

AMENDMENT #1

This amendment by and between the Texas Civil Commitment Office (TCCO) and Edward Ramirez ("Contractor"), collectively "the parties" is effective as of April 1, 2017.

WHEREAS, TCCO and Contractor entered into a contract on January 7, 2016 to provide transport services to the TCCO population; and

WHEREAS, Section 2 of the Contract set forth a total contract amount not to exceed six thousand dollars (\$6,000.00) per fiscal year.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Section 2 of the Contract is hereby amended to increase the not to exceed contract amount per fiscal year from six thousand dollars (\$6,000.00) to twelve thousand dollars (\$12,000) for fiscal year 2017, effective April 1, 2017 through August 31, 2017.
2. All other terms and conditions of the Contract not specifically modified herein shall remain in full force and effect.

THIS AMENDMENT is hereby approved as of the date first written above.

CONTRACTOR

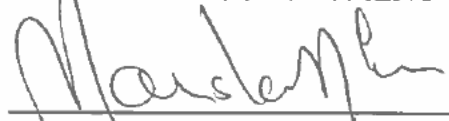


Edward Ramirez




Date

TEXAS CIVIL COMMITMENT OFFICE



Marsha McLane
Executive Director



Date

TEXAS CIVIL COMMITMENT OFFICE



This contract, number TD-16-0505, is entered into by and between the Texas Civil Commitment Office (TCCO) ("the Office"), an agency of the State of Texas, and Edward Ramirez ("Contractor"), an Individual, (collectively, "the Parties").

1. **Purpose of the Contract.** The Office agrees to purchase, and Contractor agrees to provide, services and/or goods to the eligible populations as described in the Notice of Open Enrollment OE # 53700-6-0000156981, Transport Driver Services.

2. **Total Amount of the Contract.** The total contract amount, for the term of the contract, is thirty thousand dollars (\$30,000.00), not to exceed six thousand dollars (\$6,000.00) per fiscal year. The payment method shall be as specified in the Open Enrollment Solicitation.

3. **Funding Obligation.** This Contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs, amendment to the Appropriations Act, or any other disruptions of current appropriated funding for this Contract, TCCO may restrict, reduce, or terminate funding under this Contract.

4. **Term of the Contract.** This Contract begins on the date of execution through August 31, 2021. TCCO may, at its sole discretion, renew a contingency contract after the initial term. Contracts may be renewed for up to four additional one year period contract terms. Renewal is contingent upon the availability of funds and the satisfactory performance of the Contractor during the contract period. TCCO is not responsible for payment under this Contract before both parties have signed the Contract.

5. **Termination.** This Contract may be terminated by mutual written agreement of both Parties. Either Party may terminate this Contract by giving the other Party thirty (30) days written notice of its intent to terminate. Written notice may be sent by any method which provides verification of receipt and the thirty (30) days will be calculated from the date of receipt. This Contract may be terminated for cause by either Party for breach or failure to perform an essential requirement of the Contract. Upon termination of all or part of this Contract, TCCO and the Contractor will be discharged from any further obligation created under the applicable terms of this Contract except for the equitable settlement of the respective accrued interests or obligations incurred prior to termination.

6. **Authority.** TCCO enters into this Contract under the authority of Title 11, Health and Safety Code, Chapter 841. If this is a professional services contract authority is also granted through Professional Services Procurement Act, Texas Government Code, §§2254.001-2254.005, Health and Safety Code, §12.0121, and 25 Texas Administrative Code, §1.181; and Contractor shall perform "professional services" within the meaning of that term as defined in the above.

7. **Documents Forming Contract.** The Contract consists of the following:

- a. Core Contract (this document);
- b. Solicitation Document, Notice of Open Enrollment OE #53700-6-0000156981 Transport Driver Services, including Appendices A through H; and
- c. Contractor's Response(s) to the Solicitation Document(s).

Any changes made to the Contract, whether by edit or attachment, do not form part of the Contract unless expressly agreed to in writing by TCCO and Contractor and incorporated herein.

8. **Conflicting Terms.** In the event of conflicting terms among the documents forming this Contract, the order of control is first the Core Contract, then the Solicitation Document and then Contractor's response to the Solicitation Documents, if any.

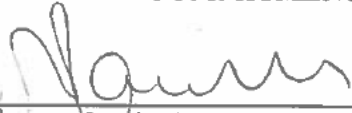
9. **Payee.** The Parties agree that the following payee is entitled to receive payment for services rendered by Contractor or goods received under this Contract:

Edward Ramirez
1108 Robin Rd.
Elgin, Texas 78621
Vendor Identification Number: 7004541493-000

10. **Entire Agreement.** The parties acknowledge that this Contract is the entire agreement of the Parties and that there are no agreements or understandings, written or oral, between them with respect to the subject matter of this Contract, other than as set forth in this Contract.

By signing below, the Parties acknowledge that they have read the Contract and agree to its terms, and that the persons whose signatures appear below have the requisite authority to execute this Contract on behalf of the named Party.

TEXAS CIVIL COMMITMENT OFFICE

By: 
Signature of authorized Official

1-7-16
Date


Marsha McLane
Executive Director
Texas Civil Commitment Office

PO Box 149347 - MC 4300
Austin, Texas 78754

Telephone: 512-834-4590

Email: marsha.mclane@tcco.texas.gov

EDWARD RAMIREZ

By: 
Signature

1-5-16
Date

Edward Ramirez Contract Driver
Print Name and Title

1108 Robin Rd
Address

Elgin Tx 78621
City, State, Zip

512-661-8214
Telephone

UPSRAM78621@yahoo.com
E-mail Address



TEXAS CIVIL COMMITMENT OFFICE

Formerly known as:

OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT

OPEN ENROLLMENT

**TRANSPORT SERVICES FOR
CIVILLY COMMITTED SEX OFFENDERS**

OE # 53700-6-0000156981

Class/Item: 961-82

Enrollment Period Opens: 12/01/2015

Enrollment Period Closes: 08/31/2020

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I. INTRODUCTION AND DEFINITIONS

A. Introduction

The State of Texas by and through the Texas Health and Human Services Commission (HHSC) on behalf of the Texas Civil Commitment Office (TCCO), formerly known as the Office of Violent Sex Offender Management (OVSOM), announces this notice of Open Enrollment (OE) to provide transport services for civilly committed sex offenders.

