

**SIGNATURE DOCUMENT FOR
HHSC CONTRACT NO. HHS00002860001**

I. INTRODUCTION

The Health and Human Services Commission (“**HHSC**”), an administrative agency within the executive department of the state of Texas and having its principal office in Austin, TX, and Morris & Dickson Co. LLC (“**Contractor**”), having its principal office at 410 Kay Lange, Shreveport, LA 71115, each a “**Party**,” collectively the “**Parties**,” enter into this contract for the distribution of pharmaceuticals and other items (collectively, the “**Pharmaceutical Products**”) used to support HHSC, the Department of State Health Services (“**DSHS**”), and Other Eligible Participants (“**OEPs**”) healthcare programs (the “**Contract**”).

II. LEGAL AUTHORITY

This Contract is authorized by and in accordance with section 2155.144(b-1) (2) of the Texas Government Code. In accordance with sections 533.017 and 553A.01 of the Texas Health and Safety Code, the executive commissioner of HHSC may allow OEPs to participate in this Contract.

III. STATEMENT OF SERVICES TO BE PROVIDED

Contractor shall provide Pharmaceutical Products and services to support certain healthcare programs operated by HHSC, DSHS, and OEPs (collectively, the “**Services**”) in accordance with all requirements of this Contract.

IV. DURATION

This Contract starts on the date of the last signature below and terminates on January 31, 2024 (the “**Base Term**”), unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. HHSC, at its discretion, may renew or extend this Contract for up to two years, in any block or blocks of time that it deems appropriate. Following the Base Term and any renewals or extensions, HHSC may extend the Contract for up to two years, in any block or blocks of time to complete a new procurement or to transition to a new vendor, if necessary, to avoid interruption in services, or both.

V. COST

Cost of Pharmaceutical Products shall be in accordance with the requirements of Attachment B, Master Statement of Work, Article 4, relating to Pricing and Product Tracking.

VI. DOCUMENTS FORMING CONTRACT/ORDER OF PRECEDENCE

This Contract consists of the documents identified in this Article VI. If there is a conflict or contradiction between or among the following documents, the order of precedence, from highest to lowest shall be as follows:

- This Signature Document;
- Attachment A-Affirmations and Solicitation Acceptance;
- Attachment B-Master Statement of Work;
- ***** Exhibit B-1-HHSC Programs and Facilities
- Exhibit B-2-DSHS Programs and Facilities
- Attachment C-Performance Measures, Enhanced Contract and Performance Monitoring and Associated Sanctions and Remedies
- Attachment D-Insurance
- Attachment E- HHSC Uniform Terms and Conditions – Vendor, Version 2.15;
- Attachment F-HHSC Special and Supplemental Conditions;
- Attachment G-Federal Assurances and Certifications, which includes:
 - Exhibit G-1-Federal Assurances-Non-Construction Programs
 - Exhibit G-2-Federal Certification Regarding Lobbying
- Attachment H-HHSC’s Responses to Vendor Questions;
- Attachment I-Request for Proposals (“**RFP**”) for Pharmaceutical Wholesaler Distributor; RFP No. HHS0000286C; and
- Attachment J-Contractor’s Response to RFP No. HHS0000286C.

VII. EXCEPTIONS

The Parties acknowledge and agree that any exceptions included in Contractor’s Proposal will be deemed to have been rejected by HHSC and shall not be incorporated as a Contract term unless expressly acknowledged in this Article VII. The allowed exceptions are as follows: (1) a two-day cure period has been provided for those performance measure subject to the assessment of financial sanctions. *See* Attachment C-Performance Measures, Enhanced Contract and Performance Monitoring and Associated Sanctions and Remedies, sections 4.4, 4.5 and 4.6; (2) modification of the qualifications to the adjusted service level performance measure. *See* Attachment C-Performance Measures, Enhanced Contract and Performance Monitoring and Associated Sanctions and Remedies, section 3.A.; and (3) deletion of the reference to the submission of a four-year consolidated statement in section 10.5.1(B) of the RFP No. HHS0000286C.

VIII. ASSUMPTIONS

The Parties acknowledge and agree that any assumptions included in Contractor’s Proposal will be deemed to have been rejected by HHSC and shall not be included in the Contract unless the Parties have expressly agreed to incorporate such

assumptions in Attachment B (Master Statement of Work), Exhibits B-1, and B-2 (HHSC and DSHS Programs and Facilities, respectively)

IX. DEFINITIONS

As used in this Contract, unless the context clearly indicates otherwise, the definitions stated in Attachment I, RFP for Pharmaceutical Wholesaler Distributor; RFP No. HHS0000286C, Attachment E, HHSC Uniform Terms and Conditions - Vendor Version 2.15, and Attachment F-HHSC Special and Supplemental Conditions, have the meanings stated in each attachment.

X. CONTRACT REPRESENTATIVES

The following will act as the Representative authorized to administer activities under this Contract on behalf of their respective entity.

For HHSC:

Jodi Day, Contract Manager
Telephone number: 830-890-8896
Email: Jodi.Day@hhsc.state.tx.us
State Supported Living Centers/State Hospitals
HHSC Health and Specialty Care System-Business Management Unit
701 W.51st Street, Mail Code E-619
Austin, TX 78751

For DSHS:

Lori Pate, CTCM, CTCD
Telephone number: 512-776-3968
Email: Lori.Pate@dshs.texas.gov
P.O. Box 149347, Mail Code 1990
Austin, TX 78714-9347

For Contractor:

Mike Casida, Sr. Director Health Systems
Telephone number: 214-257-8070
Email: MCasida@morrisdickson.com
1776 Woodstead Court, #125
The Woodlands, TX 77380

A Party or a Participating Entity may change its representative by written notice to the other Participating Entities; a contract amendment is not required.

XI. LEGAL NOTICES

Any legal notice required under this Contract shall be deemed delivered when deposited by HHSC either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

If to HHSC:

Health and Human Services Commission
4900 N. Lamar Blvd. Mail Code 1100
Austin, TX 78751
Attention: Office of Chief Counsel

With a courtesy copy to:

Department of State Health Services
1100 W. 49th Street, MC 1919, M526
Austin, TX 78756
Attention: Office of General Counsel

If to Contractor:

Morris & Dickson Co. LLC
1776 Woodstead Court, #125
The Woodlands, TX 77380
Attention: Mike Casida, Sr. Director Health Systems

Legal notice given by Contractor shall be deemed effective when received by HHSC or DSHS, as applicable. HHSC, DSHS or Contractor may change its address for notice by providing written notice to the other entities; a contract amendment is not required.

SIGNATURE PAGE FOLLOWS

The Remainder of this Page Intentionally Left Blank

SIGNATURE PAGE FOR HHSC CONTRACT NO. HHS00002860001

**HEALTH AND HUMAN SERVICES
COMMISSION**

DocuSigned by:
By: Phil Wilson _____
756B7E5284794AF...
Phil Wilson

Executive Commissioner

Date of signature: April 20, 2020

MORRIS & DICKSON Co. LLC

DocuSigned by:
By: Mike Casida _____
8DCDDBE98CD54FF...
MIKE CASIDA

Sr. Director, Health Systems

Date of signature: April 6, 2020

EXHIBIT A

EXHIBIT A. AFFIRMATIONS AND SOLICITATION ACCEPTANCE

In this document, the terms Respondent, Contractor, Applicant, and Vendor, when referring to certifications, representations, or warranties, refer to Respondent.

Respondent affirms, without exception, as follows:

1. Respondent represents and warrants that all certifications, representations, warranties, and other provisions in this Affirmations and Solicitation Acceptance apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Solicitation or any contract resulting from this Solicitation.
2. Respondent represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Solicitation Response.
3. Respondent understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with the State pursuant to the contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. Respondent acknowledges its obligation to specifically identify information it contends to be confidential or proprietary and, if Respondent designated substantial portions of its Solicitation Response or its entire Solicitation Response as confidential or proprietary, the Solicitation Response is subject to being disqualified.
5. Respondent's Solicitation Response will remain a firm and binding offer for 240 days from the date the Solicitation Response is due.
6. Respondent accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation. Respondent agrees that all exceptions to the Solicitation are rejected unless expressly accepted by HHSC.
7. Respondent agrees that HHSC has the right to use, produce, and distribute copies of and to disclose to HHSC employees, agents, and contractors and other governmental entities all or part of Respondent's Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.
8. Respondent generally releases from liability and waives all claims against any party providing information about the Respondent at the request of HHSC.
9. Respondent acknowledges all addenda and amendments to the Solicitation.

EXHIBIT A

10. Respondent certifies that if a Texas address is shown as the address of Respondent on this Response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
11. Respondent represents and warrants that it qualifies for all preferences claimed under 34 Texas Administrative Code, Section 20.306 or Chapter 2155, Subchapter H of the Texas Government Code as indicated below (check applicable boxes):
- Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Agricultural products grown in Texas
 - Agricultural products offered by a Texas bidder
 - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Services offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Texas Vegetation Native to the Region
 - USA-produced supplies, materials or equipment
 - Products of persons with mental or physical disabilities
 - Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - Energy efficient products
 - Rubberized asphalt paving material
 - Recycled motor oil and lubricants
 - Products produced at facilities located on formerly contaminated property
 - Products and services from economically depressed or blighted areas
 - Vendors that meet or exceed air quality standards
 - Recycled or reused computer equipment of other manufacturers
 - Foods of higher nutritional value
 - Commercial production company or advertising agency located in Texas
12. Respondent has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Solicitation Response, this Solicitation, or any contract resulting from this Solicitation.
13. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Respondent certifies that the individual or business entity named in this Response or

contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

- 14. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 15. Under Section 231.006(d) of the Texas Family Code regarding child support, Respondent certifies that the individual or business entity named in this Response is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Respondent subject to Section 231.006 of the Texas Family Code must include in the Response the names and social security numbers (SSNs) of each person with at least 25% ownership of the business entity submitting the Response:

Name: _____ SSN: _____
 Name: _____ SSN: _____
 Name: _____ SSN: _____
 Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of requested SSNs is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSNs will be used to identify persons that may owe child support. The SSNs will be kept confidential to the fullest extent permitted by law.

If submitted by email, Responses containing SSNs must be encrypted. Failure by a Respondent to provide or encrypt the SSNs as required may result in disqualification of the Respondent's Response.

- 16. Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Respondent's subcontracts, if any, if payment in whole or in part is from federal funds.
- 17. Respondent certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
- 18. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- 19. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of the contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

EXHIBIT A

20. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
21. Respondent agrees that any payments due under any contract resulting from this Solicitation shall be applied towards any debt or delinquency that is owed to the State of Texas.
22. Respondent represents and warrants that payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
23. Respondent agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
24. Respondent agrees that upon request of HHSC, Respondent shall provide copies of its most recent business continuity and disaster recovery plans.
25. Respondent expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Respondent represents and warrants to HHSC that the technology provided to HHSC for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
 - providing equivalent access for effective use by both visual and non-visual means;
 - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
 - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

In accordance with Section 2157.005 of the Texas Government Code, the Technology Access Clause contract provision remains in effect for any contract entered into before September 1, 2006.

