Section unless the statute, rule, regulation, or guidelines can be read together with this Section to give effect to both.

(e) *Damages.*

(1) HHSC will be entitled to actual and consequential damages resulting from the CONTRACTOR's failure to comply with any of the terms of the Agreement.

(2) In some cases, the actual damage to HHSC or the State of Texas as a result of CONTRACTOR's failure to meet any aspect of the responsibilities of the Agreement or to meet specific performance standards set forth in the Agreement are difficult or impossible to determine with precise accuracy. Therefore, liquidated damages may be assessed in writing against and paid by the CONTRACTOR for failure to meet any aspect of the responsibilities of the Agreement or to meet the specific performance standards identified by the HHSC. Liquidated damages may be assessed if HHSC determines such failure is the fault of the CONTRACTOR (including the CONTRACTOR's subcontractors or consultants) and is not materially caused or contributed to by HHSC or its agents. If at any time, HHSC determines the CONTRACTOR has not met any aspect of the responsibilities of the Agreement or the specific performance standards due to mitigating circumstances, HHSC reserves the right to waive all or part of the liquidated damages. All such waivers must be in writing, contain the reasons for the waiver, and be signed by the appropriate executive of HHSC.

(a) The liquidated damages prescribed in this Section are not intended to be in the nature of a penalty, but are intended to be reasonable estimates of HHSC's projected financial loss and damage resulting from the CONTRACTOR's nonperformance, including financial loss as a result of project delays. Accordingly, in the event CONTRACTOR fails to perform in accordance with the Agreement, HHSC may assess liquidated damages as provided in this Section.

(3) If CONTRACTOR fails to perform any of the Services described in the Agreement, HHSC may assess liquidated damages for each occurrence of a liquidated damages event, to the extent consistent with HHSC's tailored approach to remedies and Texas law.

(4) HHSC may elect to collect liquidated damages:

(A) Through direct assessment and demand for payment delivered to CONTRACTOR; or

(B) By deduction of amounts assessed as liquidated damages as set-off against payments then due to CONTRACTOR for the Services or Deliverables or that become due at any time after assessment of the liquidated damages. HHSC will make deductions until the full amount payable by the CONTRACTOR is received by the State.

(f) *Equitable Remedies*

(1) CONTRACTOR acknowledges that, if CONTRACTOR breaches (or attempts or threatens to breach) its obligation under the Agreement, the State will be irreparably harmed. In such a circumstance, HHSC may proceed directly to court.

(2) If a court of competent jurisdiction finds that CONTRACTOR breached (or attempted or threatened to breach) any such obligations, CONTRACTOR agrees that without any additional findings of irreparable injury or other conditions to injunctive relief, it will not oppose the entry of an appropriate order compelling performance by CONTRACTOR and restraining it from any further breaches (or attempted or threatened breaches).

(g) *Suspension of Agreement*

(1) HHSC may suspend performance of all or any part of the Agreement if:

(A) HHSC determines that CONTRACTOR has committed a material breach of the Agreement;

(B) HHSC has reason to believe that CONTRACTOR has committed, assisted in the commission of, or failed to take appropriate action concerning fraud, abuse, malfeasance, misfeasance, or nonfeasance by any party concerning the Agreement; or

(C) HHSC determines that suspension of the Agreement in whole or in part is convenient or in the best interests of the State of Texas or the HHSC Programs.

(2) HHSC will notify CONTRACTOR in writing of its intention to suspend the Agreement in whole or in part. Such notice will:

(A) Be delivered in writing to CONTRACTOR;

(B) Include a concise description of the facts or matter leading to HHSC's decision; and

(C) Unless HHSC is suspending the contract for convenience, request a Corrective Action Plan from CONTRACTOR or describe actions that CONTRACTOR must take to avoid the contemplated suspension of the Agreement.

Section 11.03 Termination of Agreement.

In addition to other provisions of this article allowing termination, the Agreement will terminate upon the expiration date unless extended in accordance with the terms of the Agreement, or terminated sooner under the terms of the Agreement. Prior to completion of the Initial Term and any extensions or renewal thereof, all or a part of the Agreement may be terminated for any of the following reasons:

(a) *Termination by mutual agreement of the Parties.*

The Agreement may be terminated by mutual agreement of the Parties. Such agreement must be in writing.

(b) *Termination in the best interest of the State.*

HHSC may terminate the Agreement at any time when, in its sole discretion, HHSC determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination.

(c) *Termination for cause.*

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, HHSC may terminate the Agreement, in whole or in part, upon the following conditions:

(1) *Assignment for the benefit of all or substantially all of its creditors, appointment of receiver, or inability to pay debts.*

HHSC may terminate the Agreement if CONTRACTOR:

(A) Makes an assignment for the benefit of its creditors;

(B) Admits in writing its inability to pay its debts generally as they become due; or

(C) Consents to the appointment of a receiver, trustee, or liquidator of CONTRACTOR or of all or any part of its property.

(2) *Failure to adhere to laws, rules, ordinances, or orders.*

HHSC may terminate the Agreement if a court of competent jurisdiction finds CONTRACTOR failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of CONTRACTOR's duties under the Agreement.

(3) *Breach of confidentiality.*

HHSC may terminate the Agreement if CONTRACTOR breaches confidentiality obligations with respect to the Services and Deliverables provided under the Agreement.

(4) *Failure to maintain adequate personnel or resources.*

HHSC may terminate the Agreement if, after providing notice and an opportunity to correct, HHSC determines that CONTRACTOR has failed to supply personnel or resources and such failure results in CONTRACTOR's inability to fulfill its duties under the Agreement.

(5) *Termination for gifts and gratuities.*

(A) HHSC may terminate the Agreement following the determination by a competent judicial or quasi-judicial authority and CONTRACTOR's exhaustion of all legal remedies that CONTRACTOR, its employees, agents or representatives have either offered or given anything of value to an officer or employee of HHSC or the State of Texas in violation of state law.

(B) CONTRACTOR must include a similar provision in each of its subcontracts and will enforce this provision against a subcontractor who has offered or given anything of value to any of the persons or entities described in this Section, whether or not the offer or gift was in CONTRACTOR's behalf.

(C) Termination of a subcontract by CONTRACTOR under this provision will not be a cause for termination of the Agreement unless:

(1) CONTRACTOR fails to replace such terminated subcontractor within a reasonable time.

(D) For purposes of this Section, a "thing of value" means any item of tangible or intangible property that has a monetary value of more than \$50.00 and includes, but is not limited to, cash, food, lodging, entertainment, and charitable contributions. The term does not include contributions to holders of public office or candidates for public office that are paid and reported in accordance with State or Federal law.

(6) *Termination for non-appropriation of funds.*

Notwithstanding any other provision of the Agreement, if funds for the continued fulfillment of the Agreement by HHSC are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then HHSC will have the right to terminate the Agreement at no additional

cost and with no penalty whatsoever. HHSC will make best efforts to provide reasonable written advance notice to CONTRACTOR upon learning that funding for the Agreement may be discontinued.

(7) Termination for lack of financial viability.

HHSC may terminate the Agreement if, in its sole discretion, HHSC has a good faith belief that CONTRACTOR no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform the Agreement.

(8) Judgment and execution.

(A) HHSC may terminate the Agreement if judgment for the payment of money in excess of \$500,000.00 that is not covered by insurance, is rendered by any court or governmental body against CONTRACTOR, and CONTRACTOR does not:

- (1) Discharge the judgment or provide for its discharge in accordance with the terms of the judgment;
- (2) Procure a stay of execution of the judgment within 30 days from the date of entry thereof; or
- (3) Perfect an appeal of such judgment and cause the execution of such judgment to be stayed during the appeal, providing such financial reserves as may be required under generally accepted accounting principles.

(B) If a writ or warrant of attachment or any similar process is issued by any court against all or any material portion of the property of CONTRACTOR, and such writ or warrant of attachment or any similar process is not released or bonded within 30 days after its entry, HHSC may terminate the Agreement in accordance with this Section.

(8) Termination for CONTRACTOR's material breach of the Agreement.

HHSC will have the right to terminate the Agreement in whole or in part if HHSC determines, at its sole discretion, that CONTRACTOR has materially breached the Agreement.

Section 11.04 Effective date of termination.

Except as otherwise provided in the Agreement, termination will be effective as of the date specified in the notice of termination.

Section 11.05 Extension of termination effective date.

HHSC may extend the effective date of termination one or more times as it elects, in its sole discretion.

Section 11.06 Payment and other provisions at Agreement termination.

(a) If HHSC terminates the Agreement, HHSC will pay CONTRACTOR on the effective date of termination (or as soon as possible thereafter taking into account appropriation and fund accounting requirements) any undisputed amounts due for all completed, approved, and accepted Services or Deliverables.

(b) HHSC further agrees to negotiate in good faith with CONTRACTOR to equitably adjust and settle any accrued or outstanding liabilities for any unaccepted Service or deliverable and Change Order Requests that

- (1) Is due or delivered prior to or upon contract termination;
- (2) Is complete or substantially complete, or for which CONTRACTOR can document to the satisfaction of HHSC substantial progress; and
- (3) Benefits HHSC or the State of Texas, notwithstanding its unaccepted status.

(c) CONTRACTOR must provide HHSC all reasonable access to records, facilities, and documentation as is required to efficiently and expeditiously close out the Services under the Agreement.

(d) CONTRACTOR must prepare a turnover plan, which is acceptable to and approved by HHSC. That turnover plan will be implemented during the time period between receipt of notice and the termination date.

Section 11.07 Modification of Agreement in the event of remedies.

HHSC may propose a modification of the Agreement in response to the imposition of a remedy under this article. Any modifications under this Section must be reasonable, limited to the matters causing the exercise of a remedy, within the scope of the Agreement, and in writing. CONTRACTOR must negotiate such proposed modifications in good faith.

Section 11.08 Turnover assistance.

Upon receipt of notice of termination of the Agreement by HHSC, CONTRACTOR will provide any turnover assistance reasonably necessary to enable HHSC or its designee to effectively close out the Agreement and move the work to another vendor or to perform the work by itself.

Section 11.09 Rights upon termination or expiration of Agreement.

In the event that the Agreement is terminated for any reason, or upon its expiration, HHSC will, at HHSC's discretion, retain ownership of any and all associated work products, Deliverables or Documentation in whatever form that they exist.

Section 11.10 CONTRACTOR responsibility for associated costs.

If HHSC terminates the Agreement for Cause, the CONTRACTOR will be responsible to HHSC for all costs incurred by HHSC, the State of Texas, or any of its administrative agencies to replace the CONTRACTOR. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to CONTRACTOR's failure to perform any Service in accordance with the terms of the Agreement.

Section 11.11 Dispute resolution.**(a) General agreement of the Parties.**

The Parties mutually agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under the Agreement. The Parties mutually commit to using all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in this Article, unless HHSC immediately terminates the Agreement in accordance with the terms and conditions of the Agreement.