This OE contains standardized requirements that all applicants must meet to be considered for contracts under this OE. Failure to comply with these requirements will result in disqualification of the applicant without further consideration. Each applicant is solely responsible for the preparation and submission of an enrollment application in accordance with instructions contained in the OE.

The enrollment period begins upon execution, and will remain open through August 31, 2020. TCCO may, at its sole discretion, extend the closing date of this OE. As stated in Section II, the TCCO may also, at its sole discretion, withdraw this OE before the stated date the enrollment period ends.

If web links in this document do not open, copy and paste them into your internet browser window.

READ ALL MATERIALS BEFORE COMPLETING THIS OE.

B. Definitions

Appendix – Additional information and/or forms that are available in the back of this solicitation document.

Case Manager - A person employed by or under contract with the TCCO to perform duties related to the treatment and supervision of a person civilly committed pursuant to Title 11, Health and Safety Code, Chapter 841.

Contingency Contract – Also called a “contract” in this OE, a written agreement referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties. A TCCO 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.

Days - Calendar days, unless otherwise specified.

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.

Deliverables – Goods or services contracted for delivery or performance.

Due Date – Established deadline for submission of a document or deliverable.

Effective Date – The date the contract term begins.

Fee For Service – Payment mechanism for services that are reimbursed on an agreed rate per unit of service.

Fiscal Year – State fiscal year is from September 1 through August 31 of each year. Each renewal will have its own fiscal year.

Fully Executed – 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.

TCCO - Texas Civil Commitment Office.

TCCO Policies - All written policies, procedures, standards, guidelines, directives, and manuals of the TCCO applicable to providing the services specified under this Contract. TCCO policies are currently under review.

Once current policies and manuals are revised to reflect changes required as a result of SB 746, they will be made available. Please use the attached link to access SB 746 to determine whether any revisions to the law will impact services solicited through this enrollment.
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=SB746>

Payment(s) - The amount(s) agreed to be paid by the TCCO to Contractor for services under this Contract.

Procurement and Contracting Services - The division within the Health and Human Services Commission (HHSC) that provides direction and support of purchasing, contracting and HUB services. PCS oversees, coordinates, and assists the TCCO with procurement needs, issues open enrollments and competitive procurements. PCS maintains the official contract file from procurement to contract closeout.

Project – All work to be performed as a result of a contract or solicitation.

Project Manager – The TCCO employee responsible for being the liaison between this contract and PCS. The project manager partners with PCS in the development, management and logistical coordination of a solicitation and the resultant contracts.

Quarter - Unless specifically noted otherwise, references to quarters and quarterly activities relate to the TCCO's Fiscal Year, with quarters beginning September 1, December 1, March 1, and June 1.

Contractor – A person or entity that submits a response to a solicitation. For purposes of this document, “contractor” is intended to include such phrases as “offeror”, “applicant”, “bidder”, “responder”, “Contractor”, or other similar terminology employed by the TCCO to describe the person or entity that responds to a solicitation.

Scope of Work – A description of the services and/or goods, if any, for each service type, to be obtained as a result of this solicitation for a project period. The scope of work is a document written in the early stages of procurement to explain what TCCO plans to purchase.

Services - Delivery by the Contractor of transport services to TCCO clients in accordance with the terms and conditions of the Contract.

Sexually Violent Predator (SVP) – is a repeat sexually violent offender that suffers from a behavioral abnormality which makes it likely that he/she would engage in repeated predatory acts of sexual violence.

Special Provisions – Modifications and additions to the General Provisions for a funded program activity; which are usually customized for TCCO's requirements and contain provisions specific to the contract.

Statement of Work – A part of the contract that describes the services and/or goods to be delivered by the TCCO Contractor specifying the type, level and quality of service, that directly relate to program objectives.

Subcontractor – A written agreement between the 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 the TCCO for performance of all requirements of the contract with the TCCO. The Contractor must closely monitor the subcontractor's performance. Subcontracting can be done only when approved by TCCO.

Texas Identification Number (TIN) – The TIN is required for an entity requesting to contract with, or to receive payment from, the State of Texas. The TIN components are the prefix, base, and self-check digit. The base is the core nine digits that can be a Comptroller-assigned number (as with State agencies), or the Federal Tax ID Number. The prefix digit is a 1, 3, or a 7 and the self-check digit is computer generated.

Unit Rate – Payment mechanism for services that are reimbursed at a set rate per unit of service; for example, transport services at a prescribed rate per hour; also known as fee-for-service.

Vendor – A type of Contractor or subcontractor that provides services, and goods, if any, that assist in, but are not the primary means of, carrying out the TCCO-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 TCCO-funded clients in the same manner the vendor would deliver those services to its non-TCCO 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 sub recipient, to contract with the State of Texas and which must be set up 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.

Year - Fiscal Year, unless otherwise specified.

II. LIMITATIONS

The resulting contract will be subject to the availability of state funds. Contracts awarded under this OE and any anticipated contract renewals are contingent upon the continued availability of funding.

The TCCO reserves the right to alter, amend or withdraw this OE at any time prior to the execution of a contract if funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the appropriations act, Health and Human services agency consolidations, or any other disruption of current appropriations. If a contract has been fully executed and these circumstances arise, the provisions of the Termination Article in the contract will apply.

Issuance of this OE in no way constitutes a commitment by the TCCO or the State of Texas to execute a contract or to pay any costs incurred by any provider who may submit an enrollment application.

III. FUNDING AND TERM

A. Use of Funds

Contingency contracts will be awarded for the purpose specifically defined in the OE. TCCO will review applications in the order in which they are received. TCCO does not guarantee a minimum amount to be paid to a Contractor pursuant to a contingency contract awarded through this OE.

Contracts will be determined without regard to whether or not contractors have previously had a contract with the TCCO under this program.

B. Term of Contract

Contingency contracts awarded under this OE will begin on the date of execution through August 31, 2021. TCCO may, at its sole discretion, renew a contingency contract after the initial term. Contracts may be renewed up to four additional one-year period contract terms.

Renewal is contingent upon the availability of funds and the satisfactory performance of the Contractor during the prior contract period.