26. If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
27. If Respondent is submitting a Response for the purchase or lease of covered television equipment, then Respondent certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
28. Should Respondent be awarded a contract resulting from this solicitation, Respondent represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of

- the contract, none of its employees including, but not limited to those will provide services under the contract, were employees of an HHS Agency.
29. Respondent acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Respondent may not accept employment from Respondent before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.
 30. Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Solicitation and any resulting contract and that Respondent's provision of the requested goods and/or services under this Solicitation and any resulting contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
 31. Respondent understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Respondent agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.
 32. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Response, neither I nor any representative of the Respondent has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Response, neither I nor any representative of the Respondent has violated any federal antitrust law; and (c) neither I nor any representative of the Respondent has directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Respondent.
 33. Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Respondent or any of the individuals or entities included in numbered paragraph 1 of this Affirmations and Solicitation Acceptance within the five (5) calendar years immediately preceding the submission of this Solicitation response that would or could impair Respondent's performance under any contract resulting from this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Respondent's performance under a contract awarded as a result of this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. In addition, Respondent acknowledges this is a continuing disclosure requirement. Respondent represents and warrants that, if awarded a contract as a result of this Solicitation, Respondent shall notify HHSC in writing within five (5) business days of any changes


EXHIBIT A

to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.

- 34. Pursuant to Section 2270.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Solicitation Response.
- 35. Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the contract to determine the eligibility of:
 - (a) all persons employed by Respondent to perform duties within Texas; and
 - (b) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.
- 36. Respondent understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Respondent is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of any contract resulting from this Solicitation.
- 37. Respondent represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to any contract resulting from this Solicitation.
- 38. Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.
- 39. By submitting this Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of this Response.

Authorized representative on behalf of Respondent must complete and sign the following:

Legal Name of Respondent: Michael Fredrick Casida II



Signature of Authorized Representative

August 27, 2019

Date Signed

Mike Casida, Sr. Director Health Systems

Printed Name and Title of Authorized Representative

214-257-8070

Phone Number

EXHIBIT A

72-0266645
**Federal Employer Identification
Number**

214-440-4929
Fax Number

00-799-5079
DUNS Number

mcasida@morrisdickson.com
Email Address

1776 Woodstead Court #125
Physical Street Address

The Woodlands, Texas 77380
City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

ATTACHMENT B MASTER STATEMENT OF WORK

1. Overview

- 1.1 Morris & Dickson Co LLC (“**Contractor**”) hereby agrees to provide wholesale Pharmaceutical Products and services (collectively, “**Pharmaceutical Products**”) to support healthcare programs operated by the Health and Human Services Commission (“**HHSC**”), the Department of State Health Services (“**DSHS**”), (collectively, Health and Human Services (“**HHS**”). The HHS programs and facilities participating in this Contract are identified in Exhibit B-1 (HHSC Programs and Facilities) and Exhibit B-2 (DSHS Program and Facilities). HHS reserves the right to revise the number of programs or facilities, participating in this Contract. If HHS adds one or more facilities or programs, Contractor must begin delivering Pharmaceutical Products to the added program or facility within 60 business days from the date of notice of such addition.
- 1.2 Contractor further agrees to extend the terms and conditions of this Contract to Other Eligible Participants (“**OEPs**”) who have been authorized by the executive commissioner of HHSC to participate in the Contract. HHSC, DSHS, and OEPs are collectively referred to in this Contract as a “**Participating Entity.**”

2. Project Scope and Requirements

- 2.1 Contractor hereby agrees to provide each Participating Entity with all Pharmaceutical Products required under this Contract.
- 2.2 Contractor hereby agrees to provide each Participating Entity with online access to a comprehensive list of all available Pharmaceutical Products. Contractor must:
- A. identify items eligible for any contract;
 - B. identify the type of contract; and
 - C. provide any limitations established by the manufacturer for the Participating Entity account.
- 2.3 Contractor hereby agrees to maintain an Adequate Supply of all products for distribution for each Participating Entity’s programs. Each HHS Agency will provide Contractor with their product and volume usage data relating to their respective healthcare programs that are subject to this Contract. OEPs will provide Contractor with product and volume usage data for their respective healthcare programs when agreed to by an OEP and Contractor. Contractor should expect variance from post-product and volume usage data in some cases, as a Participating Entity’s needs change.

ATTACHMENT B MASTER STATEMENT OF WORK

2.4 Contractor hereby agrees to provide each Participating Entity with access to an internet site to view real-time account status that includes information on any past due dollar amounts, open transactions, processed transactions, actual statements, with the capability of printing such information or any invoice on the internet site. The internet site must provide each Participating Entity the following security measures to access invoices or credits, or both, that are processed:

- A. implement HTTPS across entire customer portal;
- B. implement the x-xss-protection security header;
- C. implement a content security policy;
- D. apply sub-resource integrity to <script> or <link> elements;
- E. utilize TLS 1.2 or greater;
- F. require strong passwords that employ a minimum combination of eight alphanumeric and special characters;
- G. set password lockout threshold of three failed login attempts within 60 minutes results in a 20-minute lockout period;
- H. limit password age to 120 days; and
- I. prevent password re-use for one year.

2.5 Contractor hereby agrees to provide online access to all data relating to the products purchased by each Participating Entity account. The data must include the following elements:

- A. date purchased;
- B. product name;
- C. product NDC;
- D. classification;
- E. controlled substance classification;
- F. therapeutic classification;
- G. package size;
- H. quantity of packages purchased;
- I. price;
- J. indication of whether the product was contract, 340B, PHS, or non-contract;
- K. invoice date; and
- L. name of the facility and address where the products were delivered.

2.5.1 A Participating Entity's online access to data must:

- A. provide a means for reporting each individual account purchases, as well as being able to run reports of a select groups of accounts;

ATTACHMENT B MASTER STATEMENT OF WORK

- B. provide the ability to build reports on each HHS agencies' purchases either directly through the Contractor's system or through the ability to transfer data into spreadsheets in a Microsoft Office compatible format; and
- C. be limited to only that Participating Entity's purchases. Contractor must ensure that any personal health information in the database is protected and accessible only to the Participating Entity.

2.6 Contractor hereby agrees to provide each Participating Entity with access to 80/20 reports upon request. The 80/20 reports must identify:

- A. The Participating Entity's top 20% of purchased Pharmaceutical Products by dollar amount, including the number of items and dollar amount for each item; and
- B. The remaining 80% of purchased Pharmaceutical Products, including the number of items in the 80%, and the dollar amount associated with those items.

The 80/20 reports must also include a velocity report of the top 20% of purchases. The velocity report must provide the Participating Entity with a quantity and dollar breakdown of purchases in each of the 12 months covered by the report. Such reports can be done by the last 12 months either automatically, or by date range.

2.7 Contractor hereby agrees to maintain the confidentiality of each Participating Entity's DEA number, if applicable, and other confidential information in accordance with all federal and state laws, including without limitation, Texas Business and Commerce Code, chapter 521.

3. Ordering

3.1 Contractor hereby agrees to allow Pharmaceutical Products to be purchased on an as needed or on an as ordered basis.

3.2 Contractor hereby agrees to not restrict orders for new drug products.

3.3 Contractor hereby agrees that it will accept orders from HHSC in accordance with the requirements stated in Article 2, Ordering, Exhibit B-1 (HHSC Program and Facilities). Contractor hereby agrees that such interface is without cost to HHSC.

3.4 Contractor hereby agrees to provide DSHS Programs and Facilities with an alternative system-utilizing internet ordering options that match all features identified in Article 2, Ordering, Exhibit B-2 (DSHS Programs and Facilities). Contractor hereby agrees that such ordering system shall be provided at no cost to DSHS.

Attachment B
Master Statement of Work
Pharmaceutical Wholesaler
HHSC Contract No. HHS000028600001

Page 3

ATTACHMENT B MASTER STATEMENT OF WORK

3.5 Turnaround time from order entry to order delivery for each HHS Program and Facility shall be in accordance with the schedule stated in Exhibits B-1 (HHSC Programs and Facilities) and Exhibit B-2. (DSHS Programs and Facilities).

3.6 If HHSC and DSHS establish a uniform ordering process or processes for the programs and facilities included under this Contract, Contractor hereby agrees that it must provide HHSC and DSHS with an ordering system that conforms to such process or processes. Such an ordering system shall be without cost to HHSC and DSHS.

4. Pricing and Product Tracking

4.1 **Pricing.** Contractor's pricing package of minus 7.20% stated in Attachment A of Attachment J-Contractor's Response to RFP No. HHS0000286C is reflective of no administrative fee payment to the group purchasing organization (GPO) selected by HHS. Contractor hereby agrees that product pricing must be in accordance with the HHS' GPO contract at the time of purchase, 340B and PHS-pricing for eligible programs or, if applicable, Contractor's negotiated price with drug manufacturers. *See* Exhibits B-1 (HHSC Programs and Facilities) and B-2 (DSHS Programs and Facilities) for the identification of HHS Programs and Facilities eligible for 340B and PHS pricing. Contractor hereby ensures that it must maintain the confidentiality of pricing agreements. If, during the term this Contract, any Participating Entity were to affiliate with an alternative or additional GPO requiring an administrative fee payment from Contractor, or if any increase to the existing GPO administrative/marketing fee structure, Contractor shall assess a proportionate increase to the net sales to each HHS Participating Agency to reimburse Contractor for the administrative fee payment.

4.1.1 Assumptions

A. Non-Contract Purchases

- (1) Non-contract items are net billed.
- (2) Items contracted at equal or greater value than Morris & Dickson's non-contract selling price are net billed.

B. Drop Shipped Product

Attachment B
Master Statement of Work
Pharmaceutical Wholesaler
HHSC Contract No. HHS000028600001

Page 4

ATTACHMENT B MASTER STATEMENT OF WORK

- (1) Drop shipped product shall be billed at supplier's invoiced price to distributor.
- (2) Contractor does not guarantee posted price in the ordering system.
- (3) In the event the supplier does not offer greater than 1.0% discount purchase terms or supplier terms do not adequately meet Contractor's cost of service, Contractor will assess up to a 1.0% processing fee.

C. Morris & Dickson Specialty Division (MDSO)

MDSO items are net billed.

D. Deliveries

This Section 4.1.1(D) applies to OEPs only.

- (1) \$1,000 minimum order applies on orders consisting primarily of bulky items, OTC's, and/or vaccines. Orders less than \$1,000 will be subject to \$65 delivery fee.
- (2) Contractor will pass through to the customer the delivery expense incurred shipping to the re-packager.
- (3) Facility average monthly purchase volume < \$25,000 per month will be limited to one delivery per week.

E. Account Threshold

This Section 4.1.1(E) applies to OEPs only.

- (1) Each OEP will be allotted up to 100 direct ordering accounts. Contractor reserves the right to increase cost of goods statewide by 0.35% per each increment of 50 active accounts exceeding the 100-account base threshold allotted. (Active accounts are defined as accounts containing purchase history in the last 12 months).

- 4.2 Contractor must not substitute more expensive, non-contract or non-PHS eligible products when contract or PHS-eligible products are available.
- 4.3 Contractor must maintain accurate GPO-contract and PHS-eligible pricing. Pricing must be updated in Contractor's ordering system and reflect pricing on a quarterly or more frequent basis. Contractor shall issue credit memos for overcharges no later than 30 calendar days after of their discovery. Contractor must issue invoices for undercharges no later than 30 calendar days after of their discovery; such invoices

ATTACHMENT B MASTER STATEMENT OF WORK

must include all applicable discounts the Participating Entity is entitled to under the Contract.