(b) Duty to negotiate in good faith.

Any dispute that in the judgment of any Party to the Agreement may materially or substantially affect the performance of any Party will be reduced to writing and delivered to the other Party within 10 business days. The Parties must then negotiate in good faith and use every reasonable effort to resolve the dispute and the Parties will not resort to any formal proceedings unless they have reasonably determined that a negotiated resolution is not possible and notified the other Party. The resolution of any dispute disposed of by agreement between the Parties will be reduced to writing and delivered to all Parties within 10 business days.

(c) Claims for breach of Agreement.

(1) *General requirement.* As required by Chapter 2260, Government Code, CONTRACTOR's claim for breach of the Agreement must be resolved in accordance with the dispute resolution process established by HHSC in accordance with Chapter 2260, Government Code.

(2) *Negotiation of claims.* The Parties agree that the CONTRACTOR's claim for breach of the Agreement that the Parties cannot resolve in the ordinary course of business or through the use of all reasonable and informal means will be submitted to the negotiation process provided in Chapter 2260, Subchapter B, Government Code.

(A) To initiate the process, CONTRACTOR must submit written notice to HHSC that states that CONTRACTOR invokes the provisions of Chapter 2260, Subchapter B, Government Code. The notice must comply with the requirements of Title 1, Chapter 392, Subchapter B of the Texas Administrative Code.

(B) The Parties agree that the CONTRACTOR's compliance with Chapter 2260, Subchapter B, Government Code, will be a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.

(3) *Contested case proceedings.* The contested case process provided in Chapter 2260, Subchapter C, Government Code, will be CONTRACTOR's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by HHSC if the Parties are unable to resolve their disputes under Subsection (c)(2) of this Section.

(A) The Parties agree that compliance with the contested case process provided in Chapter 2260, Subchapter C, Government Code, will be a condition precedent to seeking consent to sue from the Texas Legislature under Chapter 107, Civil Practices & Remedies Code. Neither the execution of the Agreement by HHSC nor any other conduct of any representative of HHSC relating to the Agreement will be considered a waiver of the State's sovereign immunity to suit.

(4) *HHSC rules.* The submission, processing and resolution of CONTRACTOR's claim is governed by the rules adopted by HHSC under Chapter 2260, Government Code, found at Title 1, Chapter 392, Subchapter B of the Texas Administrative Code.

(5) *CONTRACTOR's duty to perform.* Neither the occurrence of an event constituting an alleged breach of contract nor the pending status of any claim for breach of contract is grounds for the suspension of performance, in whole or in part, by CONTRACTOR of any duty or obligation with respect to the performance of the Agreement. Any changes to the Agreement as a result of a Dispute Resolution will be implemented in accordance with Article 8, Amendments, Modifications and Change Order Requests.

Section 11.12 Liability of CONTRACTOR.

(a) CONTRACTOR bears all risk of loss or damage due to:

- (1) Defects in products, Services or Deliverables;
- (2) Unfitness or obsolescence of products, Services or Deliverables; or

(3) The negligence or intentional misconduct of CONTRACTOR or its employees, agents, subcontractors, or representatives.

(b) **CONTRACTOR MUST, AT THE CONTRACTOR'S OWN EXPENSE, DEFEND WITH COUNSEL APPROVED BY THE STATE, INDEMNIFY, AND HOLD HARMLESS THE STATE AND STATE EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS AND AGENTS FROM AND AGAINST ANY LOSSES, LIABILITIES, DAMAGES, PENALTIES, COSTS, FEES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, AND EXPENSES FROM ANY CLAIM OR ACTION FOR PROPERTY DAMAGE, BODILY INJURY OR DEATH, TO THE EXTENT CAUSED BY OR ARISING FROM THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF THE CONTRACTOR AND ITS EMPLOYEES, OFFICERS, AGENTS, OR SUBCONTRACTORS.**

(c) CONTRACTOR will not be liable to HHSC for any loss, damages or liabilities attributable to or arising from:

(1) The failure of HHSC or any state agency or HHSC CONTRACTOR to perform a service or activity in connection with the Agreement; or

(2) CONTRACTOR's prudent and diligent performance of the Services in compliance with instructions given by HHSC in accordance with Section 1.03 (relating to implied authority) and Section 3.03 (relating to delegation of authority) of the Agreement.

(d) CONTRACTOR will ship all Equipment and Software purchased and Third Party Software licensed under the Agreement, freight prepaid, FOB HHSC's destination. The method of shipment will be consistent with the nature of the Equipment and Software and hazards of transportation. Regardless of FOB point, CONTRACTOR agrees to bear all risks of loss, damage, or destruction of Deliverables, in whole or in part, ordered hereunder that occurs prior to Acceptance, except loss or damage attributable to HHSC's fault or negligence; and such loss, damage, or destruction will not release CONTRACTOR from any obligation hereunder. After Acceptance, the risk of loss or damage will be borne by HHSC, except loss or damage attributable to CONTRACTOR's fault or negligence.

Article 12. Assurances and Certifications**Section 12.01 Proposal certifications.**

CONTRACTOR acknowledges its continuing obligation to comply with the requirements of any certifications contained in the Agreement, and will immediately notify HHSC of any changes in circumstances affecting those certifications.

Section 12.02 Conflicts of interest.

(a) *Representation.*

CONTRACTOR agrees to comply with applicable state and federal laws, rules, and regulations regarding conflicts of interest in the performance of its duties under the Agreement. CONTRACTOR warrants that it, its subcontractors, and employees, officers, directors and agents of Contractor and Contractor's subcontractors have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with its performance under the Agreement.

(b) *General duty regarding conflicts of interest.*

CONTRACTOR will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. CONTRACTOR will operate with complete independence and objectivity without actual, potential or apparent conflict of interest with respect to the activities conducted under the Agreement with the State of Texas.

Section 12.03 Organizational conflicts of interest.

(a) *Definition.*

An organizational conflict of interest is a set of facts or circumstances, a relationship, or other situation under which a contractor, or a subcontractor has past, present, or currently planned personal or financial activities or interests that either directly or indirectly:

- (1) Impairs or diminishes the offeror's, contractor's, or subcontractor's ability to render impartial or objective assistance or advice to HHSC; or
- (2) Provides the contractor or subcontractor an unfair competitive advantage in future HHSC procurements.

(b) *Warranty.*

Except as otherwise disclosed and approved by HHSC prior to the Effective Date of the Contract, CONTRACTOR warrants that, as of the Effective Date and to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to organizational conflict of interest affecting the Agreement.

CONTRACTOR affirms that it has neither given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, at any time during the procurement process or in connection with the procurement process except as allowed under relevant state and federal law.

(c) *Continuing duty to disclose.*

(1) CONTRACTOR agrees that, if after the Effective Date, CONTRACTOR discovers is made aware of an organizational conflict of interest, CONTRACTOR will immediately and fully disclose such interest in writing to the HHSC project manager. In addition, CONTRACTOR must promptly disclose any relationship that might be perceived or represented as a conflict after its discovery by CONTRACTOR or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of conflicts of interest, and CONTRACTOR agrees to abide by HHSC's decision.

(2) The disclosure will include a description of the action(s) that CONTRACTOR has taken or proposes to take to avoid or mitigate such conflicts.

(d) *Remedy.*

If HHSC determines that an organizational conflict of interest exists, HHSC may, at its discretion, terminate the contract. If HHSC determines that CONTRACTOR was aware of an organizational conflict of interest before the award of the Agreement and did not disclose the conflict to the contracting officer, such nondisclosure will be considered a material breach of the Agreement. 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.

(e) *Flow down obligation.*

CONTRACTOR must include the provisions of this Section 12.03 in all subcontracts for work to be performed similar to the service provided by CONTRACTOR, and the terms "Agreement," "CONTRACTOR," and "project manager" modified appropriately to preserve the State's rights.

Section 12.04 HHSC personnel recruitment prohibition.

CONTRACTOR has not retained or promised to retain any person or company, or utilized or promised to utilize a consultant that participated in HHSC's development of specific criteria of the Agreement or who participated in the selection of the CONTRACTOR for the Agreement.

CONTRACTOR will not recruit or employ any HHSC professional or technical personnel who have worked on projects relating to the subject matter of the Agreement, or who have had any influence on decisions affecting the subject matter of the Agreement, for two (2) years following the completion of the Agreement.

Section 12.05 Anti-kickback provision.

CONTRACTOR certifies that it will comply with the Anti-Kickback Act of 1986, 41 USC §51-58 and Federal Acquisition Regulation 52.203-7.

Section 12.06 Debt or back taxes owed to the State of Texas.

In accordance with Section 403.055 of the Government Code, CONTRACTOR agrees that any payments due to CONTRACTOR under the Agreement will be first applied toward any debt or back taxes CONTRACTOR owes the State of Texas. CONTRACTOR further agrees that payments will be so applied until such debts and back taxes are paid in full.

Section 12.07 Certification regarding status of license, certificate, or permit.

Article IX, Section 163 of the General Appropriations Act for the 1998/1999 state fiscal biennium prohibits an agency that receives an appropriation under either Article II or V of the General Appropriations Act from awarding an Agreement with the owner, operator, or administrator of a facility that has had a license, certificate, or permit revoked by another Article II or V agency. CONTRACTOR certifies it is not ineligible for an award under this provision.

Section 12.08 Outstanding debts and judgments.

CONTRACTOR certifies that it is not presently indebted to the State of Texas, and that CONTRACTOR is not subject to an outstanding judgment in a suit by the State of Texas against CONTRACTOR for collection of the balance. For purposes of this Section, an indebtedness is any amount sum of money that is due and owing to the State of Texas and is not currently under dispute. A false statement regarding CONTRACTOR's status will be treated as a material breach of the Agreement and may be grounds for termination at the option of HHSC.

Section 12.09 Anti-trust.

In submitting a proposal, and in accepting the Contract or purchase order, Contractor certifies and agrees as follows:

(1) Neither the CONTRACTOR, nor the person represented by the CONTRACTOR, nor any person acting for the represented person has:

(a) violated the antitrust laws codified by Chapter 15, Business & Commerce Code, or the federal antitrust laws; or

(b) directly or indirectly communicated the bid/offer associated with this contract to a competitor or other person engaged in the same line of business.

(2) CONTRACTOR assigns to HHSC all of CONTRACTOR's rights, title, and interest in and to all claims and causes of action CONTRACTOR may have under the antitrust laws of Texas or the United States for overcharges associated with this contract.

Article 13. Representations and Warranties

Section 13.01 Authorization.

(a) The execution, delivery and performance of the Agreement has been duly authorized by CONTRACTOR and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for CONTRACTOR to enter into the Agreement and perform its obligations under the Agreement.

(b) CONTRACTOR has obtained and will maintain all licenses, certifications, permits, and authorizations necessary to perform the Services under the Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of CONTRACTOR's performance of the Agreement. CONTRACTOR will maintain all required certifications, licenses, permits, and authorizations to remain in good standing during the term of the Agreement.