C. Performance Measures

STANDARD	PAYMENT ADJUSTMENT
The Contractor shall maintain motor vehicle insurance through the contract period and any renewal periods and shall immediately notify TCCO of any changes to the policy that result in lesser coverage than that reflected in the original policy provided to TCCO..	Suspension of service and non-payment of services until proof of current vehicle insurance or policy change resulting in lesser coverage is provided.
The Contractor shall maintain a valid driver license through the contract period and any renewal periods and shall immediately notify TCCO of any suspension of driver license.	Suspension of service and non-payment of services provided from the date the Contractor's license was suspended until valid driver license is provided.
The Contractor shall immediately notify TCCO of any serious or unusual incidents or vehicle accident occurring during transport. Notification must be made in accordance with TCCO policy.	\$50.00 payment adjustment for each incident the Contractor fails to report in accordance with TCCO policy.

Contractor's failure to meet standards may result in a deduction to the monthly Contractor payment, in addition to suspension of services.

In the event a standard is found to be non-compliant, services may be suspended and a payment adjustment may be made to Contractor's monthly billing. TCCO shall notify the Contractor in writing of any suspension of services and payment adjustments made and indicate the reason for the adjustment.

TCCO may request a corrective action plan to address numerous or repeat instances of non-compliance. TCCO may consider contract termination for numerous and ongoing instances of non-compliance.

D. Termination

This Contract may be terminated by mutual agreement of both Parties. Either Party may terminate this Contract by giving the other Party thirty (30) days written notice of its intent to terminate. Written notice may be sent by any method, which provides verification of receipt, and the thirty (30) days will be calculated from the date of receipt. This Contract may be terminated for cause by either Party for breach or failure to perform an essential requirement of the Contract.

Upon termination of all or part of this Contract, TCCO and the Contractor will be discharged from any further obligation created under the applicable terms of this Contract except for the equitable settlement of the respective accrued interests or obligations incurred prior to termination.

IV. ELIGIBLE CONTRACTORS, SCOPE OF WORK AND REQUIRED ACTIVITIES

A. Eligibility Requirements

Eligible applicants include organizations established as a legal entity under state statutes and have the authority to do business in Texas.

Applicants must also comply with the criteria listed below.

1. Applicant must have a Texas address. A post office box may be used when the enrollment application is submitted, but the applicant must reside at a physical location in Texas prior to the date that the contract is awarded.
2. Applicant is ineligible to apply for funds under this Open Enrollment if currently debarred, suspended, or otherwise excluded or ineligible for participation in Federal or State assistance programs. Search the federal excluded list at the following website: <https://www.sam.gov/portal/public/SAM>.
3. In compliance with the 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. Texas Comptroller of Public Accounts (CPA) Debarment List located at http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.
4. Applicant must provide a copy of each driver's current Texas driver license and proof of comprehensive insurance. The driver license and insurance on the vehicle used for transports shall remain in effect through the contract period.

5. The Applicant must provide a Driving Record Type 3A, for each driver they submit on their application. To obtain this record, please go to: <https://txapps.texas.gov/tolapp/txldrcdr/TXDPSLicenseeManager?XXtask=100>

The Applicant shall submit Driving Record Type 3A updates, as requested by TCCO throughout the contract period.

6. A vehicle to provide transport for the TCCO clients.
7. Successfully pass the background check and drug screening.
8. The Applicant must be a minimum of twenty-five (25) years of age.

Applicant must continue to meet eligibility requirements throughout the selection and funding process. The TCCO expressly reserves the right to review and analyze the documentation submitted and to request additional documentation, and determine the applicant's eligibility for the contract award.

B. Background Check and Drug Test

A Texas Crime Information Center (TCIC) and National Crime Information (NCIC) criminal **background check** shall be completed by the TCCO in accordance with TCCO Policy 6.1 for each driver performing services under the Open Enrollment. The results of the criminal background check, utilizing fingerprint analysis, must be released to TCCO and must meet TCCO Transportation requirements.

Applicants are deemed **ineligible** if:

1. There are pending criminal charges, except minor traffic violation;
2. The applicant is on Parole or Community Supervision; or
3. The applicant is a civil commitment client.

Applicants with convictions **may be eligible** based on the criteria below, unless exceptions apply as noted.

Misdemeanor convictions:

1. Have not been convicted of a Class A misdemeanor within the last 12 months.
2. Have not been convicted of a Class B misdemeanor within the last 6 months.
3. Class C misdemeanors will be considered on a case by case basis.

Felony convictions:

1. Drivers – 10 years have elapsed since the termination of the sentence;
- 2.

Exceptions based on driving record:

1. No record of a conviction for the violations listed below during the sixty

- (60) consecutive months (five years) prior to the date of engagement:
 - a. Driving under the influence of alcohol/drugs or reduced lesser offense.
 - b. Failing to stop or remain at the scene of an accident.
 - c. Driving a motor vehicle in a speed exhibition, contest or drag race.
 - d. Use of a motor vehicle in the commission of a felony.
 - e. Dangerous or careless operation of a motor vehicle, whether causing harm to another person or not.
 - f. Operating a motor vehicle without the permission of the owner.
 - g. Fleeing or attempting to flee a law enforcement officer.
2. No record of involvement in more than one (1) at fault traffic accident during the sixty (60) consecutive months (five years) prior to the date of engagement.
3. No record of conviction for more than two (2) motor vehicle moving violations in any vehicle in the twenty-four (24) consecutive months prior to the date of engagement.

The Applicant must immediately notify TCCO in writing of any criminal indictment, charge, arrest, or conviction. Applicants shall not return to work until authorized in writing by the TCCO. A copy of such written authorization shall be maintained in the contract file.

A **Drug Test** shall be completed by the Applicant and passed in accordance with TCCO policy prior to contract award. Upon receipt of the application, TCCO will contact the applicant of where and when to take the drug test.

The Applicant shall comply with TCCO's random drug testing policy during the term of the Open Enrollment.

C. Scope of Work

The TCCO's clients are sex offenders that have been civilly committed pursuant to the Texas Health and Safety Code, Title 11, Chapter 841. The clients have been adjudicated to be sexually violent predators (SVP's) that suffer from a behavioral abnormality which makes it likely that the client would engage in repeated predatory acts of sexual violence. The clients have a history of at least two convictions for a sexually violent offense and have been released from prison to the TCCO's supervision and treatment.

The Office requires eligible drivers to transport TCCO clients to various appointments including, but not limited to community clinics, counseling treatment sessions and social security offices.

TCCO will utilize a rotation schedule to select transport drivers. A TCCO client identified as requiring transport services will be referred to an approved transport driver based on the following:

1. Geographic proximity to the client's residence

2. Driver's availability
3. Past Contractor performance

The TCCO is seeking services in the following counties: **Travis, Harris, Denton, Dallas, Tarrant and Real**. Additional counties may be added to this enrollment through an amendment as the need for transport services arise in other counties throughout the state.