- 4.4 Contractor hereby agrees that Participating Entities shall not pay any fees, percentages, or costs that Contractor did not identify in its Proposal, and expressly agreed to in the Contract.
- 4.5 Contractor hereby agrees to provide returned goods credits/direct supplier credits as follows:
- 4.5.1 All returned products must be purchased from the Contractor distribution center and returned electronically via M&D Web Portal.
 - 4.5.2 Shortages and damaged shipments must be reported within two working days of the occurrence.
 - 4.5.3 Contractor does not accept partial bottles or packages for return. Contractor will, however, work with many of the reverse distribution vendors to issue credits.
 - 4.5.4 Contractor does not accept drop ship product for return.
 - 4.5.5 All products accepted for return by Contractor will be credited within 15 working days from date goods are received.
 - 4.5.6 Credits shall not exceed purchase price.
 - 4.5.7 All refrigerated or non-refrigerated products must be returned under proper storage and shipping conditions per Prescription Drug Marketing Act/Food and Drug Administration manufacturer requirements. No additional fees will be charged on products that are handled properly. If product is returned in unsuitable condition, no credit will be issued.
 - 4.5.8 Contractor will not accept product for return if designated “non-returnable.”
 - 4.5.9 Contractor will exercise caution before accepting returns designated “extreme risk” for counterfeiting. For those items that fall outside the “non-returnable” category, Contractor will maintain sole discretion of accepting return. Salesperson authorization required, as well as conclusive verification the item was purchased from Contractor.
 - 4.5.10 Contractor will not accept “special ordered” product for return. Special order is defined as any order Morris & Dickson makes with a manufacturer to satisfy a specific customer’s order request.
 - 4.5.11 Contractor will not accept returns from a contract pharmacy unless such product is ordered in error, shipped in error, damaged during shipment, or is unused. Contractor must accept unused products if such products are in-date. Products ordered in error, shipped in error, or damaged during shipment must be reported to Contractor within two days of receipt.

ATTACHMENT B MASTER STATEMENT OF WORK

- 4.5.12 Returns will be picked up by Contractor Monday through Wednesday.
Return product will not be picked up Thursday through Saturday.
- 4.5.13 Credits will be as follows (not to include non-returnable items):

A. Saleable Products

- (1) 90 days – no deduction;
- (2) 91 – 180 Days – invoice cost less 20%; and
- (3) 180 days and over – invoice cost less 40%.

B. Outdates

- (1) Outdates are defined as expired or products with less than six (6) months dating.
- (2) Credits will be issued at the lower of:
 - (a) purchase price less 25% less manufacturer processing fee; and
 - (b) manufacturers authorized credit amount.

C. Direct Manufacturer Credits

- (1) Manufacturer credit net of Contractor processing fees will be passed on to the subject Participating Entity for convenience credit categories not related to distribution services. Types of convenience credit categories affected may include drop ship credits, reverse distribution credits, supplemental manufacturer program credits, manufacturer rebates, and sharebacks.

4.6 Contractor hereby agrees to track product purchases by account and propose a system for notifying the Participating Entity of the availability of more cost-effective comparable products.

4.7 Contractor hereby agrees to comply with all aspects of the Drug Supply Chain Security Act (“**DSCSA**”) and shall serve as repository for all legally required information for the programs/facilities.

4.8 The ordering program/facility shall not accept ownership of a product, unless the previous owner prior to, or at the time of the transaction, provides the transaction history, the transaction information, and the transaction statement. Contractor must maintain all transaction data ordered through the Contractor.

4.9 Contractor must provide to each Participating Entity a written agreement by which confidentially maintaining the transaction information, transaction history, and transaction statements (collectively, the “**Transaction Data**”) required to be

ATTACHMENT B MASTER STATEMENT OF WORK

maintained under DSCSA, on behalf of the Participating Entities. If the Contract is terminated, Contractor must timely provide each Participating Entity with their respective Transaction Data.

5. Delivery Requirements

- 5.1 Except for designated state of Texas and federal holidays, product deliveries shall be made to each program or facility, or both, as frequently as daily, Monday through Friday. Turnaround time from order entry to order delivery for each program and facility is set forth in Exhibit B-1 (HHSC Programs and Facilities) and Exhibit B-2 (DSHS Programs and Facilities).
- 5.2 Contractor hereby agrees to purchase pharmaceuticals delivered directly from the Contractor's distribution center directly from a manufacturer. Exceptions to the foregoing requirement must be approved in writing by the ordering program or facility. This requirement does not apply to the use of repackaging services that receive pharmaceuticals from Contractor at the request of the ordering facility, who then ship the repackaged pharmaceuticals to the ordering facility pharmacy. Drugs purchased from a third-party distributor are not acceptable.
- 5.3 Contractor hereby agrees to provide and include labels with each delivery. At a minimum, the labels must contain the order-entry number, date of purchase, and the item acquisition price. A list of GPO pharmacy program contract items must also be provided with each delivery, complete with order-entry numbers and notation for those items not stocked in inventory. Contractor must provide facilities bar-coded shelf labels annually, or as frequent as necessary to meet account needs. Contractor's coding system shall include a method for identifying GPO contract vs. non-contract products.
- 5.4 For programs or facilities that provide bulk distribution of pharmaceuticals, Contractor hereby agrees to deliver all orders in full-unopened case quantities, except for orders less than a full case of product.
- 5.5 Contractor shall provide after hours, weekend emergency, and disaster services in accordance with the process and plan stated in Attachment 4 of its response to Attachment I-Request for Proposals ("RFP") for Pharmaceutical Wholesaler Distributor; RFP No. HHS0000286C (Contract Attachment J). Contractor will provide, at no charge, one emergency delivery service per quarter for each participating HHS program and facility. For additional emergency deliveries made on weekends, after hours, or on holidays, the participating HHS program and facility will be billed for actual delivery charges.

ATTACHMENT B MASTER STATEMENT OF WORK

- 5.6 If there is visible damage to products, the ordering HHS agency shall refuse receipt of the delivery. Contractor hereby agrees to replace damaged products within 24 hours from the time of the delivery or at the next delivery, whichever is sooner.

6 Training and Implementation

- 6.1 Contractor hereby agrees to provide on-site initial consultation to each program/facility regarding their pharmaceutical ordering system/processes and Contractor's system capabilities. Contractor may make recommendations regarding necessary upgrades of operations and automation equipment available.
- 6.2 Contractor hereby agrees to provide facilities/programs with on-site initial and, as requested, refresher staff training regarding pharmaceutical ordering system/processes and Contractor's system capabilities.
- 6.3 Contractor hereby agrees to assign account representative(s) to each participating HHS agency facility and program.

7 Reporting

- 7.1 Contractor hereby agrees to provide the following scheduled reports and identify any other report that may be available from Contractor:
- A. the monthly price verification and cumulative purchasing reports required under this contract shall be due on the 15th calendar day of the following month; and
 - B. the quarterly performance measures report required under this contract shall be due on the 15th calendar day of the following quarter.
- 7.2 Contractor shall deliver the foregoing reports in accordance with the requirements identified in this Contract. If Contractor fails to timely provide the reports as required under the Contract, a Participating Entity shall assess sanctions against Contractor in accordance with the guidelines stated in Attachment C-Performance Measures, Enhanced Contract and Performance Monitoring, and Associated Sanctions and Remedies.

8 Invoice and Payment

- 8.1 Contractor hereby agrees to submit invoices to each Participating Entity, by ordering program/facility. At a minimum, each invoice must include:
- A. account name and address;

ATTACHMENT B MASTER STATEMENT OF WORK

- B. account number;
- C. item number;
- D. quantity;
- E. number of units;
- F. description of Item (i.e. product name, strength and UOM);
- G. service date(s);
- H. amount;
- I. invoice number;
- J. invoice date;
- K. purchase order number;
- L. manufacturer;
- M. NDC;
- N. control classification;
- O. product identification as contract, PHS, or non-contract;
- P. price per UOM;
- Q. extension price (price per UOM times quantity); and
- R. total invoice price.

- 8.2 Contractor hereby agrees that each HHS agency shall have the right to audit the Contractor to determine validity of invoice pricing. Each HHS agency may conduct audits in collaboration with other State and federal authorities as identified in Attachment E-HHSC Uniform Terms and Conditions-Vendor, Version 2.15. The right to audit Contractor to determine the validity of invoice pricing shall also apply to OEPs.
- 8.3 Contractor hereby agrees that it shall use the lesser of cost as defined in this Contract, or the appropriate Contractor PHS price for eligible accounts as identified in the programs and facilities table set forth in Exhibit B-1 (HHSC Programs and Facilities) and Exhibit B-2 (DSHS Programs and Facilities), as the basis for invoicing each ordering HHS program/facility.
- 8.4 Each HHS agency will pay Contractor for their respective purchases through Electronic Funds Transfer. Payment shall be as follows:
- A. For DSHS Programs and Facilities, *see* Exhibit B-2 (DSHS Programs and Facilities).
 - B. For HHSC State Hospitals, *see* Exhibit B-1 (HHSC Programs and Facilities).
 - C. For HHSC SSLCs, *see* Exhibit B-1 (HHSC Programs and Facilities).

ATTACHMENT B MASTER STATEMENT OF WORK

8.5 Unless otherwise agreed to by Contractor and an OEP, Contractor and an OEP are subject to the invoice and payment schedule stated under Article 3, Attachment B-1, HHSC Programs and Facilities.

9. Miscellaneous Provisions

9.1 Prior to the Contract start date, Contractor shall be provided with additional information regarding those HHS programs and facilities participating in this Contract and have access to each site to train HHS staff, establish accounts, and prepare for implementation of all Services on the Contract Effective Date.

9.2 If the terms of this Contract conflict with the terms of Contractor's distribution agreement with MMCAP Infuse, the terms of this Contract shall control.

9.3 Throughout the term of this Contract, including any extensions and renewals, Contractor must be:

- A. an authorized pharmaceutical wholesaler distributor for drugs purchased on contract with MMCAP Infuse;
- B. licensed as a pharmaceutical wholesaler distributor within the state where the Contractor's distribution center providing PHS products to the accounts and programs identified in the table set forth in Exhibit B-1 (HHSC Programs and Facilities) and Exhibit B-2 (DSHS Programs and Facilities). If the distribution center is not physically located in Texas, then Contractor must be licensed as an out of state whole pharmaceutical distributor in Texas;
- C. licensed as a wholesale distributor with the Drug Enforcement Administration;
- D. authorized to do business in the state of Texas; and
- E. free of an exclusion or debarment that would prohibit Contractor from maintaining this Contract.

9.4 Contractor's valued added benefits and services are optional services that a Participating Entity may elect to use. HHS agencies have declined to contract for the value added optional services but reserve the right to do so later, subject to the terms of Contractor's RFP response.

CONTRACT NO: HHS00002860001
EXHIBIT B-1
HHSC PROGRAMS AND FACILITIES

1. Morris & Dickson Co LLC (“**Contractor**”) hereby agrees to provide Pharmaceutical Products to the Health and Human Service Commission (“**HHSC**”) Programs and Facilities identified in the table that immediately follows. Such Pharmaceutical Products will be provided in accordance with all Contract requirements, subject to the order cutoff times and next-day delivery times as stated below.