Section 13.02 Ability to perform.

CONTRACTOR warrants that it has the financial resources to fund the capital expenditures required under the Agreement without advances by HHSC or assignment of any payments by HHSC to a financing source.

Section 13.03 Workmanship and performance.

(a) All Services and Deliverables provided under the Agreement will be provided in a manner consistent with the standards of quality and integrity as outlined in the Agreement, the Solicitation, and CONTRACTOR's Proposal.

(b) All Services and Deliverables must meet or exceed the required levels of performance specified in or under the Agreement, and will meet or exceed HHSC's Missions and Objectives, as set forth in the Solicitation.

(c) CONTRACTOR will perform the Services in a workmanlike manner, in accordance with best practices and high professional standards used in well-managed operations performing services similar to the services described in the Agreement.

Section 13.04 Warranty of deliverables.

CONTRACTOR warrants that Deliverables developed and delivered under the Agreement will meet the specifications as described in the Agreement during the period following its acceptance by HHSC, through the term of the Agreement, including any extensions as provided in the Agreement, that are subsequently negotiated by CONTRACTOR and HHSC. CONTRACTOR will promptly repair or replace any such Deliverables not in compliance with this warranty at no charge to HHSC.

Section 13.05 Manufacturers' warranties.

CONTRACTOR assigns to HHSC all of the manufacturers' warranties and indemnities relating to all products, including without limitation, Third Party Software to the extent CONTRACTOR is permitted by the manufacturers to make such assignments to HHSC. Such assignment is subject to all of the terms and conditions imposed by the manufacturers with respect thereto.

Section 13.06 Compliance with Agreement.

CONTRACTOR will not take any action substantially or materially inconsistent with any of the terms and conditions set forth in the Agreement without the written approval of HHSC.

Article 14. Intellectual Property

Section 14.01 Infringement and misappropriation.

(a) CONTRACTOR warrants that all Deliverables provided by CONTRACTOR will not infringe or misappropriate any right of, and will be free of any claim of, any third person or entity based on copyright, patent, trade secret, or other intellectual property rights.

(b) **CONTRACTOR WILL, AT ITS EXPENSE, DEFEND WITH COUNSEL APPROVED BY HHSC, INDEMNIFY, AND HOLD HARMLESS HHSC, ITS EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS, AND AGENTS FROM AND AGAINST ANY LOSSES, LIABILITIES, DAMAGES, PENALTIES, COSTS, FEES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND EXPENSES, FROM ANY CLAIM OR ACTION AGAINST HHSC THAT IS BASED ON A CLAIM OF BREACH OF THE WARRANTY SET FORTH IN THE PRECEDING PARAGRAPH. HHSC WILL PROMPTLY NOTIFY CONTRACTOR IN WRITING OF THE CLAIM, PROVIDE CONTRACTOR A COPY OF ALL INFORMATION RECEIVED BY HHSC WITH RESPECT TO THE CLAIM, AND COOPERATE WITH CONTRACTOR IN DEFENDING OR SETTLING THE CLAIM.**

(c) In case the Deliverables, or any one or part thereof, is in such action held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted or if a proceeding appears to CONTRACTOR to be likely to be brought, CONTRACTOR will, at its own expense, either:

- (1) Procure for HHSC the right to continue using the Deliverables; or
- (2) Modify or replace the Deliverables to comply with the Specifications and to not violate any intellectual property rights.

If neither of the alternatives set forth in (1) or (2) above are available to the CONTRACTOR on commercially reasonable terms, CONTRACTOR may require that HHSC return the allegedly infringing Deliverable(s) in which case CONTRACTOR will refund all amounts paid for all such Deliverables and reimburse HHSC for any related direct and indirect damages incurred by HHSC due to the infringing Deliverable(s).

Section 14.02 Exceptions.

CONTRACTOR is not responsible for any claimed breaches of the warranties set forth in Section 14.01 to the extent caused by:

- (a) Modifications made to the item in question by anyone other than CONTRACTOR or its subcontractors or HHSC or its Contractors working at CONTRACTOR's direction or in accordance with the specifications; or
- (b) The combination, operation, or use of the item with other items if CONTRACTOR did not supply or approve for use with the item; or
- (c) HHSC's failure to use any new or corrected versions of the item made available by CONTRACTOR.

Article 15. Liability

Section 15.01 Property damage.

(a) CONTRACTOR will protect HHSC's real and personal property from damage arising from CONTRACTOR's, its agent's, employees' and subcontractors' performance of the Agreement, and CONTRACTOR will be responsible for any loss, destruction, or damage to HHSC's property that results from or is caused by CONTRACTOR's, its agents', employees' or subcontractors' negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of HHSC, CONTRACTOR will notify the HHSC Project Manager thereof and, subject to direction from the Project Manager or her or his designee, will take all reasonable steps to protect that property from further damage.

(b) CONTRACTOR agrees to observe and require its employees and agents to observe safety measures and proper operating procedures at HHSC sites at all times.

(c) CONTRACTOR will distribute a policy statement to all of its employees and agents that directs the employee or agent to immediately report to HHSC or to CONTRACTOR any special defect or unsafe condition encountered while on HHSC premises. CONTRACTOR will immediately report to HHSC any special defect or an unsafe condition it encounters or otherwise learns about.

Section 15.02 Risk of Loss.

During the period Deliverables are in transit and in possession of CONTRACTOR, its carriers or HHSC prior to being accepted by HHSC, CONTRACTOR will bear the risk of loss or damage thereto, unless such loss or damage is caused by the negligence or intentional misconduct of HHSC. After HHSC accepts a Deliverable, the risk of loss or damage to the Deliverable will be borne by HHSC, except loss or damage attributable to the negligence or intentional misconduct of CONTRACTOR's agents, employees or subcontractors.

Section 15.03 Limitation of HHSC's Liability.

HHSC WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY. THIS WILL APPLY REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF HHSC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

HHSC'S LIABILITY TO CONTRACTOR UNDER THE AGREEMENT WILL NOT EXCEED THE TOTAL CHARGES TO BE PAID BY HHSC TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING CHANGE ORDER REQUEST PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

Article 16. Special Terms and Conditions

Section 16.01 HHSC Data Use Agreement Not Required

The HHSC Data Use Agreement is not required to be attached to the Agreement because:

☐ CONTRACTOR does not Access Confidential Information; or

☐ CONTRACTOR accesses Other Confidential Information as defined in the Agreement and CONTRACTOR agrees:

CONTRACTOR and all subcontractors, consultants, or agents under the Agreement will treat all information that is obtained through performance of the Services under the Agreement, including, but not limited to, information relating to applicants or recipients of HHSC Programs as Other Confidential Information to the extent that such information is considered Other Confidential Information in the Agreement.

(a) CONTRACTOR is responsible for understanding the degree to which information obtained through performance of the Agreement is confidential under state and federal law, regulations, or administrative rules as applicable.

(b) CONTRACTOR and all subcontractors, consultants, or agents under the Agreement will not use any information obtained through performance of the Agreement in any manner except as is necessary to the proper discharge of obligations and securing of rights under the Agreement.

(c) CONTRACTOR will have a system in effect to protect all records, documents, or Other Confidential Information under the Agreement that is obtained or maintained in connection with the activities funded under the Agreement. Any disclosure or transfer of Other Confidential Information by CONTRACTOR, including information required by HHSC, will be in accordance with the Agreement. If the CONTRACTOR receives a request for information deemed Other Confidential Information under the Agreement, CONTRACTOR will immediately notify the State of the request, and will make reasonable efforts to protect the information from public disclosure until further instructed by HHSC.

(d) In addition to the requirements stated in this Section, CONTRACTOR must comply with any policy, rule, or reasonable requirement of HHSC that relates to the safeguarding or disclosure of Other Confidential Information relating to HHSC Programs recipients, CONTRACTOR'S operations, or the CONTRACTOR performance of the Agreement.

(e) Upon expiration of the Agreement, or termination of the Agreement for any reason, all Other Confidential Information of a Party disclosed to, and all copies made by the other Party, will be returned to the disclosing Party or, at the disclosing Party's option, erased or destroyed, subject to laws governing the destruction of public information. The recipient of the Other Confidential Information must provide the disclosing Party certificates evidencing this erasure or destruction.

(f) CONTRACTOR will immediately report to HHSC any and all unauthorized disclosures or uses of Other Confidential Information upon it or its subcontractor(s), consultant(s), or agent(s) becoming aware or acquiring knowledge of the disclosure. CONTRACTOR acknowledges that any publication or disclosure of Other Confidential Information may cause immediate and irreparable harm to HHSC and may constitute a violation of State or federal laws. If CONTRACTOR, its subcontractor(s), consultant(s), or agent(s) should publish or disclose such Other Confidential Information to others without authorization, HHSC will immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period as described in Article 11. HHSC will have the right to recover from CONTRACTOR all damages and liabilities caused by or arising from Contractor's, its subcontractors', consultants', or agents' failure to protect HHSC's Confidential Information. **CONTRACTOR WILL DEFEND WITH COUNSEL APPROVED BY HHSC, 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 CONTRACTOR'S OR ITS SUBCONTRACTORS', CONSULTANTS' OR AGENTS' FAILURE TO PROTECT OTHER CONFIDENTIAL INFORMATION.**

(g) CONTRACTOR will require its subcontractor(s), consultant(s), and agent(s) to comply with the terms of this provision.

(h) The obligations in this Section do not restrict any disclosure by a Party under any applicable law, or by order of any court or government agency, provided that the disclosing Party must give prompt notice to the non-disclosing Party of such order.

(i) With the exception of HHSC Program recipient or client information, Other Confidential Information of a Party will not be afforded the protection of the Agreement if this data was:

- (1) Already known to the receiving Party without restrictions at the time of its disclosure by the furnishing Party;
- (2) Independently developed by the receiving Party without reference to the furnishing Party's confidential Information;
- (3) Rightfully obtained by the other Party without restriction from a third party after its disclosure by the furnishing Party;
- (4) Publicly available other than through the fault or negligence of the other Party; or
- (5) Released without restriction to anyone.

☐ **Section 16.02 Financial/performance audits.**

(a) Texas Health and Safety Code Section 12.0123 directs HHSC to contract with an independent auditor to perform annual independent external financial and performance audits of any Medicaid contractor used by HHSC in HHSC's operation of a part of the State Medicaid program. "Medicaid contractor" means an entity that, under a contract with or otherwise on behalf of HHSC, performs one or more administrative services in relation to HHSC's operation of a part of the State Medicaid program, such as claims processing, utilization review, client enrollment, provider enrollment, quality monitoring, or payment of claims. The independent auditor will deliver to the CONTRACTOR and to HHSC a report of the findings and recommendations within 30 calendar days of the close of each audit. The report will be prepared in accordance with generally accepted auditing standards.

(b) CONTRACTOR agrees to deliver to HHSC, for HHSC's approval, a Corrective Action Plan that addresses deficiencies identified in the audit within 30 calendar days of the delivery of the independent auditor's report.