Contractor may be required to travel outside of their base county to provide transportation services on an as needed basis at the request of TCCO.

The Contractor must provide the Services in accordance with applicable federal and state law, including all constitutional, legal, and court ordered requirements whether now in effect or hereinafter implemented.

The Contractor must comply with the TCCO policies, procedures, and regulations during the term of the Contract.

The Contractor must comply with all applicable local and state standards, codes, and regulations including zoning, fire, health, and sanitation.

D. Required Activities

- a. The Contractor shall attend training on the background of the TCCO program prior to first assignment. The contractor will attend any training, during the contract period, that is requested by TCCO. Mileage and hourly rates will apply.
- b. The Contractor shall comply with guidelines set forth in the Texas State Comptroller Travel Guide.
- c. The Contractor shall immediately notify TCCO of any serious or unusual incidents occurring during transport. Notification must be in accordance with TCCO policy.
- d. The Contractor shall coordinate with the case manager regarding the transportation of multiple TCCO clients for approved activities and transport the client(s) directly to and from the activity without deviation.
- e. The Contractor shall refrain from using his or her professional relationship, related to supervision, to further personal, religious, political, and/or economic interest.
- f. The Contractor shall not engage in any activity, which creates an actual conflict of interest or has the appearance of a conflict of interest or dual relationships with clients or family members of the client.

- g. The Contractor shall not accept, solicit, or give any gift, favor, or service that might reasonably tend to influence his or her duties or know that it is being offered with the intent to influence one's conduct.
- h. The Contractor shall report on time for all transportation service assignments.
- i. The Contractor must accurately document time and travel as stated in the Texas State Travel Guidelines and TCCO transportation policies. (Attachment #2 TCCO policy 6.1)
- j. The Contractor shall, upon request, attend and testify in administrative or court proceedings and refrain from providing testimony or comment on any issue outside the recognized boundaries of his/her competence or job responsibilities.
- k. The Contractor shall maintain his/her vehicle. The Applicant is responsible for all vehicle maintenance costs and all costs and deductibles resulting from any incident or accident that may occur during the provision of services in the OE.
- l. The Contractor shall maintain a valid Texas driver license; his/her own transportation (if the contractor is not using their personal vehicle, proof the driver is insured to drive the vehicle will be required), Comprehensive auto insurance, office site, cell phone, and a computer with internet access using Internet Explorer is the responsibility of the contractor. The Applicant must submit to the TCCO, within 24 hours of the event, any changes or updates to these requirements.
- m. The Contractor shall accept all referrals made by the TCCO. Should an Applicant have a just cause for rejecting a service request, the Applicant shall submit a written request to designated TCCO management for review and approval. The service rejection request shall note the client's name, transport assignment date and time, and pick-up and drop off locations.
- n. The Applicant must submit to the TCCO changes to the driver's insurance policy including, but not limited to, insurance renewal information or policy expiration or termination information and the reasons for such expiration or termination of the policy.
- o. The Contractor shall provide access to transport service vehicle at all times by the TCCO Board Members and the TCCO authorized employees/agents for inspections and other official purposes. The Governor, members of the Legislature and all other members of the Executive and Judicial departments of the State, as well as any other persons designated by the TCCO, to monitor the delivery of services.

E. Security of Records and Disclosure of Information

The Contractor shall require that staff providing services specified meet sufficient standards of integrity to ensure that:

- The confidentiality of client records is not compromised.
- Unauthorized access to client records is not allowed and no information is disclosed to any third party without written authorization from the TCCO.

The Contractor shall not divulge or make known, in any manner to any person, any personal information concerning clients, except as may be necessary in the performance of the Contract. The Contractor shall ensure that all individuals that have access to or custody of records sign a statement containing the confidentiality requirements of this Contract.

The Contractor shall notify the TCCO immediately upon receipt of any legal process requiring disclosure of participant information or records. The Contractor shall provide the TCCO immediate notification and a copy of any subpoena served. Any release of client information or records shall be coordinated through the TCCO.

The Contractor shall notify the TCCO immediately upon receipt of a subpoena to submit an affidavit and/or appear and provide testimony in any legal proceedings convened by a court of competent jurisdiction. The Contractor shall provide the TCCO notification and a copy of any subpoena served. Affidavits and/or Contractor court appearances shall be coordinated with the TCCO. Failure to comply with notification and coordination requirements may result in non-payment of any services performed in response to any subpoena served.

V. PROGRAM INFORMATION

A. Legal Authority

The TCCO is authorized to enter into contracts through Texas Health and Safety Code Chapter 841.

B. Program Requirements

Contractors are required to conduct Services in accordance with federal and state laws prohibiting discrimination. Guidance for adhering to non-discrimination requirements can be found on the *Health and Human Services Commission (HHSC) Civil Rights Office* website at: http://www.hhsc.state.tx.us/about_hhsc/civil-rights/laws-policies.shtml

Inspections and Acceptance of Service

The TCCO has the right to inspect and test all services called for by this Contract, to the extent practicable at all times and places during the Contract Term. The TCCO shall perform inspections in a manner that will not unduly interfere with the Contractor's performance of services. The Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable assistance for the safe and convenient performance of these duties.

From time to time the TCCO shall, subject to limitations provided by law with respect to rights of privacy, have the right to reasonably prompt access and to examine all records of Contractor, including without limitation, all financial books and records, maintenance records, employee records, and client records generated by the Contractor and its subcontractors in connection with performance of this Contract. If subject to the outcome of an audit, it is determined that the Contractor is in non-compliance with any provisions of this Contract and/or money is owed to the TCCO by the Contractor, then the TCCO may exercise its rights of recovery of money owed as authorized in this Contract.

If any of the services are non-compliant with the contract requirements, the Contractor shall be notified describing specific areas of non-compliance. The Contractor shall have a twenty (20) day period to file a written response to all such items of non-compliance. For all items of non-compliance satisfactorily resolved by agreement between the Contractor and the TCCO, no further action regarding such items shall be taken. If an item of non-compliance cannot be resolved between the Contractor and the TCCO, and such item remains uncorrected for a period of twenty (20) days or longer after written notification to the Contractor, then such item may be declared to be an Event of Default.