340B Eligible Account	Eligible Program Name	Drug Enforcement Number (“DEA”)	Mailing Address	Physical Address	Ordering Cutoff Time-Central Time	Delivery Time (Next Day for orders submitted by Ordering Cutoff Time)
No	Abilene State Supported Living Center	To be provided to Contractor	PO Box 451 Abilene, TX 79602	2501 Maple St. Abilene, TX 79602	6:00 p.m..	10:00 a.m.- 12:00 p.m.
No	Austin State Supported Living Center	To be provided to Contractor	2203 W. 35 th St. Austin, TX 78703	Same	6:00 p.m..	9:00 a.m. 11:00 a.m.-
No	Brenham State Supported Living Center	To be provided to Contractor	4001 Hwy 36 South Brenham, TX 77833	Same	6:00 p.m..	8:00 a.m.- 10:00 a.m.
No	Corpus Christi State Supported Living Center	To be provided to Contractor	PO Box 9297 Corpus Christi, TX 78405	902 Airport Rd. Corpus Christi, TX 78405	6:00 p.m..	9:00 a.m. 11:00 a.m.-
No	Denton State Supported Living Center	To be provided to Contractor	3980 State School Rd. Denton, TX 76210	Same	6:00 p.m..	9:00 a.m. 11:00 a.m.-
No	El Paso State Supported Living Center	To be provided to Contractor	6700 Delta Dr. El Paso, TX 77905	Same	5:00 p.m.	10:30-a.m.- 11:30 a.m.

No	Lubbock State Supported Living Center	To be provided to Contractor	PO Box 5396, Lubbock, TX 79417	3401 N. University Ave. Lubbock, TX 79417	6:00 p.m..	9:00 a.m.-11:00 a.m.-
No	Lufkin State Supported Living Center	To be provided to Contractor	PO Drawer 1648 Pollock, TX 75969	6844 N. U.S. Highway 69 Pollock, TX 75969	6:00 p.m..	9:00 a.m.-11:00 a.m.-
No	Mexia State Supported Living Center	To be provided to Contractor	PO Box 1132 Mexia, TX 76667	540 Chapel Dr., Mexia, TX 76667	6:00 p.m..	8:00 a.m.-10:00 a.m.
No	Richmond State Supported Living Center	To be provided to Contractor	2100 Preston St., Richmond, TX 77469	Same	6:00 p.m..	12:00 p.m.-2:00 p.m.
No	San Angelo State Supported Living Center	To be provided to Contractor	11640 U.S. Hwy 87 N. Box 38 Carlsbad, TX 76934	Same	6:00 p.m..	8:00 a.m.-10:00 a.m.
No	San Antonio State Supported Living Center	To be provided to Contractor	6711 S. New Braunfels Ave., Ste. 500, Bldg. 667	Same	6:00 p.m..	7:00 a.m.-9:00 a.m.
No	Austin State Hospital	To be provided to Contractor	4110 Guadalupe St., Austin, TX 78751	Same	6:00 p.m..	9:00 a.m.-11:00 a.m.-
No	Big Spring State Hospital	To be provided to Contractor	1901 N. Hwy 87 Big Spring, TX 79720	Same	6:00 p.m..	10:00 a.m.-12:00 p.m.
No	El Paso Psychiatric Center	To be provided to Contractor	4615 Alameda Ave., El Paso, TX 79905	Same	5:00 p.m.	10:30-a.m.-11:30 a.m.
No	Kerrville State Hospital	To be provided to Contractor	721 Thompson Dr.,	Same	6:00 p.m..	9:00 a.m.-11:00 a.m.-

			Kerrville, TX 78028			
No	North Texas State Hospital	To be provided to Contractor	PO Box 2231 Vernon, TX 76385	4730 College Dr., Vernon, TX 76385	6:00 p.m..	8:00 a.m.- 10:00 a.m.
No	North Texas State Hospital	To be provided to Contractor	PO Box 300 Lake Rd. Wichita Falls, TX 76308	6515 Kemp Blvd. Wichita Falls, TX 76308	6:00 p.m..	9:00 a.m. 11:00 a.m.-
No	Rio Grande State Center	To be provided to Contractor	1401 S. Rangerfield Rd. Harlingen, TX 78550	Same	6:00 p.m..	9:00 a.m. 11:00 a.m.-
No	Rusk State Hospital	To be provided to Contractor	PO Box 318 Rusk, TX 75785	805 N. Dickinson Dr. Rusk, TX 75785	6:00 p.m..	10:00 a.m.- 12:00 p.m.
No	San Antonio State Hospital	To be provided to Contractor	6711 S. New Braunfels, Ste. 100, San Antonio, TX 78223	Same	6:00 p.m..	7:00 a.m. - 9:00 a.m..
No	Terrell State Hospital	To be provided to Contractor	PO Box 70 Terrell, TX 75160	1200 E. Brin Terrell, TX 75160	6:00 p.m..	8:00 a.m.- 10:00 a.m.

2. Ordering

Contractor shall provide HHSC with the following systems at no cost:

2.1 State Supported Living Centers. Contractor must be able to accept and process electronic orders from the SSLCs' pharmacy ordering system. Contractor's software system must have the ability to interface with the current pharmacy software system used by each SSLC, and have the ability to create, transfer, and provide notification of transaction errors as 850 and 855 files, and transactions must be compatible with X12 (not HL7). Contractor must also provide, at no cost to HSHC, an automated ordering system with the same features as those provided for the State Hospitals in section 2.2, as backup.

2.2 **State Hospitals.** Contractor hereby agrees to provide to the state hospitals an automated ordering system that will include, at a minimum, the following features or their functional equivalent:

- A. hardware and software unique to Contractor's automated system;
- B. a back-up plan for ordering due to failure of Contractor's primary ordering system;
- C. the ability to accept downloaded orders from the handheld units capable of reading bar codes or NDC numbers;
- D. inventory management that calculates suggested order quantities and reordering levels;
- E. the ability to print bar coded shelf labels on site that contain re-order par levels and/or a minimum of description/item #/NDC #/UOM;
- F. daily system updates to pricing and product information.
- G. identification of contract-priced items with unique codes to identify all contracts the product may be purchased from;
- H. the capability to identify contract, lesser price, formulary items for substitution before orders are submitted to Contractor by Participating Entity;
- I. identify alternative in-stock items that may be substituted for unavailable product.
- J. a backorder-tracking feature to capture items not available and advise the facility/program when the items become available;
- K. a physical inventory program that allows downloads from a handheld unit the inventory by department, with report options to include summary report by account, detailed reports by account, and count sheets;
- L. the capability of electronically updating price change data, and inventory (received quantities) in the pharmacy software system;
- M. the capability of separating items in the order by previously established account and totes separated by the program/facility;
- N. provide end-users with the ability to customize the grid-layout of the ordering system and sort data by different fields;
- O. The capability of real-time stock check to confirm available stock quantities on products and an alternative procedure for checking stock to be proposed by Contractor; and
- P. Identification of pharmaceuticals considered hazardous as either determined by the manufacturer or as defined by the National Institute for Occupational Safety.

3. **Payment.** HHSC Program and Facilities shall pay Contractor for their respective purchases through Electronic Funds Transfer. Payment shall be as follows:

3.1 For the SSLCs and the State Hospitals, Contractor shall bill the Facilities twice per month. The billing cycles shall be the 1st to the 15th and the 16th through the end of each month. HHSC Facilities shall pay Contractor for all undisputed invoices twice a month through an Electronic Funds Transfer. The pricing package of minus 7.20% with a 10-day pay period applies to all Pharmaceutical Products ordered except as otherwise expressly provided in Exhibit B, Master Statement of Work. The 10-day payment period, shortened from the 30-day period in the Prompt Payment Act, was a factor in arriving at the minus 7.20% pricing discount.

CONTRACT NO: HHS00002860001
EXHIBIT B-2
DSHS PROGRAMS AND FACILITIES

1. **DSHS Programs and Facilities.** Morris & Dickson Co LLC (“**Contractor**”) hereby agrees to provide Pharmaceutical Products to the Department of State Health Services (“**DSHS**”) Programs and Facilities identified in the table that immediately follows. Such Pharmaceutical Products will be provided in accordance with all Contract requirements, subject to the order cutoff times and delivery times as stated below.

340B Eligible Account	Eligible Program Name	Drug Enforcement Number (“DEA”)	Mailing Address	Physical Address	Ordering Cutoff Time-Central Time	Delivery Time (Next Day for orders submitted by Ordering Cutoff Time)
Yes	DSHS Pharmacy Branch – HIV Program	No DEA # / 340B ID RWIID92 / 340B ID RWIIR78756	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
Yes	DSHS Pharmacy Branch – TB Program	No DEA # / 340B ID TB787561	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	DSHS Pharmacy Branch – TB Program	No DEA # / FDA Registration #1641400 / Dal Labeler #055695	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	DSHS Pharmacy Branch – Hansen’s Disease Program	No DEA # / FDA Registration #1641400 / Dal Labeler #055695	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
Yes	DSHS Pharmacy Branch – STD Program	No DEA # / 340B ID STD787563	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.

Exhibit B-2
DSHS Programs and Facilities
HHSC Contract No. HHS00002860001

No	DSHS Pharmacy Branch – Immunization Program	No DEA # / FDA Registration #1641400 / Dal Labeler #055695	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	DSHS Pharmacy Branch	No DEA # / FDA Registration #1641400 / Dal Labeler #055695	P.O. Box 149347 Austin, TX 78714- 9347	1111 W. North Loop Blvd., Austin, TX 78756	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	DSHS Pharmacy Lubbock (PHR 1)	No DEA # / No Federal Registration# / No DAL Labeler	6302 Iola Ave. Lubbock, TX 79424	6302 Iola Ave. Lubbock, TX 79424	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	Texas DSHS Pharmacy Arlington (PHR 2/3)	No DEA # / No FDA Registration # / No Dal Labeler	1301 S. Bowen Rd., Ste. 200 Arlington, TX 76013	1301 S. Bowen Rd., Ste. 200 Arlington, TX 76013	6:00 p.m.	9:00 a.m.-11:00 a.m.
No	Texas DSHS Pharmacy Tyler (PHR 4/5)	No DEA # / No FDA Registration # / No Dal Labeler	2521 W. Front St. Tyler, TX 75702	2521 W. Front St. Tyler, TX 75702	6:00 p.m.	8:00 a.m.-10:00 a.m.
No	Texas DSHS Pharmacy Temple (PHR 7)	No DEA # / No FDA Registration # / No Dal Labeler	2408 S. 37 th St. Temple, TX 76501	2408 S. 37 th St. Temple, TX 76501	6:00 p.m.	10:00 a.m.-12:00 a.m.
No	Texas DSHS Pharmacy Big Spring (PHR 9/10)	No DEA # / No FDA Registration # / No Dal Labeler	2301 North Big Spring, Ste.300 Midland, TX 79705	501 Birdwell Lane, Ste. 28-B Big Spring, TX 79720	6:00 p.m.	10:00 a.m.-12:00 p m.
No	Texas DSHS Pharmacy Brady (PHR 9/10)	No DEA # / No FDA Registration # / No Dal Labeler	2301 North Big Spring, Ste. 300 Midland, TX 79705	1004 South Bridge St. Brady, TX 76825	5:00 p.m.	10:00 a.m. – 12:00 p m.