(c) CONTRACTOR understands that the independent auditor ("the auditor") will make specific inquiries of CONTRACTOR's management for information, including but not limited to information concerning the representations embodied in the financial statements and reports CONTRACTOR is required to furnish the State as per any financial report requirements in the Agreement. CONTRACTOR understands that as part of the auditor's audit procedures, the auditor will request, and CONTRACTOR's management will provide to the auditor a representation letter;

- (1) Acknowledging management's responsibility for the preparation of the financial statements and reports;
- (2) Acknowledging management's responsibility for compliance with laws and regulations; and

(3) Affirming management's belief that the effects of any uncorrected financial statement or report misstatements aggregated by the auditor during the current audit engagement and pertaining to the period presented are immaterial, both individually and in the aggregate, to the financial statements and reports taken as a whole.

(d) CONTRACTOR understands and agrees that the auditor will also request that CONTRACTOR's management confirm certain representations made to the auditor during the audit. The responses to those inquiries, and the related written representations of management required by generally accepted auditing standards, are part of the evidential matter that the auditor will rely on in forming its opinion on the CONTRACTOR's financial statements and reports.

☐ **Section 16.03 Audit software.**

As part of the Services, CONTRACTOR must operate and maintain audit software that HHSC or its designees may provide to CONTRACTOR from time to time during the Term of the Agreement.

☐ **Section 16.04 Ownership and licenses.**

(a) *Custom software.*

The Parties agree that any Deliverable, including any software, developed by CONTRACTOR in connection with the Agreement (the "Custom Software"), will be the exclusive property of HHSC.

(b) *Ownership rights.*

(1) HHSC will own all right, title, and interest in and to its Confidential Information and the Deliverables provided by CONTRACTOR, including without limitation the specifications, a work plan, and the Custom Software, except that the Deliverables will not include the third party software and the associated Documentation for purposes of this Section. CONTRACTOR will take all actions necessary and transfer ownership of the Deliverables to HHSC,

including the Custom Software and associated Documentation on final acceptance or as otherwise provided in the Agreement.

(2) CONTRACTOR will furnish Custom Software and Documentation, upon request of HHSC, in accordance with applicable State law. All Deliverables, in whole and in part, will be deemed works made for hire of HHSC for all purposes of copyright law, and copyright will belong solely to HHSC. To the extent that any Deliverable under this Section does not qualify as a work for hire under applicable law, and to the extent that the Deliverable includes materials subject to copyright, patent, trade secret, or other proprietary right protection, CONTRACTOR assigns all right, title, and interest in and to Deliverables, including all copyrights, inventions, patents, trade secrets, and other proprietary rights in the Deliverables (including any proprietary right renewals) to HHSC.

(3) CONTRACTOR will, at the expense of HHSC, assist HHSC or its designees to obtain copyrights, trademarks, or patents for all such Deliverables in the United States and any other countries. CONTRACTOR agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to HHSC all the right, title, and interest in and to such Deliverables. CONTRACTOR also agrees not to assert any moral rights under applicable copyright law with regard to such Deliverables.

(c) *License Rights*

HHSC will have ownership and unlimited rights to use, disclose, duplicate, or publish all information and data developed, derived, documented, or furnished by CONTRACTOR under or resulting from the Agreement. Such data will include all results, technical information, and materials developed for or obtained by HHSC from CONTRACTOR in the performance of the Services hereunder, including but not limited to all reports, surveys, plans, charts, recordings (video or sound), pictures, drawings, analyses, source and object code, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the Services performed as a result of the Agreement.

(d) *Proprietary Notices*

CONTRACTOR will reproduce and include HHSC's copyright and other proprietary notices and product identifications provided by CONTRACTOR on such copies, in whole or in part, or on any form of the Deliverables.

(e) *Third Party Software and Documentation Licenses*

(1) CONTRACTOR grants HHSC a non-exclusive, perpetual, license for HHSC to use the Third Party Software and its associated Documentation for its internal business purposes. HHSC will be entitled to use the Third Party Software on the Equipment or any replacement equipment used by HHSC, and with any replacement Third Party Software chosen by HHSC, without additional Charges. Terms in any licenses for Third Party Software will be consistent with the requirements of this Section.

(2) The licenses hereunder are granted as of the date when such Third Party Software is installed and certified by CONTRACTOR as operational, and the licenses will continue until HHSC permanently discontinues the use of the Third Party Software.

(3) Prior to utilizing any Third Party Software product that may be included as part of a Software Deliverable to HHSC, CONTRACTOR will provide to HHSC copies of the license agreement from the licensor of the Third Party Software to allow HHSC to pre-approve the license agreement that must, at a minimum, provide HHSC with necessary rights consistent with the short and long-term goals of the Agreement. CONTRACTOR will assign to HHSC the licenses for the Third Party Software upon Final Acceptance.

(4) CONTRACTOR will, during the project, maintain any and all Third Party Software products at their most current version or no more than one version back from the most current version. However, CONTRACTOR will not maintain any Third Party Software versions, including one version back, if any such version would prevent HHSC from using any functions, in whole or in part, or would cause deficiencies in the system.

(f) *State and Federal Governments*

In accordance with 45 C.F.R. Part 95.617, all appropriate State and Federal agencies will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes all materials, the Custom Software and modifications thereof, and associated documentation designed, developed, or installed with Federal Financial Participation under the Agreement, including but not limited to those materials covered by copyright, all Software source and object code, instructions, files, and Documentation composing the System.

☐ **Section 16.05 Insurance Coverage.**

(a) *Required Coverage.*

(1) CONTRACTOR will procure, at CONTRACTOR's own expense, during the Term of the Agreement and until final acceptance of all Services and Deliverables, the following insurance coverage. CONTRACTOR will

provide HHSC with proof of the following insurance coverage within 10 calendar days after the Agreement is awarded upon HHSC's request:

- (A) Standard Worker's Compensation Insurance coverage;
- (B) Automobile Liability; and
- (C) Commercial General Liability Insurance including Bodily Injury coverage of \$100,000.00 per each occurrence and Property Damage Coverage of \$25,000.00 per each occurrence.

(2) If CONTRACTOR's current Commercial General Liability insurance coverage does not meet the above stated requirements, CONTRACTOR will obtain excess liability insurance to compensate for the difference in the coverage amounts prior to effective date of the Agreement.

(3) CONTRACTOR is responsible for all deductibles stated in the policies. Insurance will be maintained at all times during the performance of the Agreement. Insurance coverage will be issued by insurance companies with "A" rating from Best that are authorized by applicable law to conduct business and provide the required coverage in the State of Texas, and must name HHSC as an additional insured.

(4) The policy will have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement.

(b) *Proof of Insurance Coverage*

(1) CONTRACTOR will furnish the HHSC Project Manager original Certificates of Insurance evidencing the required coverage to be in force on the date of award, and renewal certificates of insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Agreement. The failure of HHSC to obtain this evidence from CONTRACTOR before permitting CONTRACTOR to commence work will not be deemed to be a waiver by HHSC and CONTRACTOR will remain under continuing obligation to maintain and provide proof of the insurance coverage.

(2) The insurance specified above will be carried until all services required to be performed under the terms of the Agreement are satisfactorily completed. Failure to carry or keep such insurance in force will constitute a violation of the Agreement, and HHSC maintains the right to stop work until proper evidence of insurance is provided.

(3) The insurance will provide for 30 calendar days prior written Notice to be given to HHSC in the event coverage is substantially changed, canceled, or non-renewed. CONTRACTOR must submit a new coverage binder to HHSC to ensure no break in coverage.

(4) CONTRACTOR will require all subcontractors operating in Texas to carry the same or more coverage as CONTRACTOR is required to carry under the Agreement. CONTRACTOR may provide the coverage for any subcontractor, and, if provided, the evidence of insurance submitted will so stipulate.

(5) The Parties understand and agree that any insurance coverages and limits furnished by CONTRACTOR will in no way expand or limit CONTRACTOR's liabilities and responsibilities specified within the Contract documents or by applicable law.

(6) CONTRACTOR and each subcontractor will require that insurer will waive their rights of subrogation against HHSC.

(7) CONTRACTOR understands and agrees that any insurance maintained by HHSC will apply in excess of and not contribute with insurance provided by CONTRACTOR under the Agreement.

(8) If CONTRACTOR, or its subcontractor(s), desire additional coverage, higher limits of liability, or other modifications for its own protection, CONTRACTOR and each of its subcontractors will be responsible for the acquisition and cost of this additional protection at no additional cost to HHSC.

(9) CONTRACTOR may not transport a client or conduct any other official business on behalf of HHSC without the required coverage of the Agreement. CONTRACTOR agrees and understands that HHSC will not be liable for any accident or death due to an automobile accident involving the CONTRACTOR or CONTRACTOR's employee, even if the accident or death occurs in the course of performing any work under the Agreement. Failure to meet this provision may be considered a material breach of the Agreement.



Section 16.06 Background Checks.

CONTRACTOR must obtain a criminal background check, including fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation, on any Contractor's employees or agents, including Subcontractors and Subcontractor employees or agents, who would be placed in direct contact with a resident or client.

CONTRACTOR must also perform checks against the Nurse Aide Registry and the Employee Misconduct Registry maintained on DADS' Employability Status Check Search website. CONTRACTOR must perform any criminal background checks at its expense and should limit its search to the United States of America.

CONTRACTOR will not utilize an employee, Subcontractor, or Subcontractor's employee to perform a site visit or have any contact with stakeholders, patients, residents, or their family members if:

(a) CONTRACTOR determines, as a result of a criminal background check, that the person has been convicted of an offense listed in Tex. Health & Safety Code § 250.006 that bars employment or if the Consultant makes a reasonable determination that a conviction may pose a risk to any stakeholders, patients, residents, or their family members; or

(b) the employee or Subcontractor or Subcontractor's employee is listed in the Nurse Aide Registry or the Employee Misconduct Registry.

☒ **Section 16.07 Historically Underutilized Business Participation Requirements**

This Subsection applies if HHSC determined that sub-contracting opportunities were probable for the procurement/contract.

(a) Definitions.

For purposes of this Section:

(1) "**Historically Underutilized Business**" or "**HUB**" means a minority or women-owned business as defined by Texas Government Code, Chapter 2161.

(2) "**HSP**" means a HUB Subcontracting Plan.

(b) HUB Requirements.

(1) Contractor must submit an HSP for HHSC's approval.

(2) Contractor must report to HHSC's contract manager and HUB Office monthly, in the format required by the HUB Office, its use of HUB subcontractors to fulfill the subcontracting opportunities identified in the HSP.

(3) If the Parties amend the Agreement to include additional funds or a change to the Scope of Work, the Contractor must submit a revised HSP to the HHSC HUB Office, when a determination is made for additional subcontracting opportunities. All proposed changes to the HSP must comply with the requirements of **Section 16.07(b)(4)**.