C. Method of Payment
Contract Amount

TCCO will pay for services in accordance with Attachment #1 Pricing Sheet. In consideration of the services required by this contract, TCCO hereby agrees to pay to Contractor a maximum fee not to exceed an amount to be determined based on TCCO clients' transportation needs in Contractor's proposed service area per state fiscal year (September through August). TCCO does not guarantee any minimum number of transport assignments or amount of compensation under this Contract.

Reimbursable Expenses

Contractor may be required to travel outside of their base county to provide transportation services at the request of TCCO. TCCO shall compensate Contractors for authorized travel expenses, when traveling outside of their base county, at the state rates in effect at the time of travel and in accordance with the Texas Comptroller of Public Accounts guidelines at <https://fmx.cpa.state.tx.us/fmx/travel/index.php>.

Additional Services

The Contractor shall, in coordination with the TCCO, respond to all subpoenas including requests for affidavits, release of information or client records and/or appearances in court to provide testimony in any legal proceedings convened by a court of competent jurisdiction.

The Contractor shall confirm assignment(s) with respective case manager immediately before travelling to the designated service location and confirm assignment. Failure to confirm transport assignment will result in non-payment of any possible loss of time due to last minute schedule changes.

Services addressed in this section shall be compensated as follows:

- Affidavit: \$50.00 (Per Affidavit requested by the State)
- Court Appearance/Testimony: \$30.00 (Hourly Rate for testimony requested by the State)

D. Payments and Invoices for Transportation Services

Compensable Mileage and Hours

The Contractor shall calculate compensable mileage and hours in accordance with TCCO policy 6.1 Transport Drivers. (See Attachment #2)

Invoice and Mileage Log

The Contractor must submit a properly completed invoice and supporting documentation including TCCO mileage log (example in Attachment #2) that meets the requirements of the TCCO and as set forth in the State Comptroller's Vendor Guide (www.window.state.tx.us/procurement/pub/vendor_guide.pdf).

Invoices must be submitted to the TCCO within 30-days after the transport assignment. Payment will be made after services are rendered and complete invoices have been received.

Invoices must contain, at a minimum: the contract number, the Contractor name, address, telephone number and email, the client's name, the amount billed for the service and date of the transportation service. All invoices shall be sent to:

The Texas Civil Commitment Office
Mail Code 4300
P.O. Box 149347
Austin, Texas 78714-9347

It is recommended that the Contractor receive payments via electronic funds transfer (EFT), also known as direct deposit. If the Contractor elects to be set up for Direct Deposit, a vendor direct deposit authorization form must be completed by the Contractor and be submitted to the following address:

The Texas Civil Commitment Office
Mail Code 4300
P.O. Box 149347
Austin, Texas 78714-9347

Services performed by the Contractor that cannot be verified will be disallowed for reimbursement. Illegible or incomplete documentation, which cannot be verified, will be disallowed for reimbursement. Payment shall be made within thirty (30) days of receipt of a correct invoice for services satisfactorily provided to TCCO. Interest shall accrue in accordance with Texas Government Code §2251.025 on late payments.

VI. PROCUREMENT AND ADMINISTRATIVE REQUIREMENTS

A. Open Enrollment Point of Contact

Questions concerning this OE, contact the individual below.

All communications concerning this OE must be submitted by email to:

Health and Human Services Commission
Procurement and Contracting Services
Rebecca (Becky) Martinka, CTPM
Phone: 512-406-2477
Email: rebecca.martinka@hhsc.state.tx.us

Other employees and representatives of the TCCO are not permitted to answer questions or otherwise discuss the contents of the OE with any potential contractors or their representatives. Failure to observe this restriction may result in disqualification of this or other subsequent enrollment applications. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this OE.

PCS is the point of contact with regard to all procurement matters relating to the services described herein prior to the award of any contract(s) as a result of this OE. PCS is the only office authorized to clarify, modify, amend, alter, or withdraw the Project requirements, terms, and conditions of this OE.

Amendments:

PCS will post all official communication regarding this enrollment on the Electronic State Business Daily (ESBD). PCS reserves the right to revise the enrollment 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 PCS on the ESBD website.

B. Submission

The completed enrollment application, which includes all forms, must be submitted to the physical address specified below. Emailed applications will be acceptable.

Health and Human Services Commission
ATTN: Bid Coordinator
OE: TCCO Transport Services
53700-6-0000149483
1100 W 49th Street
Mail Code 2020
Austin, TX 78756
Email: pcsbids@hhsc.state.tx.us

C. Rejection of Enrollment Applications

1. The TCCO reserves the right to reject any or all enrollment applications and is not liable for any costs incurred by the applicant in the development or submission of the enrollment application.
2. Any attempt by an employee, officer, or agent of the Contractor to influence the outcome of the TCCO's review through contact with any Board Member or staff member of the TCCO will result in rejection of the enrollment application.
3. Any material misrepresentation in an enrollment application submitted to the TCCO will result in rejection of the enrollment application.

4. Enrollment applications may be rejected for failure to meet eligibility criteria or inability to perform required activities.

D. Right to Amend or Withdraw OE

The TCCO reserves the rights to alter, amend, or modify any provisions of this OE or to withdraw this OE at any time prior to the execution of a contract if it is in the best interest of the TCCO and the State of Texas. The decision of the TCCO is administratively final. Amendment or notice of withdrawal of the OE will be posted to the ESBD.

E. Authority to Bind the TCCO

For the purposes of this OE, the TCCO Board Members or the Executive Director is the only individuals who may legally commit the TCCO to the expenditure of public funds under the contract. No costs chargeable to the proposed contract will be reimbursed before the contract is fully executed.

F. Exceptions

Any exceptions to the requirements in the OE will be specifically detailed in writing by the Contractor. The TCCO will accept or reject each proposed exception. The TCCO reserves the right to adjust the funding allocation to Contractors pursuant to the terms of the contract.

G. Contracting with Subcontractors

The Contractor may subcontract for the performance of any of its responsibilities to provide services pursuant to this Contract. No subcontract may be entered into unless the TCCO provides prior written approval, which approval may not be unreasonably withheld. If a subcontractor is deemed to be needed for an event of an emergency nature, verbal approval may be obtained through an authorized TCCO representative. The Contractor shall submit a written request with supporting documentation for approval, by the TCCO as soon as possible. The Contractor shall furnish to the TCCO copies of all subcontracts, without regard to amount of annual payments. Any arrangement by the Contractor with an affiliate or member company to provide services shall be subject to the subcontractor provisions of this Section. No contractual relationship shall exist between the TCCO and any subcontractor and the TCCO shall accept no responsibility whatsoever for the conduct, actions, or omissions of any subcontractor selected by the Contractor. The Contractor shall be responsible for the management of the subcontractors in the performance of their work. A subcontractor shall not be included in contract awards, renewals, audit or any other discussions except at the request of the TCCO.