Exhibit B-2
DSHS Programs and Facilities
HHSC Contract No. HHS00002860001

No	Texas DSHS Pharmacy Marfa (PHR 9/10)	No DEA # / No FDA Registration # / No Dal Labeler	2301 North Big Spring, Ste. 300 Midland, TX 79705	205 East El Paso St. Marfa, TX 79843	5:00 p.m.	10:30 a.m.–11:30 a.m.
No	Texas DSHS Pharmacy Midland (PHR 9/10)	No DEA # / No FDA Registration # / No Dal Labeler	2301 North Big Spring, Ste. 300 Midland, TX 79705	2301 North Big Spring, Ste. 300 Midland, TX 79705	6:00 p.m.	9:00 a.m. –11:00 a.m.
No	Texas DSHS Pharmacy Alpine (PHR 9/10)	No DEA # / No FDA Registration # / No Dal Labeler	2301 North Big Spring, Ste. 300 Midland, TX 79705	2005 North Cockrell Alpine, TX 79830	5:00 p.m.	10:30 a.m.–11:30 a.m.
No	Texas DSHS Pharmacy Harlingen (PHR 11)	No DEA # / No FDA Registration # / No Dal Labeler	601 W. Sesame Drive Harlingen, TX 78550	601 W. Sesame Drive Harlingen, TX 78550	6:00 p.m.	9:00 a.m. –11:00 a.m.

2. **Ordering.** Contractor hereby agrees to provide DSHS Programs and Facilities with an alternative automated system-utilizing internet ordering options that will include, at a minimum, the following features or their functional equivalent:

- A. hardware and software unique to Contractor's automated system;
- B. a back-up plan for ordering due to failure of Contractor's primary ordering system;
- C. the ability to accept downloaded orders from the handheld units capable of reading bar codes or NDC numbers;
- D. inventory management that calculates suggested order quantities and reordering levels;
- E. the ability to print bar coded shelf labels on site that contain re-order par levels and/or a minimum of description/item #/NDC #/UOM;
- F. daily system updates to pricing and product information.
- G. identification of contract-priced items with unique codes to identify all contracts the product may be purchased from;
- H. the capability to identify contract, lesser price, formulary items for substitution before orders are submitted to Contractor by Participating Entity;
- I. identify alternative in-stock items that may be substituted for unavailable product.

- J. a backorder-tracking feature to capture items not available and advise the facility/program when the items become available;
- K. a physical inventory program that allows downloads from a handheld unit the inventory by department, with report options to include summary report by account, detailed reports by account, and count sheets;
- L. the capability of electronically updating price change data, and inventory (received quantities) in the pharmacy software system;
- M. the capability of separating items in the order by previously established account and totes separated by the program/facility;
- N. provide end-users with the ability to customize the grid-layout of the ordering system and sort data by different fields;
- O. The capability of real-time stock check to confirm available stock quantities on products and an alternative procedure for checking stock to be proposed by Contractor; and
- P. Identification of pharmaceuticals considered hazardous as either determined by the manufacturer or as defined by the National Institute for Occupational Safety.

3. **Payment.** DSHS will pay Contractor for its purchases through Electronic Funds Transfer within 15 days from the date the undisputed invoice is received at DSHS. The 15-day payment period, shortened from the 30-day period in the Prompt Payment Act, was a factor in arriving at the minus 7.20% pricing discount.

ATTACHMENT C

PERFORMANCE MEASURES, ENHANCED CONTRACT AND PERFORMANCE MONITORING, AND ASSOCIATED SANCTIONS AND REMEDIES

1. Overview

1.1 Participating Entities under the Contract will perform monitoring activities specific to their respective purchases. Morris & Dickson Co. LLC (“**Contractor**”) must provide services and deliverables at an acceptable quality level and in a manner consistent with acceptable industry standards, customs, and practices.

2. Performance Measures

2.1 Performance measures shall include, but are not limited to:

- A. **Contractor must correct pricing errors within one business day of identification of the error.**
- B. **Contractor must respond to any inquiries from a Participating Entity within two business days from the date of the subject inquiry.**
- C. **Contractor must fill and deliver orders within one business day from the date of the order.**
- D. **Contractor must ensure all orders contain accurate packing lists.**
- E. **Contractor must ensure invoices and statements are accurate and delivered to the applicable Participating Entity in a timely manner in accordance with the terms of this Contract to allow for the purchase discounts in this Contract.**
- F. **Contractor must ensure reports are accurate and delivered in a timely manner in accordance with the terms of this Contract.**
- G. **Contractor must ensure pharmaceuticals provided under this Contract have expiration dates greater than 180 calendar days upon receipt by the programs and facilities, unless the manufacturer can only provide pharmaceuticals with less than 180 calendar days dating.**

- H. Contractor must ensure that all Pharmaceutical Products are shipped in accordance with manufacturer guidelines and industry standards.**
- I. Contractor must ensure that purchase discount levels are based on the Participating Entities as a whole rather than individual HHS program/facility accounts or OEPs.**
- J. Contractor must meet and maintain the adjusted service level measures specified in the contract not less than 97% of the time. The adjusted service level is determined by calculating (a) the total number of the product ordered, in full, as a percentage of the (b) total number of product ordered, minus manufacturer's failure to supply, products stocked by the Contractor, discounted products, products reordered within 72 hours of an original shortage, and products whose usage exceeds 120% of the 90-day average.**
- K. Contractor must verify the accuracy of all pharmaceutical drug prices and Contractor discounts and verify a Participating Entity did not pay unauthorized charges.**
- L. Contractor must maintain cumulative purchasing data for each HHS agency (by program/facility account) and OEP to verify volume of purchases.**

3. Enhanced Contract and Performance Monitoring

3.1 Overview

Agencies of the state of Texas are required to establish enhanced monitoring protocols for contracts with a value of \$10 million or more. The value of this Contract exceeds \$10 million. HHS agencies will perform enhanced monitoring activities specific to their respective purchases. OEPs shall monitor Contractor's performance in accordance with applicable laws and their respective policies but may use those provided in this Contract. Contractor hereby agrees to comply with the following requirements:

- A. Contractor must provide each HHS agency with a quarterly performance measures report to verify that Contractor maintained the 97% adjusted service level was maintained overall (within Contractor control and excluding manufacturer shortage, products reordered within 72 hours of the original shortage, products whose usage exceeds 120% of the 90-day average for use of such products, new product additions or products where an HHS Agency provides no estimated usage (for the first 30 days after notification only), contract awards where Contractor notifications are received with less than four weeks' notice prior**

to transition (e.g., bid year transition), products ordered that are filled and delivered within 24 business hours of the original order, recalled items and discontinued products). Each report shall be based on a 90-day average within each quarter. If the adjusted service level is not maintained at a minimum of 97%, Contractor must state in the report the reason for the shortage that prevented Contractor from meeting the required service level. The reports are due quarterly in accordance with the following schedule:

1. Q1 (January – March) – April 15th for the term of the Contract;
2. Q2 (April – June) – July 15th for the term of the Contract;
3. Q3 (July – September) – October 15th for the term of the Contract; and
4. Q4 (October – December) – January 15th for the term of the Contract.

B. Contractor must provide each HHS agency with a monthly price verification report for the preceding month to identify any discrepancies between the invoice price and the GPO contracted price. The reports are due monthly in accordance with the following schedule:

1. January – February 15th for the term of the Contract.
2. February – March 15th for the term of the Contract;
3. March–April 15th for the term of the Contract;
4. April – May 15th for the term of the Contract;
5. May – June 15th for the term of the Contract;
6. June – July 15th for the term of the Contract;
7. July – August 15th for the term of the Contract;
8. August – September 15th for the term of the Contract;
9. September – October 15th for the term of the Contract;
10. October – November 15th for the term of the Contract;
11. November – December 15th for the term of the Contract; and
12. December – January 15th for the term of the Contract.

C. Contractor must provide each HHS agency with a monthly cumulative purchasing report for the preceding month to verify the volume of purchases. The reports are due monthly in accordance with the following schedule:

1. January–February 15th for the term of the Contract.
2. February – March 15th for the term of the Contract;
3. March–April 15th for the term of the Contract;
4. April – May 15th for the term of the Contract;
5. May – June 15th for the term of the Contract;

6. June – July 15th for the term of the Contract;
7. July – August 15th for the term of the Contract;
8. August – September 15th for the term of the Contract;
9. September – October 15th for the term of the Contract;
10. October – November 15th for the term of the Contract;
11. November – December 15th for the term of the Contract; and
12. December – January 15th for the term of the Contract.

3.2 Contractor must participate in monthly conference calls with both HHS agencies, unless requested more frequently by HHS, to review Contract issues, if any, and discuss ways to improve processes to realize greater efficiencies. HHS will provide Contractor with summary notes after each call. Unless canceled or rescheduled, the conference calls will take place on the first Friday of every month.

3.3 At a minimum, each HHS agency will annually conduct two desk or on-site reviews to monitor the enhanced monitoring protocols specific to their respective purchases. At the conclusion of each review, each HHS agency will provide Contractor with a report that documents any significant findings relating to the Contractor's performance under the Contract.

4. Sanctions and Remedies Schedule

4.1 General

Section 2261.101 of the Texas Government Code requires that all state contracts contain a remedies schedule, a graduated remedies schedule or both. In accordance with that statutory requirement, sanctions and remedies will apply for the incidents specified in this section. This Contract will refer to the sanctions and remedies as "**sanctions.**" Contractor hereby agrees that nothing in this Attachment, shall limit an HHS agency from pursuing other remedies or rights as may be available under Attachment E-HHSC Uniform Terms and Conditions-Vendor, Version 2.15, as modified. OEPs may apply the sanctions, if applicable, for performance issues relating to their respective purchases.

4.2 Assessment of Sanctions

Once an HHS agency has determined to assess sanctions, the subject HHS agency may notify the Contractor of the assessment(s). Failure to notify does not affect the HHS agency's assessment of sanctions and is not a condition precedent to an assessment of sanctions. The HHS agency will withhold sanctions from payments to Contractor. If the HHS agency is unable to withhold payments, the HHS agency will

demand payment of sanctions from Contractor. Contractor must make payment within 30 calendar days of the HHS agency's demand. If Contractor fails to pay within the 30-day period, the HHS agency may pursue collection of the sanctions in accordance with state laws and the terms of this Contract.

4.3 Failure to Assess Sanctions

The failure of an HHS agency to assess sanctions in any instance where the HHS agency is entitled to sanctions pursuant to the terms of this Contract shall not constitute waiver in any fashion of the HHS agency's rights to assess sanctions.

4.4. Severability of Individual Sanctions Clause

If any portion of this sanctions provision is determined to be unenforceable, the other provisions shall remain in effect.

4.5 Failure to Provide an HHS Agency with a Quarterly Performance Measures Report

The failure of Contractor to timely provide an HHS agency with a quarterly performance measures report in accordance with the requirements of this Contract may result in the Contractor being assessed sanctions in the amount of \$500.00 per incident. An HHS agency will provide Contractor with notice of the failure and Contractor shall have two business days from the date of the notice to cure its failure prior to the assessment of sanctions.

4.6 Failure to Provide an HHS Agency with a Monthly Price Verification Report

The failure of Contractor to timely provide an HHS agency with a monthly price verification report as required by this Contract may result in the Contractor being assessed sanctions in the amount of \$4,000.00 per incident. An HHS agency will provide Contractor with notice of the failure and Contractor shall have two business days from the date of the notice to cure its failure prior to the assessment of sanctions.