(4) Contractor must obtain prior written approval from the HHSC HUB Office before making any changes to the HSP. The proposed changes must comply with HHSC's good faith effort requirements relating to the development and submission of HSPs.

(5) HHSC will determine if the value of Subcontracts to HUBs meet or exceed the HUB subcontracting provisions specified in the Contractor's HSP. If HHSC determines that the Contractor's subcontracting activity does not demonstrate a good faith effort, the Contractor may be subject to provisions in the Vendor Performance and Debarment Program

(34 Tex. Admin. Code Chapter 20, Subchapter C), and subject to remedies for Breach.

**HHS Procurement and Contracting Services****SOLICITATION ADDENDUM #1****SOLICITATION ADDENDUM #1:
for
SOLICITATION:#529-16-0006****Date: 4/29/2015****PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540****Date Due: & Due Time: April 30, 2015 @ 8:15 am
Month /Day/ Year****DESCRIPTION OF THE ADDENDUM:**

This Addendum is issued to reflect the following information, clarification or change:

1. Correct Procurement Schedule
2. Modify Section 1.4 Mission Statement
3. Modify Section 2.2 Project Scope
4. Modify Section 2.4 Eligible Respondents

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____

Modify Section 1.3 "**Procurement Schedule**" which reads:

Procurement Schedule	
RFP Release Date	April 21, 2015
Vendor Conference Location: Brown Heatly Public Hearing Room, 4900 North Lamar Blvd. Austin TX 78756	April 28, 2015 10:00 am
Vendor Questions Due	April 29, 2015 @ 2:00 pm
HHSC Posts Responses to Vendor Questions	May 4, 2015
Proposals Due	May 14, 2015 @ 2:00 pm
Deadline for Proposal Withdrawal	May 14, 2015
Tentative Award Announcement	June 24, 2015
Anticipated Contract Start Date	September 1, 2015

To read:

Procurement Schedule	
RFP Release Date	April 21, 2015
Vendor Conference Location: HHSC, 909 W 45th Street Bldg 2, Room 164. Austin TX 78756	May 1, 2015 9:00 am to 11:30 am
Vendor Questions Due	May 6, 2015 @ 2:00 pm
HHSC Posts Responses to Vendor Questions	May 11, 2015
Proposals Due	May 14, 2015 @ 2:00 pm
Deadline for Proposal Withdrawal	May 14, 2015
Tentative Award Announcement	June 24, 2015
Anticipated Contract Start Date	September 1, 2015

Modify Section 1.4 "Mission Statement" which reads:

Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located.

To read:

Respondent must be physically located in Texas with a call center located within at least one of the service regions for which the respondent is applying, and (if applicable) have a permanent staff presence in at least one outlying county per region for which the respondent is applying. An outlying county is one that neither borders, nor is, the county in which an applicant's call center is located.

Modify Section 2.2 "Project Scope" which reads:

Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located.

To read:

Respondent must be physically located in Texas with a call center located within at least one of the service regions for which the respondent is applying, and (if applicable) have a permanent staff presence in at least one outlying county per region for which the respondent is applying. An outlying county is one that neither borders, nor is, the county in which an applicant's call center is located.

Modify Section 2.4 "Eligible Respondents" which reads:

Respondent must be physically located in Texas with a call center located within the service region, and (if applicable) have a permanent staff presence in at least one outlying county. An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located.

To read:

Respondent must be physically located in Texas with a call center located within at least one of the service regions for which the respondent is applying, and (if applicable) have a permanent staff presence in at least one outlying county per region for which the respondent is applying. An outlying county is one that neither borders, nor is, the county in which an applicant's call center is located.



HHS Procurement and Contracting Services

SOLICITATION ADDENDUM #2

SOLICITATION ADDENDUM #2:
for
SOLICITATION:#529-16-0006

Date: 4/29/2015

PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540

Date Due: May 14, 2015**Due Time:** 2:00 pm**DESCRIPTION OF THE ADDENDUM:**

This Addendum is issued to reflect the following information, clarification or change:

1. Modify Procurement Schedule to change date that HHSC will post responses to Vendor Questions.
2. Attach Vendor Conference PowerPoint Presentation which was held on 5/1/2015.
3. Attach Vendor Conference Sign-in Sheet.

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____

Modify Section 1.3 "**Procurement Schedule**" which reads:

Procurement Schedule	
RFP Release Date	April 21, 2015
Vendor Conference Location: HHSC, 909 W 45th Street Bldg 2, Room 164. Austin TX 78756	May 1, 2015 9:00 am to 11:30 am
Vendor Questions Due	May 6, 2015 @ 2:00 pm
HHSC Posts Responses to Vendor Questions	May 11, 2015
Proposals Due	May 14, 2015 @ 2:00 pm
Deadline for Proposal Withdrawal	May 14, 2015
Tentative Award Announcement	June 24, 2015
Anticipated Contract Start Date	September 1, 2015

TO READ:

Procurement Schedule	
RFP Release Date	April 21, 2015
Vendor Conference Location: HHSC, 909 W 45th Street Bldg 2, Room 164. Austin TX 78756	May 1, 2015 9:00 am to 11:30 am
Vendor Questions Due	May 6, 2015 @ 2:00 pm
HHSC Posts Responses to Vendor Questions	May 8, 2015
Proposals Due	May 14, 2015 @ 2:00 pm
Deadline for Proposal Withdrawal	May 14, 2015
Tentative Award Announcement	June 24, 2015
Anticipated Contract Start Date	September 1, 2015



HHS Procurement and Contracting Services

SOLICITATION ADDENDUM #3

SOLICITATION ADDENDUM #3:

for

SOLICITATION:#529-16-0006

Date: 4/29/2015

PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540

Date Due: May 14, 2015**Due Time:** 2:00 pm**DESCRIPTION OF THE ADDENDUM:**

This Addendum is issued to reflect the following information, clarification or change:

1. Provide further clarification referencing Section 1.7.2 Contract Elements and Section 1.7.3 Data Use Agreement (DUA) of RFP 529-16-0006.

There is no need to complete the DUA or to agree to be bound by the DUA in order to submit a response.

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____



HHS Procurement and Contracting Services

SOLICITATION ADDENDUM #4

SOLICITATION ADDENDUM #4:
for
SOLICITATION:#529-16-0006

Date: 5/7/2015

PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540

Date Due: May 14, 2015**Due Time: 2:00 pm****DESCRIPTION OF THE ADDENDUM:**

This Addendum is issued to reflect the following information, clarification or change:

1. Following Appendices have been updated to allow Respondent to more easily complete these form per RFP 529-26-0006:
 - a. Appendix B Special Projects
 - b. Appendix D Financial Capacity
 - c. Appendix E Internal Control Questionnaire
 - d. Appendix J Hub Subcontracting Plan

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____



HHS Procurement and Contracting Services

SOLICITATION ADDENDUM #5

SOLICITATION ADDENDUM #5:
for
SOLICITATION:#529-16-0006

Date: 5/8/2015

PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540

Date Due: May 14, 2015**Due Time: 2:00 pm****DESCRIPTION OF THE ADDENDUM:**

This Addendum is issued to reflect the following information, clarification or change:

- 1. Correct Numbering Sequence of Section 3.15.1, page 40 of RFP**
- 2. Provide Responses to 2-1-1 Texas Information and Referral Network (TIRN)-Community Access and Services Vendor Questions starting on page 3 of this Addendum.**

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____

3.15.1.5. Section 5 - Warm Center Narrative

Under this RFP, only three respondents will be selected to operate as a Warm Center. Only respondents desiring to serve as a Warm Center must submit a narrative describing the strategy/strategies the respondent's organization's ability and capacity to meet the eligibility criteria to function as a Warm Center. Additionally, the respondent must provide a detailed description of the strategy/strategies the respondent intends to use to ensure the provision of the expanded disaster related activities outlined in Section 2.2.10 D – Warm Center Responsibilities.

3.15.1.6. Section 6 – Value-added Benefits

Describe any services or deliverables that are not required by the RFP that the respondent proposes to provide at no additional cost to HHSC. Respondents are not required to propose value-added benefits, but inclusion of such benefits may result in a more favorable evaluation.

3.15.1.7. Section 7 – Assumptions

State any business, economic, legal, programmatic, or practical assumptions that underlie the respondent's response to the Business Proposal. HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFP are deemed rejected by HHSC.

3.15.1.8. Section 8 – Appendices

Include the following appendices to the respondent's Business Proposal:

Appendix B	Special Project Form
Appendix D	Financial Capacity
Appendix E	Internal Control Questionnaire
Appendix F	Cost Proposal - Budget Worksheet
Appendix G	Data Use Agreement

3.15.1.9. Section 9 – HUB Subcontracting Plan

Attach the respondent's Historically Underutilized Business (HUB) Subcontracting Plan. Instructions for completing this section are in Section 4 of this RFP.

3.15.1.10. Section 10 – Certifications and Other Required Forms

Respondents must submit the following required forms with their proposals:

Child Support Certification;
Debarment, Suspension, Ineligibility, and Voluntary Exclusion of Covered Contracts;
Federal Lobbying Certification;
Nondisclosure Statement; Required Certifications;
Respondent Information and Disclosures and
Anti-Trust Certification

**Request for Proposal for
2-1-1 TIRN
RFP No. 529-16-0006
Responses to Questions**

Item	Vendor Question	Responses
1.	<p>Section states "Respondent must be physically located in Texas with a call center located within the service region and (if applicable) have a permanent staff presence in at least one outlying county."</p> <p>If an agency has been providing services for a region through an existing HHSC/TIRN contract and has a permanent staff member physically located within that region, yet does not have a call center physically located within the service region, is the agency eligible to apply for the region?</p>	<p>Respondent must be physically located in Texas with a call center located within at least one of the service regions for which the respondent is applying.</p> <p>In addition, a respondent must have a permanent staff presence in at least one outlying county, per region, for which the respondent is applying. An outlying county is one that neither borders, nor is, the county in which an applicant's call center is located.</p>
2.	<p>What does "Respondent must be physically located in Texas with a call center located within the service region and (if applicable) have a permanent staff presence in at least one outlying county?"</p> <p>An outlying county is one that neither borders the county in which the call center is located, nor in the county in which the call center is located. At a minimum the respondent must provide services stated in Service Coverage reference 2.2.9 throughout all counties in the service region." Mean?</p>	<p>Respondent must be physically located in Texas with a call center located within at least one of the service regions for which the respondent is applying.</p> <p>In addition, a respondent must have a permanent staff presence in at least one outlying county, per region, for which the respondent is applying. An outlying county is one that neither borders, nor is, the county in which an applicant's call center is located.</p>
3.	Can we submit the response of this RFP without current AIRS accreditation? We can process the accreditation through AIRS ASAP but might not be certified before the RFP due date.	Respondents must be accredited or have a current "conditional" accreditation status at the time of submission of the proposal. HHSC requires proof that accreditation is pending.
4.	Does the subcontractor company also need AIRS accreditation?	Any contractor/subcontractor that performs activities outlined in sections 2.2.1, 2.2.2, 2.2.4, 2.2.5, 2.2.6, 2.2.7 must be accredited or have a current "conditional" accreditation status at the time of submission of the proposal. HHSC requires proof that reaccreditation is pending through AIRS.
5.	Do you have a list of these requirements that you can provide me?	Addendum will be issued on 5/11/15 to incorporate the Computer and Software Requirements Document into the RFP