Unless waived in writing by the TCCO, the subcontract shall contain the following:

An acknowledgement that the subcontract is subject to the contract between the TCCO and the Contractor (the "Master Contract").

- The subcontractor shall agree to comply with the terms of the Master Contract to the extent applicable with respect to goods

and services being provided under the subcontract. It is the intention of the parties of the subcontract that the subcontractor shall "stand in the shoes" of the Contractor with respect to fulfilling the duties and obligations of the Contractor to the TCCO under the Master Contract.

- The TCCO's approval of a subcontract does not relieve the Contractor of its duty to perform under the Master Contract.

The Contractor shall require all subcontractors to obtain, maintain, and keep in force insurance coverage in accordance with accepted industry standards and the Contract during the time they are engaged hereunder.

VII. APPLICATION INSTRUCTIONS AND CRITERIA FOR ACCEPTANCE

The following application documents are required:

- FORM A: Open Enrollment Application Checklist
- FORM B: Application for Texas Civil Commitment Office Contractor
- FORM C: Additional Drivers
- FORM D: Vendor Information Form
- FORM E: Copy of the current Texas Driver License and Driver History
- FORM F: Copy of Comprehensive Auto Insurance Policy
- FORM G: Application for Texas Civil Commitment Office Contractor
- FORM H: Pre-Employment NCIC/TCIC Record Request

Applicant must submit all documents required in this OE to be considered.

The TCCO expressly reserves the right to review and analyze the documentation submitted and determine the applicant's eligibility to provide services.

Application Preparation and Assembly.

Submit an electronic version of the application either via email or on a USB flash drive if mailing or hand delivery. A complete application consists of responses to all required forms and information listed on FORM B, Open Enrollment Application Checklist.

Place the Application Face Page (FORM A) at the front of the application packet followed by Open Enrollment Application Checklist (FORM B).

Upon receipt, the application will be screened for completeness and accuracy. Applicants that meet the eligibility requirements and submit the signed and completed forms included in this OE will pass the evaluation.

After the application and contract is signed by both parties, an executed copy of the contract will be mailed to the applicant.

Attachment #1

Pricing Sheet

Service Type	*Price
Transport Service	\$20.00 (Per Hour)
Mileage	Rate per Texas State Travel Guide
Court Appearance/Testimony	\$20.00 (Hourly Rate)
Affidavit	\$50.00 (Per Affidavit)

*Price shall not exceed respective service rates as listed above.

Mileage Rates based on State Travel rates at:

<https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php>

Attachment #2

Transport Driver Policy and Procedures



Signed Transport
Driver Policy 110915.p

VIII. APPENDICES

APPENDIX A: GENERAL PROVISIONS

- A. Contractor Status.** Contractor certifies by the execution of this Contract that it is not ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor further certifies that it has not been debarred from the receipt of an agency contract by any action taken by the State of Texas. A false statement regarding Contractor's status will be treated as a material breach of contract and may be grounds for termination.
- B. Compliance with Statutes and Rules.** Contractor shall comply with all applicable federal and state laws, rules, regulations, standards and guidelines in effect on the beginning date of this Contract unless amended, including but not limited to all child abuse reporting requirements in Chapter 261 of the Texas Family Code.
- C. Breach of Contract Claim.** Any claims for breach of this Contract by Contractor that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to the Office of General Counsel, Department of State Health Services, 1100 West 49th Street, Austin, TX 78756. Said notice shall also be given to all other representatives of DSHS and Contractor otherwise entitled to notice under this contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Government Code, Chapter 2260, Subchapter C and department rules.
- D. Subcontractors.** Contractor shall comply, and shall require its subcontractor(s) to comply, with the requirements set forth in this Contract and the Department's rules of general applicability and other applicable state and federal statutes and rules as such statutes and rules currently exist and as they may be lawfully amended.
- E. Reporting.** Contractor shall submit reports, if required, in accordance with the reporting requirements established by the Department.
- F. Applicable Contracts Law and Venue for Disputes.** Regarding all issues related to contract formation, performance, interpretation, and any issues that may arise in any dispute between the Parties, the Contract shall be governed by, and construed in accordance with, the laws of the State of Texas. In the event of a dispute between the Parties, venue for any suit shall be Travis County, Texas.
- G. Assurances.** As required by Texas Government Code §2252.903, Contractor certifies by the execution of this Contract that it is not prohibited from entering

into a contract because of indebtedness to the state, including but not limited to, tax delinquency, student loan delinquency, or child support delinquency. If the Contractor is indebted to the state or becomes indebted to the state during the terms of this Contract, Contractor agrees that any payments under the Contract will be applied directly toward eliminating the debt until it is paid in full.

As required by Texas Family Code, §231.006, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services or receive a state-funded grant or loan. Contractor agrees to comply with these provisions, certifies that is not ineligible to receive the payments specified in this Contract, and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract under Texas Government Code § 2155.004 (concerning financial participation by a person who received compensation from DSHS related to this transaction) or Texas Government Code §§ 2155.006 or 2261.053 (concerning certain federal disaster-related contracts) and acknowledges that this Contract may be terminated and payment withheld if these certifications are inaccurate. Contractor further certifies that neither Contractor nor its principals is disqualified or ineligible for participation in a federal or state assistance program; neither Contractor nor its principals is debarred, suspended, or voluntarily excluded from participation in this transaction by federal or state department or agency.