4.7 Failure to provide an HHS Agency with a Monthly Cumulative Purchasing Report

The failure of Contractor to timely provide an HHS agency with a monthly cumulative purchasing report for each program, facility and OEP account, if any, to verify volume of purchases as required by this Contract may result in the Contractor

being assessed sanctions in the amount of \$2,000.00 per incident. An HHS agency will provide Contractor with notice of the failure and Contractor shall have two business days from the date of the notice to cure its failure prior to the assessment of sanctions.

ATTACHMENT D INSURANCE

1. Insurance Requirements

Morris & Dickson Co. LLC (“**Contractor**”) must acquire and maintain, for the duration of this Contract, insurance coverage in accordance with the following requirements:

- 1.1 All insurance contracts and certificates of insurance must comply with the Texas Insurance Code and related rules and contain the provisions required by such authorities.
- 1.2 Prior to the commencement of any work under this Contract, Contractor must furnish original certificates of insurance to the Health and Human Services Commission (“HHSC”) Contract Representative. Each certificate of insurance must be completed by an agent authorized to bind the named insurer.
- 1.3 HHSC, or other Participating Entity, shall have no duty to pay or perform under this Contract until such certificate shall have been delivered to the HHSC Contract Representative and no officer or employee, other than the executive commissioner, or her designee, shall have authority to waive this requirement.
- 1.4 All certificates of insurance for required coverage other than workers' compensation and professional liability must name the state of Texas and its officers, directors, and employees as additional insureds; identify the service or product being provided; and the name of the liable party(ies).
- 1.5 Subject to Contractor’s right to maintain reasonable deductibles, Contractor shall obtain and maintain in full force and effect for the duration of the Contract, and any extension or renewal, or both, at Contractor’s sole expense, insurance coverage written by companies authorized to do business under the laws of the state of Texas.
- 1.6 All required coverage must issue from a company or companies that have both a Financial Strength Rating of “A” or better and a Financial Size Category Class of “VII” or better from A.M. Best Company, Inc., or otherwise acceptable to HHSC, in the following types and amounts:

Type of Insurance

Each Occurrence Aggregate

**A. Workers’ Compensation &
Employer’s Liability**

Statutory Limits

Bodily Injury by Accident	\$1,000,000 Each Accident
Bodily Injury by Disease	\$1,000,000 Each Employee
Bodily Injury by Disease	\$1,000,000 Policy Limit

B. Commercial General Liability

Bodily Injury and Property Damage
\$1,000,000 Each Occurrence Limit
\$2,000,000 Aggregate Limit
\$5,000 Medical Expense Each
Person
\$2,000,000 Products/Completed
Operations Aggregate Limit

C. Umbrella/Excess Liability

\$1,000,000 per Occurrence

- 1.7 Contractor must provide written notice to each Participating Entity at least 30 calendar days prior to the cancellation, nonrenewal, or material change of a required policy.
- 1.8 HHSC reserves the right to review the insurance requirements of this section during the effective period of the Contract and any extension or renewal of the contract; and to modify required insurance coverages and their limits when deemed necessary and prudent by HHSC based upon changes in state, federal and/or local rules, regulations, statutory law, court decisions or circumstances surrounding this Contract, but in no instance will HHSC allow modification whereupon a Participating Entity may incur increased risk.
- 1.9 A Participating Entity shall be entitled, upon request and without expense, to review copies of the policies and all endorsements to those policies.



Health and Human Services Commission

HHSC Uniform Terms and Conditions - Vendor

Version 2.15

Published and Effective September 1, 2017

Responsible Office: Chief Counsel

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS AND INTERPRETATIONS.....	61
1.1 Definitions.....	61
1.2 Interpretive Provisions.....	62
ARTICLE II. CONSIDERATION.....	63
2.1 Prompt Payment.....	63
2.2 Expenses.....	63
2.3 Work Orders.....	63
ARTICLE III. STATE AND FEDERAL FUNDING.....	64
3.1 Funding.....	64
3.2 No debt Against the State	64
3.3 Debt to State.....	64
3.4 Recapture of Funds.....	64
ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS....	65
4.1 Warranty	65
4.2 General Affirmations.....	65
4.3 Federal Assurances.....	65
4.4 Federal Certifications.....	65
ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY	66
5.1 Ownership	66
5.2 Intellectual Property	66
ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE.....	67
6.1 Books and Records.....	67
6.2 Access to records, books, and documents	67
6.3 Response/compliance with audit or inspection findings.....	67
6.4 SAO Audit	68
6.5 Confidentiality	68
6.6 Public Information Act.....	68
ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION.....	69
7.1 Contract Management	69
7.2 Termination for Convenience	69
7.3 Termination for Cause.....	69
7.4 Contractor responsibility for associated costs.....	69
7.5 Equitable Settlement.....	70

ARTICLE VIII. MISCELLANEOUS PROVISIONS	70
8.1 Amendment	70
8.2 Insurance	70
8.3 Delegation of Authority.....	70
8.4 Legal Obligations.....	71
8.5 E-Verify	71
8.6 Permitting and Licensure.....	71
8.7 Indemnity.....	71
8.8 Assignments.....	72
8.9 Subcontracts.....	72
8.10 HUB/Mentor Protégé.....	72
8.11 Relationship of the Parties.....	73
8.12 Technical Guidance Letters.....	73
8.13 Governing Law and Venue.....	73
8.14 Severability.....	73
8.15 Survivability	74
8.16 Force Majeure.....	74
8.17 Dispute Resolution	74
8.18 No Waiver of Provisions	74
8.19 Publicity.....	74
8.20 Prohibition on Non-compete Restrictions.....	75
8.21 No Waiver of Sovereign Immunity.....	75
8.22 Entire Contract and Modification.....	75
8.23 Counterparts.....	75
8.24 Proper Authority.....	75
8.25 Civil Rights.....	75
8.26 Enterprise Information Management Standards.....	76
8.27 Notice of Legal Matter or Litigation.....	76

ARTICLE I. DEFINITIONS AND INTERPRETATIONS

1.1 DEFINITIONS

As used in this Contract, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

- A. “Amendment” means a written agreement, signed by the parties hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.
- B. “Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.
- C. “Contract” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, purchase orders, Work Orders, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.
- D. “Contractor” means the Party selected to provide the goods or services under this Contract, if any.
- E. “Deliverable” means a work product prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.
- F. “Effective Date” means the date agreed to by the Parties as the date on which the Contract takes effect.
- G. “Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.
- H. “GAAP” means Generally Accepted Accounting Principles.
- I. “GASB” means the Governmental Accounting Standards Board.
- J. “Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code or its designee.
- K. “HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.
- L. “Intellectual Property” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, and other intangible proprietary information.
- M. “Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.
- N. “Parties” means the System Agency and Contractor, collectively.
- O. “Party” means either the System Agency or Contractor, individually.
- P. “Project” means the goods or Services described in the Signature Document or a Work Order of this Contract.
- Q. “Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.
- R. “Scope of Work” means the description of Services and Deliverables specified in the Contract as may be amended.
- S. “Services” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

- T. “[Signature Document](#)” means the document executed by both Parties that specifically sets forth all of the documents that constitute the Contract.
- U. “[Solicitation](#)” means the document issued by the System Agency under which the goods or services provided under the Contract were initially requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.
- V. “[Proposal](#)” means Contractor’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and addenda.
- W. “[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.
- X. “[State of Texas Textravel](#)” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.
- Y. “[Subcontract](#)” means any written agreement between Contractor and a third party to fulfill the requirements of the Contract. All Subcontracts are required to be in writing.
- Z. “[Subcontractor](#)” means any individual or entity that enters a contract with the Contractor to perform part or all of the obligations of Contractor under this Contract.
- AA. “[System Agency](#)” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.
- BB. “[Technical Guidance Letter](#)” or “[TGL](#)” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Contractor.
- CC. “[Work](#)” means all Services to be performed, goods to be delivered, and any appurtenant actions performed and items produced, conceived, or developed, including Deliverables.
- DD. “[Work Order](#)” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.
- D. Any references to “sections,” “appendices,” or “attachments” are references to sections, appendices, or attachments of the Contract.
- E. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- F. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- G. All Attachments within this Contract, including those incorporated by reference, and any

Amendments are considered part of the terms of this Contract.

- H. This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each will be performed in accordance with its terms.
- I. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- J. Time is of the essence in this Contract.

ARTICLE II. CONSIDERATION

2.1 PROMPT PAYMENT

The System Agency will pay Contractor in accordance with the Prompt Payment Act, Texas Government Code, Chapter 2251.

2.2 EXPENSES

Except as otherwise provided in the Contract, no ancillary expenses incurred by the Contractor in connection with its provision of the Services or Deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to costs associated with transportation, delivery, and insurance for each Deliverable.

When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas Textravel.

2.3 WORK ORDERS

To the extent the Contract is for indefinite quantities of services, as specified in the Signature Document, all Work will be performed in accordance with Work Orders.

- A. Upon identification of a Project, the System Agency will request that Contractor submit a proposal, including pricing and a project plan, to System Agency.
- B. If Contractor is selected to carry out an individual Project, a Work Order will be issued. Multiple Work Orders may be issued during the term of this Contract, all of which will be in writing and signed by the Parties. Each Work Order will include a scope of services; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project budget; and such other information or special conditions as may be necessary for the work assigned.
- C. Nothing in this Contract expresses or guarantees that the System Agency will issue Work Orders to Contractor for any of the tasks set forth in the Signature Document. All work requested under this Contract will be required on an irregular and as needed basis throughout the Contract term, and the System Agency makes no guarantee of volume or usage under this Contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

This Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for this Contract, the System Agency may restrict, reduce, or terminate funding under this Contract. This Contract is also subject to immediate cancellation or termination, without penalty to the System Agency, if sufficient and adequate funds are not available. Contractor will have no right of action against the System Agency if the System Agency cannot perform its obligations under this Contract as a result of lack of funding for any activities or functions contained within the scope of this Contract. In the event of cancellation or termination under this Section, the System Agency will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

3.2 NO DEBT AGAINST THE STATE

The Contract will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 DEBT TO STATE

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment, the Contractor acknowledges the System Agency's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

3.4 RECAPTURE OF FUNDS

The System Agency may withhold all or part of any payments to Contractor to offset overpayments made to the Contractor. Overpayments as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures. Contractor understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs will be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

Contractor warrants that all Work under this Contract will be completed in a manner consistent with standards under the terms of this Contract, in the applicable trade, profession, or industry; will conform to or exceed the specifications set forth in the Contract; and will be fit for ordinary use, of good quality, and with no material defects. If Contractor fails to complete Work timely or to perform satisfactorily under conditions required by this Contract, the System Agency may require Contractor, at its sole expense, to:

- A. Repair or replace all defective or damaged Work;
- B. Refund any payment received for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and
- C. Take necessary action to ensure that future performance and Work conform to the Contract requirements.

4.2 GENERAL AFFIRMATIONS

Contractor further certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

4.3 FEDERAL ASSURANCES

Contractor further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

4.4 FEDERAL CERTIFICATIONS

Contractor further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Contractor is in compliance with each of the requirements reflected therein. **In addition, Contractor certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.**

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY

51 OWNERSHIP

The System Agency will own, and Contractor hereby assigns to the System Agency, all right, title, and interest in all Work.