Item	Vendor Question	Responses
6.	For the provision of providing services during normal operations, are the TIRN/AIC Operating Rules still in play? These Rules allow for each AIC to be logged off for a total of 96 hours annually	The TIRN/AIC Operating Rules are not considered a binding document, nor part of this procurement or resulting contracts. Rules pertaining to logged off time will be determined during the negotiation phase of this procurement prior to the contract start date.
7.	What are “automatic audits” that will measure database data upload quality?	“Automatic audits” in this case refers to a data quality and style check performed via protocol during scheduled daily conversion of the resource database.
8.	Please define “documented in writing.” Does this require original signature or is electronic documentation acceptable?	Electronic documentation is acceptable unless otherwise instructed.
9.	What are the “contract retention requirements”?	Please see Uniform Terms and Conditions (UTCs), Article 8, Section 8.01.
10.	Can response to this section be narrowed to just addressing service delivery in crisis intervention and not co-mingled with operational tools like COOP? Or is this to be about disaster preparedness?	Yes, response to this Section 2.2.2, We can address service delivery as described in the section. COOP can be addressed in response to Section 2.2.5, C.
11.	Please provide timeline clarification. Section H requires compliance 90-days and Section I allows for compliance within the first year.	Section 2.2.5, H stipulates a 90-day timeline for Front Line Supervisors, Resource Managers, Call Center Managers, and Directors. One-year timeline included in Section 2.2.5, I pertains to all other staff.
12.	Please provide clarification regarding FTEs vs. trained individuals. TIRN Disaster Protocols for Warm Centers currently allows for these duties to be handled by trained volunteers. Will this still be acceptable or must they be employees?	Yes, this will still be acceptable. Facilities must be able to house 20 additional staff/trained volunteers that are present for long hours and not sharing workstations.
13.	Please clarify the use Relies in these articles. Might this be referring to “disaster records” in the current resource software rather than online learning software?	The use of "Relies" is corrected to read: the Network's Customer Relationship Management (CRM)/statewide database software application.
14.	Please provide clarification or an example of what is being sought by the use of the term “references”.	Please provide project name, contact information for the entity with which the respondent partnered, and details about the project that relate to this RFP.
15.	How many sealed budget packages are to be submitted?	One sealed packet must be submitted.
16.	Does the budget go on the flash drive?	Yes, it must be on the flash drive.
17.	Will you be able to post answers to questions as soon as you can, rather than wait until May 11 to post all answers? This will help us as we go through the RFP writing process.	Addendum #2 issued changing date of responses to be posted to May 8, 2015.

Item	Vendor Question	Responses
18.	The references for projects completed in the last five years – do you just need name and contract information or do you want letters of reference?	Please provide project name, contact information for the entity with which the respondent partnered, and details about the project that relate to this RFP.
19.	Letter b at top of page – What and where is “Section VI”?	This is corrected to read: Resumes must demonstrate experience germane to the position proposed in Section H Staff Responsibility and Minimum Requirements.
20.	Can we get the Special Projects form in a writable version (Word vs. PDF)?	Addendum 4 attaches Special Projects Form on the HHSC website as an editable form.
21.	Sections are numbers wrong	Page 40 has been corrected in Addendum #5
22.	Can we get the Financial Capacity form in a writable version (Word vs. PDF)?	Addendum 4 attaches Financial Capacity Form as an editable form.
23.	Can we get the Internal Control Questionnaire in a writable version (Word vs. PDF)?	Addendum #4 attaches Internal Control Questionnaire as an editable form.
24.	In the past, we have received a separate contract for Child Care. Does this new funding amount include the Child Care funds, or will those still be separate?	The funding amount in this RFP does not include funding for Child Care Information & Referral. Funding for Child Care Information & Referral, if applicable, will be separate.
25.	For the last two years we have received additional funding for staffing during peak hours. Will this funding be continued, or do we need to use the funding amount listed for salaries of this additional staff if we choose to keep them?	The funding amount listed for this procurement is the maximum amount allotted per region. For applicable regions, additional funding previously awarded as referenced in this question is now incorporated into maximum funding allotted per region as outlined in Appendix F.
26.	Can we get the HUB forms in a writable version (Word vs. PDF)?	Addendum #4 attaches HUB Subcontracting Plan as an editable form.
27.	Please clarify Trade Secrets	Please refer to Texas Government Code 552.10(b) says "Commercial or Financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm. Please refer to the Attorney General's Public Information Handbook, page 112.
28.	Data Use Agreement - we've recently turned in. Didn't really understand. How do we know what minimum requirements we should meet? What are the AIC responsibility vs TIRN HHSC?	Addendum #3 provides further clarification of the Data Use Agreement.
29.	Why are we given such limited time to work on the proposal due May 14, 2015?	To give adequate time to get contracts awarded in order to meet anticipated contract start date of 9/1/2015.
30.	Will the projected funding be tied to page 62 of Appendix C amounts shown for 2014 or will it be based on the formula amounts and \$ shown on the RFI earlier this year?	Project Funding will be Tied to Appendix C of RFP 529-16-0006.

Item	Vendor Question	Responses
31.	What is the formula that will be used to determine the funding for each AIC and is the funding formula different for AIC's that handle calls 24/7 vs 8 hrs. a day, 5 days a week?	Project Funding will be tied to Appendix C of RFP 529-16-0006.
32.	Is external IT considered a subcontractor?	Yes, if not employees of organization.
33.	Can references be listed or must they be letters?	References can be listed.
34.	Please clarify corporate background and experience.	Please provide project name, contact information for the entity with which the respondent partnered, and details about the project that relate to this RFP.
35.	Does all staff require resumes with three references? Or is it key staff? Or for the organization?	Resumes are required for Key Staff, as referenced in section H of project scope 2.2. Organizations require three references, as referenced in section 3.15.1.2.
36.	Can you clarify the meaning of Web Chat? Are you referencing to something similar to Skype?	Web chat is a system that allows users to communicate in real time using easily accessible web interfaces, such as instant messaging.
37.	How to attach the budget, is listed in 2 places One says to include it in a sealed envelope. The other say attach as an Appendix. They are reported on page 43 and 46. Is the budget part of Par 2 and Part 3? How do you want it submitted?	Respondents must place the Budget in a separate, sealed envelope per Section 3.15.3 Part 3 - Cost Proposal of the RFP.
38.	Please clarify the types of Special Projects and References that have to be listed on resumes and under Corporate Background and Experience.	Respondents should provide references and information about projects that related to the work required in the RFP. References and projects will differ by respondent.
39.	What type of milestones are you looking for on the timeline?	Milestones are benchmarks that demonstrate the respondent's expected progress towards implementing the work outlined in the RFP. Milestones will differ by respondent.
40.	Is a budget worksheet required for a Warm Center Proposal?	Yes
41.	Is the Special Projects Form B mandatory or optional?	This Special Projects Form B is not a part of the respondent's response to this RFP. Special Projects Form B is a mandatory part of the special projects application process for respondents that are awarded a contract resulting from this RFP. Reference 2.2.9 of RFP and Appendix B Special Projects Form.
42.	Do maximum funding amounts in Appendix C include Child Care?	The funding amount in this RFP does not include funding for Child Care Information & Referral. Funding for Child Care Information & Referral, if applicable, will be separate.

Item	Vendor Question	Responses
43.	Do we need to plan for quarterly TIRN meetings in Austin? The past year we only had 2 meetings, not 4	Respondents should plan for no fewer than 4 meetings annually where travel is required. It is unlikely that TIRN meetings for which travel is required will occur more than four times annually. For such meetings, it is generally required that only one (1) staff person attend from each AIC. Namely, the staff whose role most closely relates to the meeting subject (e.g. Directors Meeting).
44.	Will the 211 contract be a vendor agreement (from our agency CFO)?	No, they will be sub recipient contracts.
45.	Will HHSC acknowledge accredited agencies that are in process of re-accreditation despite our accreditation expiring in June? AIRS lists as accredited because we are in process.	Respondents must be accredited or have a current "conditional" accreditation status at the time of submission of the proposal. HHSC requires proof that accreditation is pending.
46.	Who are the incumbent vendors?	We do not know who will be applying. If this question pertains to current vendors, an interactive list, by region, is available here: https://211texas.hhsc.state.tx.us/211/aicMap.do
47.	How many vendors are currently doing this work?	24
48.	Will you allow the HUBS to stand and introduce themselves to the group? This is a large group and we would like to introduce ourselves to the group.	We make an effort to have HUB vendors identify themselves during the conference; however, we encourage all contractors to network amongst themselves during questions and answers break.
49.	Would (vendor) still be considered a HUB subcontractor:	Addendum will be issued on 5/11/15 to respond to this item.
50.	If we are subcontracting with another AIC for after hour weekends and holiday and they are not on the list of vendors. Where do we get the VIN numbers and do we still need to contract 3 other HUBS and other organizations?	YES, you will need to make a good faith effort to include HUB by soliciting the subcontracting opportunity to at least 3 HUB and 2 Minority/Women trade organizations. If a Non-HUB is selected, justification as to why a non-HUB vs HUB was selected should be clearly stated in Section B-4 (c) of Attachment B of the HSP. It is suggested that you obtain VIN from all subs.
51.	What constitutes Administrative Services, Health?	For further clarification, please log on to the Centralized Master Bidders List at the following website: https://mycpa.cpa.state.tx.us/tpasscmbldsearch/index.jsp .
52.	If we use Method V and will not subcontract with HUBS will our proposal be looked down upon?	No, make sure you provide detailed explanation as to how you intend to self-perform utilizing your own employees, equipment, materials and supplies.