Contractor certifies by execution of this Contract to the following:

- a) it is not disqualified under 2 CFR § 376.935 or ineligible for participation in federal or state assistance programs;
- b) neither it, nor its principals, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state department or agency in accordance with 2 CFR Parts 376 and 180 (parts A-I), 45 CFR Part 76 (or comparable federal regulations);
- c) it has not knowingly failed to pay a single substantial debt or a number of outstanding debts to a federal or state agency;
- d) it is not subject to an outstanding judgment in a suit against Contractor for collection of the balance of a debt;
- e) it is in good standing with all state and/or federal agencies that have a contracting or regulatory relationship with Contractor;
- f) that no person who has an ownership or controlling interest in Contractor or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or a federal block grant;
- g) neither it, nor its principals have within the three (3)-year period preceding this Contract, has been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining,

attempting to obtain, or performing a private or public (federal, state or local) transaction or contract under a private or public transaction, violation of federal or state antitrust statutes (including those proscribing price-fixing between competitors, allocation of customers between competitors and bid-rigging), or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or false claims, tax evasion, obstruction of justice, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contactor or its principals;

- h) neither it, nor its principals is presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with the commission of any of the offenses enumerated in subsection g) of this section; and
- i) neither it, nor its principals within a three (3)-year period preceding this Contract has had one or more public transaction (federal, state or local) terminated for cause or default.

Contractor shall include these certifications in this Contract, without modification (except as required to make applicable to the subcontractor), in all subcontracts and solicitations for subcontracts. Where Contractor is unable to certify to any of the statements in this Contract, Contractor shall submit an explanation to the contract manager assigned to the Program Attachment. If Contractor's status with respect to the items certified in this Contract changes during the term of this Contract, Contractor shall immediately notify the contract manager assigned to the Program Attachment.

H. Acceptance as Payment in Full. Contractor shall accept reimbursement or payment from DSHS as payment in full for services or goods provided to clients. Contractor agrees to not seek additional reimbursement or payment for services or goods from clients.

I. Records Retention. Contractor shall retain records in accordance with the DSHS Records Retention Schedule, located at <http://www.dshs.state.tx.us/records/schedules.shtm>, Department rules and any other applicable state and federal statutes and regulations governing medical, mental health, and substance abuse information. At a minimum Contractor shall retain and preserve all records, including financial records that are generated or collected by Contractor under the provisions of this Contract, for a period of four (4) years after the termination of the Contract.

J. Survival of Obligations. The obligations of Contractor to retain records and maintain confidentiality of information shall survive this Contract.

K. Access. In addition to any right of access arising by operation of law, Contractor, and any of Contractor's affiliate or subsidiary organizations or subcontractors shall permit the Department or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, including the Office of the Inspector General at HHSC (OIG) and the State Auditor's Office (SAO), unrestricted access to and the right to examine any site where business is conducted or services are performed and all records

(including client and patient records, if any), books, papers or documents related to the Contract.

- L. Gifts and Benefits Prohibited.** Contractor certifies that it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, present or future employment, gift, loan, gratuity, special discount, trip, favor, or service to a DSHS or HHSC official or employee in connection with this Contract.
- M. Program Site.** All Contractors shall ensure that the location where services are provided is in compliance with all applicable local, state and federal zoning, building, health, fire and safety standards.
- N. Independent Contractor.** Contractor is an independent Contractor. Contractor shall direct and be responsible for the performance of its employees, subcontractors, joint venture participants or agents. Contractor is not an agent or employee of the Department or the State of Texas for any purpose whatsoever.
- O. Licenses, Certifications, Permits, Registrations, and Approvals.** Contractor shall obtain and maintain all applicable licenses, certifications, permits, registrations and approvals to conduct its business and to perform the services under this Contract. Any revocation, surrender, expiration, non-renewal, inactivation or suspension of any such license, certification, permit, registrations or approval shall constitute grounds for termination of this Contract or other remedies the Department deems appropriate. Contractor shall ensure that all its employees, staff and volunteers maintain in active status all licenses, certifications, permits, registrations and approvals required to perform their duties under this Contract and shall prohibit any person who does not hold a current, active required license, certification, permit, registration or approval from performing services under this Contract.
- P. Immunity Not Waived.** THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS CONTRACT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY DEPARTMENT OR THE STATE OF TEXAS OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT DEPARTMENT OR THE STATE OF TEXAS MAY HAVE BY OPERATION OF LAW.

Q. Special Provisions.

Availability of Funding

This Contract is expressly conditioned upon the availability of state and federal appropriated funds.

Contractor will have no right of action against TCCO in the event TCCO is unable to perform its obligations under this Contract as a result of the suspension, termination, withdrawal, or failure of funding to the TCCO or lack of sufficient funding of TCCO for any activities or functions contained in the scope of this Contract.

TCCO will use all reasonable efforts to ensure that such funds are available and will negotiate in good faith with Contractor to resolve any claims for payment that represented accepted services or deliverables that are pending at the time funds became unavailable. TCCO shall make best efforts to provide reasonable written notice to Contractor upon learning that funding may be discontinued.

If funds for the continued fulfillment of this Contract by TCCO are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then TCCO will have the right to terminate this Contract at no additional cost and with no penalty whatsoever by giving prior written notice documenting the lack of funding.

Delegation of Authority

State and federal laws generally limit TCCO'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.

Indemnification

Contractor shall indemnify and save the TCCO, the State of Texas, and its officers, agents, and employees ("the State") harmless from and against:

- A. Any and all claims arising from the conduct, management, or performance of this Contract by Contractor, its agents, subcontractors, or employees, including without limitation, any and all claims arising from:
 - i. Any breach or default on the part of Contractor in performance of any covenant or agreement on its part to be performed pursuant to the terms of this Contract;
 - ii. Any act or negligence of Contractor or any of its agents, subcontractors, servants, employees, or licensees; and
 - iii. Any accident or injury, or damage whatsoever caused to any person, firm, or corporation.
- B. All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action, or proceeding brought thereon.
- C. Nothing herein is intended to deprive the State or Contractor of the benefits of any law limited exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into this Contract, the State does not waive its right of sovereign immunity, nor does Contractor waive any immunity that may extend to it by operation of law. The aforementioned indemnification shall not be affected by a claim that negligence of the State or its respective agents, Contractors, employees, or licensees contributed in part to the loss or damage indemnified against.
- D. The parties agree that the terms, covenants, and provisions of this provision shall survive the termination of this Contract.

Compliance with Applicable Rules, Regulations, Procedures, and Laws

Contractor must comply with all laws, regulations, requirements, and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TCCO reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TCCO's or Contractor's compliance with all applicable State and federal laws, and regulations.