52 INTELLECTUAL PROPERTY

- A. To the extent any Work results in the creation of Intellectual Property, all right, title, and interest in and to such Intellectual Property will vest in the System Agency upon creation and will be deemed to be a “work made for hire” and made in the course of the services rendered pursuant to this Contract.
- B. To the extent that title to any such Intellectual Property may not by law vest in the System Agency, or such Intellectual Property may not be considered a “work made for hire,” all rights, title, and interest therein are hereby irrevocably assigned to the System Agency. The System Agency will have the right to obtain and to hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other protection as may be appropriate to the subject matter, including extensions and renewals thereof.
- C. Contractor must give the System Agency and the State of Texas, as well as any person designated by the System Agency or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond the stated amount payable to Contractor for the services authorized under this Contract.

ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE

61 BOOKS AND RECORDS

Contractor will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Contractor will maintain legible copies of this Contract and all related documents for a minimum of ten (10) years after the termination of the contract period or ten (10) years after the completion of any litigation or dispute involving the Contract, whichever is later.

62 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Contractor and any of Contractor's affiliate or subsidiary organizations, or Subcontractors will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Contractor will include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

63 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Contractor must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at Contractor or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance will be solely the decision of the System Agency.
- B. 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 Contract.

64 SAO AUDIT

Contractor understands that acceptance of funds directly under the Contract or indirectly through a Subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Contractor agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. 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.

65 CONFIDENTIALITY

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Contractor agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Contractor. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

66 PUBLIC INFORMATION ACT

Information related to the performance of this Contract may be subject to the PIA and will be withheld from public disclosure or released only in accordance therewith. Contractor must make all information not otherwise excepted from disclosure under the PIA available in portable document file (".pdf") format or any other format agreed between the Parties.

ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION

71 CONTRACT MANAGEMENT

To ensure full performance of the Contract and compliance with applicable law, the System Agency may take actions including:

- A. Suspending all or part of the Contract;
- B. Requiring the Contractor to take specific corrective actions in order to remain in compliance with term of the Contract;
- C. Recouping payments made to the Contractor found to be in error;
- D. Suspending, limiting, or placing conditions on the continued performance of Work;
- E. Imposing any other remedies authorized under this Contract; and
- F. Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.

72 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Contract, in whole or in part, at any time when, in its sole discretion, the System Agency 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.

73 TERMINATION FOR CAUSE

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Contract, in whole or in part, upon either of the following conditions:

A. Material Breach

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Contractor has materially breached the Contract or has 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 Contract. Contractor's misrepresentation in any aspect of Contractor's Proposal, if any, or Contractor's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

B. Failure to Maintain Financial Viability

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Contractor no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

74 CONTRACTOR RESPONSIBILITY FOR ASSOCIATED COSTS.

If the System Agency terminates the Contract for Cause, the Contractor will be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas 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 Work in accordance with the terms of the Contract.

75 EQUITABLE SETTLEMENT

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

ARTICLE VIII. MISCELLANEOUS PROVISIONS

81 AMENDMENT

The Contract may only be amended by an Amendment executed by both Parties.

82 INSURANCE

Unless otherwise specified in this Contract, Contractor will acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Contractor will provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Contractor will secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Contractor must produce renewal certificates for each type of coverage.

These and all other insurance requirements under the Contract apply to both Contractor and its Subcontractors, if any. Contractor is responsible for ensuring its Subcontractors' compliance with all requirements.

83 DELEGATION OF AUTHORITY

Whenever, by any provision of the Contract, 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 the Executive Commissioner unless such is delegated to duly appointed agents or employees. The Executive Commissioner will reduce any delegation of authority to writing and provide a copy to Contractor on request. The authority delegated to Contractor by the System Agency is limited to the terms of the Contract. Contractor may not rely upon implied authority and is not delegated authority under the Contract to:

- A. Make public policy;
- B. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of System Agency program; or
- C. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding the System Agency programs or the Contract. However, upon request and reasonable notice to the Contractor, Contractor will assist the System Agency in communications and negotiations regarding the Work under the Contract with state and

federal governments.

84 LEGAL OBLIGATIONS

Contractor will comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Contractor will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

85 E-VERIFY

By entering into this Contract, 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:

- A. All persons employed during the contract term to perform duties within Texas; and
- B. All persons (including subcontractors) assigned by the contractor to perform Work pursuant to the Contract.

86 PERMITTING AND LICENSURE

At Contractor's sole expense, Contractor will procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or Services required by this Contract. Contractor will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Contractor agrees to be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

87 INDEMNITY

TO THE EXTENT ALLOWED BY LAW, CONTRACTOR WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- **CONTRACTOR'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY CONTRACTOR, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION**

**OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT;
OR**

- **EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS; OR**
- **WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

CONTRACTOR WILL COORDINATE ITS DEFENSE WITH THE SYSTEM AGENCY AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE SYSTEM AGENCY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.

88 **ASSIGNMENTS**

Contractor may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Contractor from its obligations under the Contract.

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

89 **SUBCONTRACTS**

Contractor will be responsible to the System Agency for any Subcontractor's performance under this Contract. Nothing in this Contract will be construed to relieve Contractor of the responsibility for ensuring that the goods delivered or services rendered by Contractor or any of its Subcontractors comply with all the terms and provisions of this Contract. Contractor will provide written notification to the System Agency of any Subcontractor receiving compensation of One hundred thousand dollars (\$100,000.00) or more of the Work under this Contract, including the name and taxpayer identification number of Subcontractor, the task(s) being performed, and the number of Subcontractor employees expected to perform Services. The System Agency reserves the right to:

- A. Reject the Subcontract or require changes to any provisions that do not comply with the requirements, duties, or responsibilities of the Contract or that create significant barriers for the System Agency to monitor compliance with the Contract;
- B. Object to the selection of the Subcontractor; or
- C. Object to the subcontracting of the Work proposed to be Subcontracted.

810 **HUB/MENTOR PROTÉGÉ**

In accordance with State law, it is the System Agency's policy to assist HUBs whenever possible in providing goods and services to the System Agency. The System Agency encourages those parties with whom it contracts for the provision of goods and services to adhere to this same philosophy in selecting Subcontractors to assist in fulfilling their obligations with the System Agency. In addition to information

required by this Contract, the contracting Party will provide the procurement department of the System Agency with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder.

The System Agency encourages the Parties it contracts with to partner with certified HUBs that participate in the Texas Comptroller of Public Accounts' Mentor Protégé Program.

811 RELATIONSHIP OF THE PARTIES

Contractor is, and will be, an independent contractor and, subject only to the terms of this Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the System Agency any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other Party.

Contractor will be solely responsible for, and the System Agency will have no obligation with respect to:

- A. Payment of Contractor's employees for all Services performed;
- B. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work;
- C. Withholding of income taxes, FICA, or any other taxes or fees;
- D. Industrial or workers' compensation insurance coverage;
- E. Participation in any group insurance plans available to employees of the State of Texas;
- F. Participation or contributions by the State to the State Employees Retirement System;
- G. Accumulation of vacation leave or sick leave; or
- H. Unemployment compensation coverage provided by the State.

812 TECHNICAL GUIDANCE LETTERS

In the sole discretion of the System Agency, and in conformance with federal and state law, the System Agency may issue instructions, clarifications, or interpretations as may be required during Work performance in the form of a Technical Guidance Letter. A TGL must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the System Agency will be incorporated into the Contract by reference herein for all purposes when it is issued.

813 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the state of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract will be in a court of competent jurisdiction in Travis County, Texas unless otherwise elected by the System Agency. Contractor irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

814 SEVERABILITY

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Contract unenforceable.

815 SURVIVABILITY

Termination or expiration of this Contract or a Contract for any reason will not release either party from any liabilities or obligations in this Contract that the parties have expressly agreed will survive any such termination or expiration, remain to be performed, or by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

816 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a “Force Majeure”), then, while so prevented, the affected Party’s obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

817 DISPUTE RESOLUTION

If a contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision will not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

818 NO WAIVER OF PROVISIONS

Neither failure to enforce any provision of this Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

819 PUBLICITY

Except as provided in the paragraph below, Contractor must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.

Contractor may publish, at its sole expense, results of Contractor performance under the Contract with the System Agency’s prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

820 PROHIBITION ON NON-COMPETE RESTRICTIONS

Contractor will not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

821 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in the Contract will be construed as a waiver of sovereign immunity by a System Agency.

822 ENTIRE CONTRACT AND MODIFICATION

The Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized with this Contract to the extent possible by the System Agency.

823 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Contract.

824 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor with respect to compensation.

825 CIVIL RIGHTS

- A. Contractor agrees to comply with state and federal anti-discrimination laws, including:
 - (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
 - (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - (3) Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
 - (4) Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - (5) Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - (6) Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
 - (7) The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Contractor agrees to comply with all amendments to these laws, and all requirements imposed by the regulations issued pursuant to 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 service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.

- B. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 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. 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 agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

- C. Contractor agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- D. Contractor agrees to comply with Executive Orders 13279 and 13559, and their 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 shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Contractor must provide written notice to beneficiaries of their rights.
- E. Upon request, Contractor will provide HHSC Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- F. Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice 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.

826 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

Contractor agrees that it will conform to HHSC standards for data management as described by the policies of the HHSC Office of the Chief Data Officer (OCDO). These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by the HHSC for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

827 NOTICE OF LEGAL MATTER OR LITIGATION

Contractor shall notify the contract manager assigned to this Contract of any litigation or legal matter related to or affecting this Contract within seven calendar days of becoming aware of the litigation or legal matter.



TEXAS

Health and Human Services

Health and Human Services Commission

Special Conditions

Version 1.2

9.1.17

Request for Proposal No. HHS0000286C

Contents

<u>ARTICLE I. SPECIAL DEFINITIONS</u>	79
<u>ARTICLE II. GENERAL PROVISIONS</u>	80
<u>Section 2.01 Other System Agencies Participation in the Contract</u>	80
<u>Section 2.02 Most Favored Customer</u>	80
<u>Section 2.03 Cooperation with HHSC Vendors</u>	80
<u>Section 2.04 Renegotiation and Reprocurement Rights</u>	81
<u>ARTICLE III. CONTRACTORS PERSONNEL AND SUBCONTRACTORS</u>	81
<u>Section 3.01 Qualifications</u>	81
<u>Section 3.02 Conduct and Removal</u>	81
<u>ARTICLE IV. PERFORMANCE</u>	84
<u>Section 4.01 Measurement</u>	84
<u>ARTICLE V. AMENDMENTS AND MODIFICATIONS</u>	84
<u>Section 5.01 Formal Procedure</u>	84
<u>Section 5.02 Minor Administrative Changes</u>	85
<u>ARTICLE VI. PAYMENT</u>	85
<u>Section 6.01 Enhanced Payment Procedures</u>	85
<u>ARTICLE VII. CONFIDENTIALITY</u>	85
<u>Section 7.01 Consultant Disclosure</u>	85
<u>Section 7.02 Confidential System Information</u>	85
<u>ARTICLE VIII. DISPUTES AND REMEDIES</u>	86
<u>Section 8.01 Agreement of the Parties</u>	86
<u>Section 8.02 Operational Remedies</u>	87
<u>Section 8.03 Equitable Remedies</u>	87
<u>Section 8.04 Continuing Duty to Perform</u>	87
<u>ARTICLE IX. DAMAGES</u>	88
<u>Section 9.01 Availability and Assessment</u>	88
<u>Section 9.02 Specific Items of Liability</u>	88
<u>ARTICLE X. TURNOVER</u>	89
<u>Section 10.01 Turnover Plan</u>	89
<u>Section 10.02 Turnover Assistance</u>	89
<u>ARTICLE XI. ADDITIONAL LICENSE AND OWNERSHIP PROVISIONS</u>	89
<u>Section 11.01 HHSC Additional Rights</u>	89
<u>Section 11.02 Third Party Software</u>	89
<u>Section 11.03 Software and Ownership Rights</u>	90
<u>ARTICLE XII. UNIFORM ICT ACCESSIBILITY CLAUSE</u>	90
<u>Section 12.01 Applicability</u>	90
<u>Section 12.02 Definitions</u>	91
<u>Section 12.03 Accessibility Requirements</u>	91
<u>Section 12.04 Evaluation, Testing and Monitoring</u>	91
<u>Section 12.05 Representations and Warranties</u>	92
<u>Section 12.06 Remedies</u>	92

ARTICLE XIII. MISCELLANEOUS PROVISIONS93

Section 13.01 Conflicts of Interest 93

Section 13.02 Flow Down Provisions..... 93

Section 13.03 Manufacturer’s Warranties..... 94

Section 13.04 Notice of Criminal Activity and Disciplinary Actions..... 94

Section 13.05 Notice of IRS or TWC Insolvency..... 94

Section 13.06 Disaster Services 94

Section 13.07 HIV/AIDS Model Workplace Guidelines 94

Section 13.08 Notice of a License Action 95

Section 13.09 Interim Extension Amendment 95

HHSC SPECIAL CONDITIONS

The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in **HHSC Uniform Terms and Conditions –Vendor- Version 2.15**. Reference to HHSC in these Special Conditions shall not be interpreted as a limitation of applicability to HHSC only. All Participating Entities under the Contract may, unless precluded by their respective rules, regulations and laws, rely on these Special Conditions for all purposes.