Item	Vendor Question	Responses
53.	If no HUB's respond to our "Opportunity Notification," is the appropriate response on Method B form, Section B-4c, "No HUBS responded"	Yes, "No HUB Responded" can be an adequate response in this case; however, you will need to submit: 1. Initial notification sent 2. Confirmation of receipt (read receipt or signature verifying certified letter receipt) and 3. Copy of search criteria used (Class, Item Code, etc)
54.	Does "each proposal must be separately marked and must reference a specific 2-1-1 Area Information Center Region and offer a complete solution in accordance with the RFP requirements." Refer to a single AIC region in the current Texas Information and Referral network or can it include multiple AIC regions?	A separate proposal must be submitted for each AIC region.
55.	Should \$5,000 be replaced by \$500 in "Equipment is defined as tangible nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than one year? Equipment includes the following controlled assets with an acquisition cost of \$500 or more: desktop and laptop computers, non-portable printers and copiers, emergency management equipment, communication devices, systems and medical equipment."	The first sentence of this quoted portion is corrected to read: Equipment is defined as tangible nonexpendable personal property with an acquisition cost of \$500 or more and a useful life of more than one year.
56.	We are requesting the possibility of getting a short extension date on RFP #529-16-0006, after spending the weekend working on parts of our response. We realize that it is going to take some time to complete. The main reason for this request is that we are also preparing for the AIRS Accreditation site visit that has been scheduled for May 11th. Attached is the letter received from AIRS and the agenda, we ask that you please consider our request	In order to ensure a contract start date of 9/1/2015, all proposals pertaining to RFP #529-16-0006 are due 5/14/2015.
57.	One of the forms required to submit is the Respondent Information and Disclosures Form. Part 6 of this form asks for disclosure of litigation. What is the reason for needing this information	Litigation represents a potential threat to business operations, which would threaten HHSC's ability to fulfill its mission as pertains to this procurement.
58.	There are 3 million calls for a year (1.5 million per year) monthly will be 10,000 per month, but based on the information, the 2-1-1 call about 10,000 per month. Why has a difference?	Clarification: For the past two years, 3 million calls were received each year. It is unclear to what requirement the rest of this question is referring.

Item	Vendor Question	Responses
59.	Does the subcontractor also need to be accredited to provide the service?	Any contractor/subcontractor that performs activities outlined in sections 2.2.1, 2.2.2, 2.2.4, 2.2.5, 2.2.6, 2.2.7 must be accredited or have a current "conditional" accreditation status at the time of submission of the proposal. HHSC requires proof that reaccreditation is pending through AIRS.
60.	Which company is the current provider?	An interactive list of current contractors, by region, is available here: https://211texas.hhsc.state.tx.us/211/aicMap.do
61.	I am assuming that I need to complete this for both the 2-1-1 Service Contract and the Childcare Contract. Is that correct?	It is unclear to what requirement this question is referring.
62.	Since this is a posted RFP that means it is open to all agencies not just current contractors with the state, correct?	This is correct. RFP is open to all applicants who meet minimum requirements detailed in the RFP.
63.	We are using Method 3, a mixture of HUB and non-HUB vendors. On page 97 of the RFP, the HUB form asks for the Aggregate percentages of the contract expected to be subcontracted. How do I calculate that?	Your best estimate is what is needed.
64.	Out of the entire grant, there is \$8,600.00 available for subcontracting opportunities. My understanding is that I am required to subcontract at least 26% of this amount. Is that correct?	No response is provided due to page or Section Number not being identified. It is unclear what is being asked.
65.	I was looking over the funding page and was curious why our AIC was so low compared to Houston, Austin, and Dallas. We are one of three 24/7 centers and our United Way funds over \$800,000 additional to keep this center operational. Is the dollar amount proposed a final number or can we submit for a greater amount?	Project Funding will be tied to Appendix C of RFP 529-16-0006.
66.	How many copies of the following documents do we need to enclosed in sealed package: Appendix F -Cost Proposal Appendix D-Financial Capacity Appendix E-Internal Control Questionnaire	Please reference Section 3.14.2 Submission of the RFP

Item	Vendor Question	Responses
67.	I am a little confused about "Appendix G" that is mentioned on page 40 of the RFP. It states that appendix G is the data use agreement. All I find in Appendix G is definitions. Is the data use agreement located somewhere else?	Addendum #3 provides further clarification of the Data Use Agreement.
68.	One more question ... There is a cover sheet for Appendix F, but no budget worksheet. Where is the budget worksheet located?	Appendix F Budget worksheet is a separate attachment to the RFP. HHSC website under RFP Documents
69.	What are the consequences to not achieving the 100% data quality passing rate? While having no margin of error may be ideal, when human beings are performing data entry, having no margin of error seems somewhat unrealistic over the course of time.	Contractors are made aware of non-compliance and given opportunities to make correction.
70.	Do the contractors awarded to provide the services described in this RFP receive copies of the measured outcomes?	Yes - Outcome measurements administered by HHSC/TIRN will be shared with the contractor in question upon request.
71.	What happens if awarded contractor has older computers or version of software?	Contractors will be expected to meet the minimum requirements outlined in computer and software requirements of the RFP. An Addendum will be issued to include a Computer and Software Requirements Document.
72.	What formula was used to determine the expected annual call volume for any region is equal to approximately 15% of the population of that region?	Addendum will be issued on 5/11/15 to respond to this item.
73.	Do proposed contractors have to submit resumes of subcontractors?	Resumes are required for Key Staff, as referenced in section H of project scope 2.2. Organizations require three references, as referenced in section 3.15.1.2.
74.	How do proposed contractors answer these questions for HHSC/TIRN software and hardware components that are used? (e.g., phones, statewide database, etc.)	Respondents need only provide details on software and hardware that the respondent proposes to use, which are not provided by HHSC/TIRN.
75.	Please, confirm that Cost Proposal (Appendix F) is submitted for FY2016 budget period only and <u>not</u> for multi-fiscal years.	Each respondent's cost proposal should be submitted for the FY 2016 budget period. Maximum funding amounts in Appendix F apply to each contract year.
76.	Do proposed contractors have to complete and submit Special Project Requests for the mandated Special Projects mentioned in the RFP?	This Special Projects Form B is not a part of the respondent's response to this RFP. Special Projects Form B is a mandatory part of the special projects application process for respondents that are awarded a contract resulting from this RFP. Reference 2.2.9 of RFP and Appendix B Special Projects Form.

Item	Vendor Question	Responses
77.	Will HHSC allow the 2-1-1 centers to use their own cloud based contact center technology in order to save the state money, reduce complexity, add reliability, and improve the customer experience?	HHSC/TIRN may allow, on a case-by-case basis, the use of contact center solutions of various types. Respondents with existing contact center cloud-based solutions for improved services should detail such solutions in their proposal. Please note that additional contact center technologies of this kind are not reimbursable expenses.



HHS Procurement and Contracting Services

SOLICITATION ADDENDUM #6

SOLICITATION ADDENDUM #6: for SOLICITATION:#529-16-0006

Date: 5/11/2015

PCS Purchaser/Contract Administrator: Diana McIntosh
Phone: 512-206-4782
Fax: 512-424-4540

Date Due: May 14, 2015

Due Time: 2:00 pm

DESCRIPTION OF THE ADDENDUM:

This Addendum is issued to reflect the following information, clarification or change:

- 1. Provide additional Responses to 2-1-1 Texas Information and Referral Network (TIRN)-Community Access and Services Vendor Questions**
- 2. Add Appendix K to Table of Contents for RFP to read as follows:
Appendix K Computer and Software Guide for Area Information Centers**
- 3. Attach Appendix K Computer and Software Guide for Area Information Centers.**

Failure to acknowledge receipt of this addendum may result in response rejection. Respondents may acknowledge receipt by one of the following methods:

1. Sign and return this addendum to HHSC-PCS with the solicitation response; or
2. Acknowledge receipt of this addendum on face of your response, **or**;
3. If response has already been submitted by respondent, respondent may acknowledge receipt by signing and faxing the addendum to the fax number above prior to solicitation due date and time:

Authorized Signature: _____

Date: _____

Printed or Typed Name of Authorized Signature: _____

Business Entity Name: _____

**Request for Proposal for
2-1-1 TIRN
RFP No. 529-16-0006
Responses to Questions**

Item	Vendor Question	Responses
5	Do you have a list of these requirements that you can provide me?	Computer and Software Guide for Area Information Centers is attached and identified as Appendix K.
49.	Would (vendor) still be considered a HUB subcontractor:	A response is not available at this time.
63.	We are using Method 3, a mixture of HUB and non-HUB vendors. On page 97 of the RFP, the HUB form asks for the Aggregate percentages of the contract expected to be subcontracted. How do I calculate that?	The total percent of all of the expected percentages identified for each subcontracting opportunity.
71.	What formula was used to determine the expected annual call volume for any region is equal to approximately 15% of the population of that region?	This is TIRN/HHSC's best estimate for annual call volume by region

2-1-1 Texas Information and Referral Network (TIRN)

RFP No. 529-16-0006

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APPENDIX K

Computer and Software Guide for Area Information Centers

Texas Information and Referral Network (TIRN)

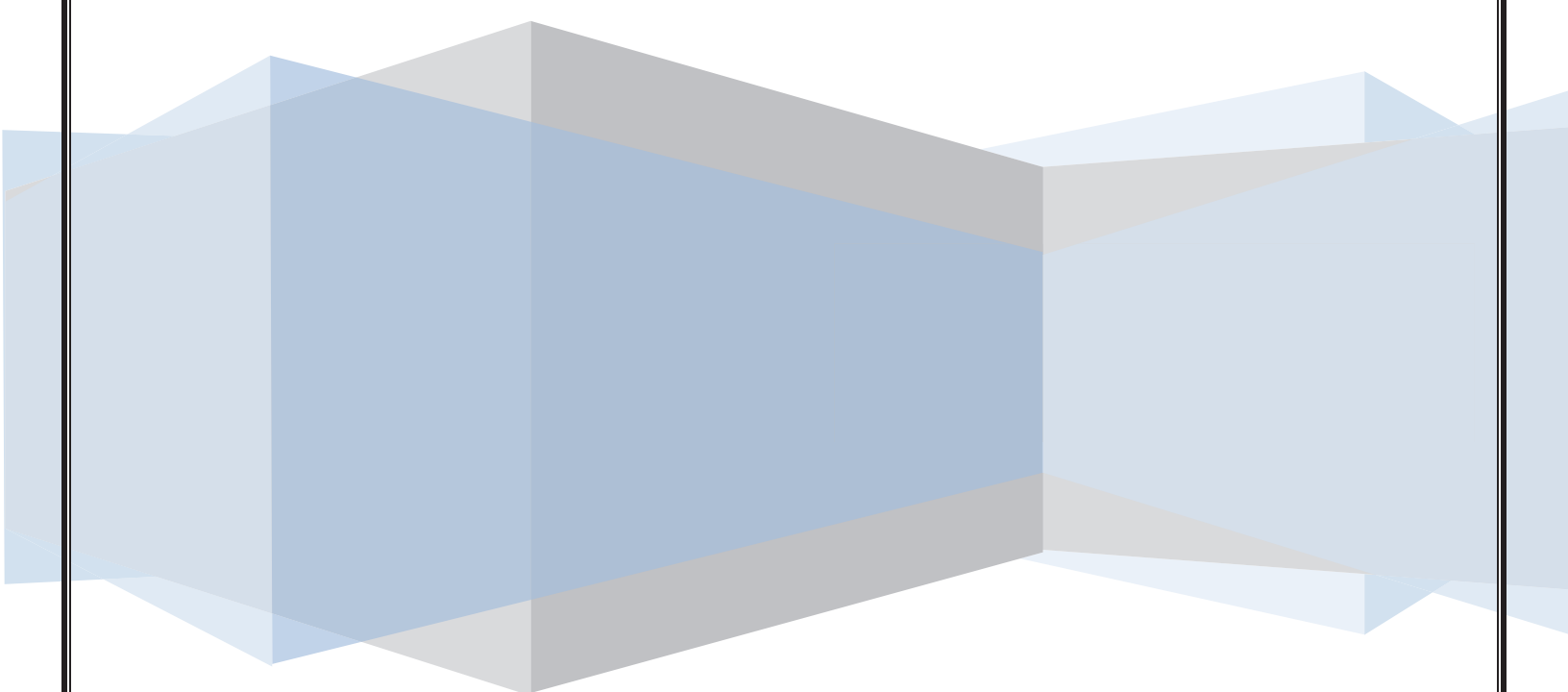


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TEXAS HEALTH AND HUMAN SERVICES COMMISSION – 2-1-1 TIRN COMPUTER AND SOFTWARE REQUIREMENTS for AICS

Purpose

HHSC/TIRN requires contracted Area Information Centers (AICS) to meet the computer and software requirements outlined in this document in order to ensure compliance with requirements set forth in RFP/Contract Scope of Work.