Contractor shall provide services to TCCO that are in compliance with all applicable, local, state, and federal laws, rules and regulations now in effect or that become effective during the term hereof including but not limited to: Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination in Employment Act; The Immigration Reform and Control Act of 1986; Code of Federal Regulations, Title 42, Part 2 (regarding information about drug and alcohol abuse); Environmental Protection Agency Rules and Regulations; Texas Health and Safety Code Chapters 85, 595, 611; the Americans with Disabilities Act of 1990; the Civil Rights Act of 1991; Occupational Safety and Health Act of 1970; Texas Family Code Section 231.006; Texas Government Code Chapters 783, 2254, 2259, and 2260; Health and Safety Code Chapter 841; Texas Administrative Code Title 37, Part 16, Chapter 810; any and all relevant federal and state financial cost principles and audit requirements; and any and all rules, policies, and procedures established from time to time by the TCCO regarding the operations of CRF facilities.

Criminal History Record Information Compliance

The parties hereto acknowledge and agree that in order for the Contractor to perform the services contemplated herein, the TCCO may have to provide the Contractor with or the Contractor may have access to, certain information regarding SVP clients and former SVP clients known as "criminal history record information" ("CHRI").

CHRI means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information and other formal charges and their dispositions. The term does not include information as to convictions, fingerprint information, and driving records.

In the event the TCCO provides the Contractor with CHRI, the Contractor agrees to comply with the confidentiality requirements of 28 CFR 20, Part 20, Subpart B, Section 201.21; Section 524(a) of the Omnibus Crime Control and Safe Streets Act, 47 USC 3701, et seq., as amended (the "Act"), Texas Government Code Chapter 411, Section 411.083 and with the FBI Criminal Justice Information Services Security Policy.

More specifically the Contractor agrees and acknowledges as follows:

- A. The TCCO hereby specifically authorizes the Contractor to have access to criminal justice history to the extent such access is necessary or appropriate to enable the Contractor to perform the services contemplated herein.

- B. The Contractor agrees to limit the use of such information for the purposes set forth herein.
- C. The Contractor agrees to maintain the confidentiality and security of the CHRI in compliance with state and federal statutes, rules and regulations, and to return or destroy such information when it is no longer needed to perform the services contemplated herein.
- D. In the event that the Contractor's employee fails to comply with the terms hereof, the Contractor shall take corrective action with the employee(s). Such corrective action must be acceptable to the TCCO. An intentional or knowing violation may also result in civil and criminal violations under federal and state laws. Additionally, the Contractor shall submit for TCCO's approval the Contractor's corrective action plan to ensure full compliance with the terms hereof.

Authority to Audit

Contractor understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. The Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested.

Contractor shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.

Contractor shall reimburse the State of Texas for all costs associated with enforcing this provision.

Fraud, Waste or Abuse

In accordance with Chapter 321, Texas Government Code, the State Auditor's Office is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds.

If there is reasonable cause to believe that fraud, waste, or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website: <http://www.sao.state.tx.us/>.

The Contractor shall comply with the Texas Comptroller of Public Accounts Anti-Fraud Policy found at <http://www.window.state.tx.us/ssv/ethics.html>.

Buy Texas

In accordance with Texas Government Code, Section 2155.4441, the State of Texas requires that during the performance of a contract for services, Contractor shall

purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the State.

Certification Concerning Hurricane Relief

Sections 2155.006 and 2261.053, Texas Government Code, prohibit state agencies 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 Section 418.004, Texas Government Code, occurring after September 24, 2005. Under Section 2155.006, Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

Confidentiality and Public Information Act

Notwithstanding any provisions of this Contract to the contrary, Contractor understands that TCCO will comply with the Texas Public Information Act, Texas Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. TCCO agrees to notify Contractor in writing within a reasonable time from receipt of a request for information related to Contractor's work under this Contract. Contractor will cooperate with TCCO in the production of documents responsive to the request. TCCO will make a determination whether to submit a Public Information Act Opinion request to the Attorney General. Contractor will notify TCCO General Counsel within twenty-four (24) hours of receipt of any third party requests for information that were provided by the State of Texas for use in performing this Contract. The Contract and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Contractor agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Contract, including information which discloses confidential personal information, particularly, but not limited to social security numbers.

Dispute Resolution

The dispute resolution process provided for in Texas Government Code, Chapter 2260 shall be used by TCCO and Contractor to resolve any dispute arising under the Contract.

The dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, to attempt to resolve a claim for breach asserted by Contractor. If the Contractor's claim for breach cannot be resolved by the parties in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260 to the Deputy Comptroller or his or her designee. The notice shall also be given to the individual identified in the Contract for receipt of notices. Compliance by the Contractor with Chapter 2260 is a condition precedent for the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach by the TCCO if the parties are unable to resolve their disputes as described above.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practice and Remedies Code. Neither the execution of this Contract by the TCCO nor any other conduct of any representative of the TCCO relating to the Contract shall be considered a waiver of sovereign immunity to suit.

For all other specific breach claims or disputes under the Contract, the TCCO and the Contractor shall first attempt to resolve them through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by the TCCO and the Contractor within fifteen (15) days after written notice by one of them demanding mediation under this Section. Contractor shall pay all costs of the mediation unless the TCCO in its sole good faith discretion approves its payment of all or part of such costs. By mutual agreement, the TCCO and the Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this section is to reasonably ensure that the TCCO and the Contractor shall, in good faith, utilize mediation or another non-binding dispute resolution process before pursuing litigation. The TCCO participation in or, or the results of, any mediation or other non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by the TCCO of 1) any rights, privileges, defenses, remedies or immunities available to the TCCO as an agency of the State of Texas or otherwise available to the TCCO; 2) the TCCO termination rights; or 3) other termination provisions or expiration dates of the Contract.

Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the TCCO the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or dispute is pending under either of the above processes; however, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

Force Majeure

Neither Contractor nor TCCO shall be liable to the other from any delay in, or failure or performance, of any requirement resulting from this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform.

Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such

party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

Ownership/Intellectual Property, including Rights to Data, Documents, and Computer Software

For the purposes of this Contract, the term “work” is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, intellectual property, or other property developed, produced, or generated, in connection with this Contract.

All work performed pursuant to this Contract is made the exclusive property of TCCO. All right, title, and interest in and to said property shall vest in TCCO upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to this Contract. To the extent that title to any such work may not, by operation of law, vest in TCCO, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to TCCO. TCCO shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Contractor must give TCCO and/or the State of Texas, as well as any person designated by TCCO and/or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond those amounts payable to Contractor for the services rendered under this Contract.

Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other record relating to this Contract and the State’s property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Work as defined above. Contractor and any subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing or evaluating by TCCO and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.