Computer Requirements

- 1) Computers used by Call Specialists and AIC key staff must be compatible with HHSC/TIRN software requirements (*see Software Requirements below*). As such, computers used by Call Specialists must be PCs.
- 2) AICs must provide one computer per workstation (one computer per HHSC/TIRN-provided phone in use). Each simultaneously working staff must have his/her own computer to use.
- 3) Computers must be able to run multiple software applications simultaneously (e.g. Microsoft Outlook, multiple internet browser windows) without processing-related slowness. Computers used by Resource and Report Specialists must be able to process operations on large datasets in two or more instances of Microsoft Excel 2010 simultaneously without occurrences of program or computer crashing. Specifically, computers should meet the following specifications:
 - a. 1+ GHz CPU
 - b. 1+ GB Drive Space
 - c. 1+ GB RAM
 - d. Sound Card
- 4) Computer must be secure, employing a user login specific to either the computer itself or its primary user.
- 5) Administrative user access should be restricted to IT staff, and AIC key staff. Administrative users must periodically review installed software on all computers to ensure that unnecessary or unwanted programs and applications have not been installed.

Software Requirements¹

- 1) One of the following Windows Operating Systems:²
 - a. Windows 7
 - b. Windows 8
- 2) The following browsers and versions:²
 - a. Mozilla Firefox, v37 or later
 - b. Internet Explorer (IE) 8
- 3) The following browser settings and plug-ins:
 - a. Cookies enabled
 - b. Allow ActiveX Filtering enabled for ActiveX plug-ins
 - c. Java Plug-in, 1.7_7 or later
 - d. Oracle JRE 1.7.7 (Update 30 or higher)
- 4) Most recent version of TIRN's current CRM software application (if applicable).
- 5) Most recent versions of all TIRN telephony-related software applications (if applicable).
- 6) Most recent version of TIRN's currently preferred webinar software application (e.g. GoToWebinar).³
- 7) Email client used by the AIC (e.g. Microsoft Office).
- 8) Anti-Virus software.
- 9) Microsoft Office – one of two most recent versions.
- 10) Adobe Reader – one of two most recent versions.
- 11) Adobe Flash Player – one of two most recent versions.

¹ Software Requirements apply to all computers used by Call Specialists and AIC Key Staff.

² HHSC/TIRN may update operating system or browser requirements at any time and notify AICs via email. AICs must be compliant with updated browser requirements within 48 hours and operating system requirement within 7 business days of such a notification.

³ Webinar software does not need to be installed on computers that are not used for webinar-participation. For example, some AICs may prefer to have staff participate jointly using a computer in a shared space, such as a meeting room.

**AGREEMENT BETWEEN
THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION
AND
UNITED WAY FOR GREATER AUSTIN FOR
2-1-1 TEXAS INFORMATION & REFERRAL SERVICES
FOR INFORMATION AND REFERRAL SERVICES**

EXHIBIT C

AGREED PLAN OF OPERATIONS IN ITS FINAL AGREED UPON CLARIFICATIONS AND MODIFICATIONS

**2-1-1 Texas
Information and Referral
Network – United Way for
Greater Austin: Warm Center
Plan of
Operations
FY 2016 Contract**

BACKGROUND:

Texas Government Code, Chapter 531, designates the responsibility for developing, coordinating, and implementing a statewide information and referral network to HHSC. As a result, HHSC developed the 2-1-1 Texas Information & Referral Network which provides a single, statewide number that consumers can dial for information about community resources. A major success of this effort has been the 2-1-1 dialing code – single, statewide number consumers can dial for information about community resources. In the past two years 2-1-1 TIRN has handled over six million calls for comprehensive information and referral statewide.

2-1-1 TIRN works with other state agencies and statewide organizations to improve customer access to information regarding all health and human services available in Texas. In addition to comprehensive information and referral telephony services, 2-1-1 TIRN works as part of the Governor’s Homeland Security Strategic Plan to provide hazard and emergency information to the public. 2-1-1 TIRN also ensures that its statewide database is available as an easy-to-use directory on a centralized public website.

Nationwide, the trend is toward greater efficiency and improved quality of government services. 2-1-1 Texas Information & Referral Network participates in a myriad of collaborative projects and programs that serve the citizens of Texas.

Under this contract, United Way for Greater Austin, herein referred to as “Contractor” agrees to provide services as described herein to ensure TIRN has the ability to offer statewide information and referral services in accordance with the AIRS Standards for Professional Information and Referral, Version 7.0 as revised and published by the Alliance of Information and Referral Systems (AIRS) April 2013, and all subsequent revisions to the Standards published by AIRS and applicable material (new and updated).

Only the activities specified in this Plan of Operations, RFP, and the proposal submitted by the Contractor are allowable under this contract. The Contractor will appropriately recognize HHSC participation on the development of all contract products and will provide HHSC copies of all products produced under this contract. For online (web-only materials), the Contractor will provide HHSC links and access to such materials.

Warm Center
<p>Warm Centers provide a process by which the 2-1-1 Texas Information & Referral Network (TIRN) rapidly responds to statewide and regional emergencies by performing expanded disaster-related activities beyond those of other AICs in the Network. Additional funding will be awarded for the performance of Warm Center activities. Warm Centers must perform the following activities:</p>
<p>1. Conduct 24-hour I&R operations year-round and/or ramp up to 24 hour operations within a period of time not to exceed four hours or as directed by HHSC/TIRN staff.</p>
<p>2. Follow HHSC/TIRN published I&R Resource Manager, and other, disaster protocols.</p>
<p>3. Maintain a pool of trained individuals to take calls during a disaster event. Training shall include IS-700, ICS-100 and Relias training. Contractor shall maintain records of training completion. Records shall be made available to HHSC/TIRN promptly upon request. These individuals are in addition to the Contractor's regular I&R staff. They might not have the full training that a certified Call Specialist would have, but they must have the minimal skills to respond to a disaster-related inquiry and accurately record call data as per requirements outlined in Service Delivery Section 2.2.2 RFP 529-16-0006.</p>
<p>4. Provide physical facilities to house a minimum of 20 additional FTEs at any given point during activation. These FTEs are in addition to regular Contractor staff.</p>
<p>5. Provide appropriate technological hardware/software to support the additional staff.</p>
<p>6. Be able to continue operations during a hurricane event whether at the Contractor facility or by re-deployment to staff the Disaster Kit.</p>
<p>7. Review, approve, return, reject and deactivate submissions using the Network's Customer Relationship Management (CRM)/statewide database software application in compliance with HHSC/TIRN protocols during emergency/disaster events or as otherwise directed by HHSC/TIRN. Maintain a turnaround time of two hours or less.</p>
<p>8. Facilitate State of Texas Emergency Assistance Registry (STEAR) enrollments during normal and disaster/emergency operations as requested by individuals and/or facility staff.</p>
<p>9. Ensure all staff receives training provided by HHSC/TIRN related to the STEAR.</p>
<p>10. Develop and maintain professional relationships with each of the Offices of Emergency Management in the Contractor region. Outcome to be measured by documented participation in local emergency management activities, i.e., trainings, exercises, meetings and/or local conferences. Records shall be made available to HHSC/TIRN promptly upon request.</p>
<p>11. Develop and maintain professional relationships with each local Public Health entities in the</p>

Contractor region. Outcome to be measured by documented participation in local public health activities, i.e., trainings, exercises, meetings and/or local conferences. Records shall be made available to HHSC/TIRN promptly upon request.
12. Monitor the Contractor region for emergency/disaster events and promptly provide situation reports to HHSC/TIRN.
13. Participate in the collection and dissemination of emergency management related information and referral as required by local, regional or statewide emergency/disaster events. Outcome to be measured by entry of timely, accurate and complete information into the Network's Customer Relationship Management (CRM)/statewide database software application and by documentation of referrals and unmet needs in the CRM.
14. Maintain compliance with FEMA guidelines for National Incident Management System/Incident Command Structure training.
a. I&R Specialists: IS-700, ICS-100
b. Front Line Supervisors: IS-700, ICS-100, ICS-200
c. Management (Director, Disaster Coordinator): IS-700, IS- 800, ICS-100, ICS-200, ICS-300
15. Coordinate FEMA Training for new hires and assure completion within 30 days of hire date. Contractor shall maintain records of training completion in the form of printed certificates of completion. Records shall be made available to HHSC/TIRN promptly upon request.
16. Coordinate Relias online training for new hires within 30 days of hire date. Contractor shall maintain records of training completion. Records shall be made available to HHSC/TIRN promptly upon request.
17. Be available for receiving inbound calls beyond regular business hours as designated by HHSC/TIRN during emergency/disaster events.
18. Provide Contractor management with 24 hour access to email communications.
19. Maintain a Continuity of Operations Plan for the Contractor. Plan shall be updated quarterly and provided in writing to HHSC/TIRN promptly upon request by email.
20. Provide desk space and computers for a minimum of 20 additional individuals acting as Call Specialists at any given point during activation. Computers must meet the same technology requirements as for regular Call Specialists. Phones will be provided by HHSC/TIRN. The Ethernet wiring for this space must be able to access a HHSC/TIRN-supplied router or switch.
21. Be able to make changes to Caller Intake forms if database software allows.

I. Performance Measures and Associated Remedies

HHSC will monitor the performance of the contract issued under this RFP including measures referenced in Article 6, Section 6 Service Levels and Performance Measurement, of UTCs (Section J). All services and deliverables under the contract shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standard, custom, and practice.

Payments will be disbursed when HHSC is satisfied that the contractor has met the performance measures or has submitted a reasonable mitigation plan.

Performance measures echo national standards (AIRS Standards for Professional Information & referral And Quality Indicators, Version 7.0 revised April 2, 2013) set by the Alliance of Information and Referral Systems (AIRS). For a complete list of standards, see: AIRS STANDARDS