ARTICLE 1. SPECIAL DEFINITIONS

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

“Contractor Agents” means Contractor’s representatives, employees, officers, Subcontractors, as well as their employees, contractors, officers, and agents.

“Custom Software” means Software developed as a Deliverable or in connection with the Agreement.

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

“Federal Financial Participation” is a program that allows states to receive partial reimbursement for activities that meet certain objectives of the federal government. It is also commonly referred to as the Federal Medical Assistance Percentage (FMAP).

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

“Minor Administrative Change” refers to a change to the Contract that does not increase the fees or term and done in accordance with Section 0 of these Special Conditions.

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

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

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

“**Third Party Software**” refers to software programs or plug-ins developed by companies or individuals other than Contractor which are used in performance of the Work. It does not include items which are ancillary to the performance of the Work, such as internal systems of Contractor which were deployed by Contractor prior to the Contract and not procured to perform the Work.

“**Turnover**” means the effort necessary to enable HHSC, or its designee, to effectively close out the Contract and move the Work to another vendor or to perform the Work by itself.

“**Turnover Plan**” means the written plan developed by Contractor, approved by HHSC, and to be employed when the Work described in the Contract transfers to HHSC, or its designee, from the Contractor.

“**UTC**” means HHSC’s Uniform Terms and Conditions- Vendor –Version 2.15

ARTICLE II. GENERAL PROVISIONS

2.01 Other System Agencies Participation in the Contract

In addition to providing the Work specified for HHSC, Contractor agrees to allow other System Agencies the option to participate in the Contract under the same terms and conditions. Each System Agency that elects to obtain Work under this section will issue a purchase or Work order to Contractor, referring to, and incorporating by reference, the terms and conditions specified in the Contract.

System Agencies have no authority to modify the terms of the Contract. However, additional System Agency terms and conditions that do not conflict with the Contract, and are acceptable to the Contractor, may be added in a purchase or Work order and given effect. No additional term or condition added in a purchase or Work order issued by a System Agency can conflict with or diminish a term or condition of the Contract. In the event of a conflict between a System Agency’s purchase or Work order and the Contract, the Contract terms control.

2.02 Most Favored Customer

Contractor agrees that if during the term of the Contract, 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, Contractor will notify HHSC within (10) business days from the date Contractor executes any such agreement. Contractor agrees, at HHSC’s option, to amend the Contract to accord equivalent advantage to HHSC.

2.03 Cooperation with HHSC Vendors

At HHSC's request, Contractor will allow parties interested in responding to other HHSC solicitations to have reasonable access during normal business hours to the Work, software, systems documentation, and site visits to the Contractor's facilities. Contractor may elect to have such parties inspecting the Work, facilities, software or systems documentation to agree to use the information so obtained only in the State of Texas and only for the purpose of responding to the relevant HHSC solicitation.

2.04 Renegotiation and Reprocurement Rights

Notwithstanding anything in the Contract to the contrary, HHSC may at any time during the term of the Contract exercise the option to notify Contractor that HHSC has elected to renegotiate certain terms of the Contract. Upon Contractor's receipt of any notice under this section, Contractor and HHSC will undertake good faith negotiations of the subject terms of the Contract.

HHSC may at any time issue solicitation instruments to other potential contractors for performance of any portion of the Work covered by the Contract, including services similar or comparable to the Work, performed by Contractor under the Contract. If HHSC elects to procure the Work, or any portion thereof, from another vendor in accordance with this section, HHSC will have the termination rights set forth in the UTC.

ARTICLE III. CONTRACTORS PERSONNEL AND SUBCONTRACTORS

3.01 Qualifications

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

3.02 Conduct and Removal

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

If HHSC determines in good faith that a particular Contractor Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may provide Contractor with notice and

documentation regarding its concerns. Upon receipt of such notice, Contractor must promptly investigate the matter and, at HHSC's election, take appropriate action that may include removing the Contractor Agent from performing any Work under the Contract and replacing the Contractor Agent with a similarly qualified individual acceptable to HHSC as soon as reasonably practicable or as otherwise agreed to by HHSC.

ARTICLE IV. PERFORMANCE

4.01 Measurement

Satisfactory performance of the Contract, unless otherwise specified in the Contract, will be measured by:

- (a) Compliance with Contract requirements, including all representations and warranties;
- (b) Compliance with the Work requested in the Solicitation and Work proposed by Contractor in its response to the Solicitation and approved by HHSC;
- (c) Delivery of Work in accordance with the service levels proposed by Contractor in the Solicitation Response as accepted by HHSC;
- (d) Results of audits, inspections, or quality checks performed by the HHSC or its designee;
- (e) Timeliness, completeness, and accuracy of Work; and
- (f) Achievement of specific performance measures and incentives as applicable.

ARTICLE V. AMENDMENTS AND MODIFICATIONS

5.01 Formal Procedure

No different or additional Work or contractual obligations will be authorized or performed unless contemplated within the Scope of Work and memorialized in an amendment or modification of the Contract that is executed in compliance with this Article. No waiver of any term, covenant, or condition of the Contract will be valid unless executed in compliance with this Article. Contractor will not be entitled to payment for Work that is not authorized by a properly executed Contract amendment or modification, or through the express written authorization of HHSC.

Any changes to the Contract that results in a change to either the term, fees, or significantly impacting the obligations of the parties to the Contract must be effectuated by a formal Amendment to the Contract. Such Amendment must be signed by the appropriate and duly authorized representative of each party in order to have any effect.

5.02 Minor Administrative Changes

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Work or the Contract that do not increase the fees or term.

Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in Section 0 of these Special Conditions. Upon approval of a Minor Administrative Change, HHSC and Contractor will maintain written notice that the change has been accepted in their Contract files.

ARTICLE VI. PAYMENT

6.01 Enhanced Payment Procedures

HHSC will be relieved of its obligation to make any payments to Contractor until such time as any and all set-off amounts have been credited to HHSC. If HHSC disputes payment of all or any portion of an invoice from Contractor, HHSC will notify the Contractor of the dispute and both Parties will attempt in good faith to resolve the dispute in accordance with these Special Conditions. 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, Contractor will continue to perform the Work in compliance with the terms of the Contract pending resolution of such dispute so long as all undisputed amounts continue to be paid to Contractor.

ARTICLE VII. CONFIDENTIALITY

7.01 Consultant Disclosure

Contractor agrees that any consultant reports received by HHSC in connection with the Contract 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 Texas Legislature.

7.02 Confidential System Information

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

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

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

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Contractor WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM ALL DAMAGES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COSTS) CAUSED BY OR ARISING FROM Contractor OR Contractor AGENTS FAILURE TO PROTECT OTHER CONFIDENTIAL INFORMATION. Contractor WILL FULFILL THIS PROVISION WITH COUNSEL APPROVED BY HHSC.

ARTICLE VIII. DISPUTES AND REMEDIES

8.01 Agreement of the Parties

The Parties 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 Contract before resorting to formal dispute resolution processes otherwise provided in the Contract. The Parties will use all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in the Contract, unless HHSC immediately terminates the Contract in accordance with the terms and conditions of the Contract.

Any dispute, that in the judgment of any Party to the Agreement, may materially affect the performance of any Party will be reduced to writing and delivered to the other Party within 10 business days after the dispute arises. The Parties must then negotiate in good faith and use every reasonable effort to resolve the dispute at the managerial or executive levels prior to initiating formal proceedings pursuant to the UTC and Texas Government Code §2260, unless a Party has reasonably determined that a negotiated resolution is not possible and has so 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 of such resolution.

8.02 Operational Remedies

The remedies described in this section may be used or pursued by HHSC in the context of the routine operation of the Contract and are directed to Contractor's timely and responsive performance of the Work as well as the creation of a flexible and responsive relationship between the Parties. Contractor agrees that HHSC may pursue operational remedies for Items of Noncompliance with the Contract. At any time, and at its sole discretion, HHSC may impose or pursue one or more said remedies for each Item of Noncompliance. HHSC will determine operational remedies on a case-by-case basis which include, but are not, limited to:

- (a) Requesting a detailed Corrective Action Plan, subject to HHSC approval, to correct and resolve a deficiency or breach of the Contract;
- (b) Require additional or different corrective action(s) of HHSC's choice;
- (c) Suspension of all or part of the Contract or Work;
- (d) Prohibit Contractor from incurring additional obligations under the Contract;
- (e) Issue Notice to stop Work Orders;
- (f) Assessment of liquidated damages as provided in the Contract;
- (g) Accelerated or additional monitoring;
- (h) Withholding of payments; and
- (i) Additional and more detailed programmatic and financial reporting.

HHSC's pursuit or non-pursuit of an operational remedy does not constitute a waiver of any other remedy that HHSC may have at law or equity; excuse Contractor's prior substandard performance, relieve Contractor of its duty to comply with performance standards, or prohibit HHSC from assessing additional operational remedies or pursuing other appropriate remedies for continued substandard performance.

HHSC will provide notice to Contractor of the imposition of an operational 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 operational remedy approach.

8.03 Equitable Remedies

Contractor acknowledges that if, Contractor breaches, attempts, or threatens to breach, any obligation under the Contract, the State will be irreparably harmed. In such a circumstance, the State may proceed directly to court notwithstanding any other provision of the Contract. If a court of competent jurisdiction finds that Contractor breached, attempted, or threatened to breach any such obligations, Contractor will not oppose the entry of an order compelling performance by Contractor and restraining it from any further breaches, attempts, or threats of breach without a further finding of irreparable injury or other conditions to injunctive relief.

8.04 Continuing Duty to Perform

Neither the occurrence of an event constituting an alleged breach of contract, the pending status of any claim for breach of contract, nor the application of an operational remedy, is grounds for the suspension of performance, in whole or in part, by Contractor of the Work or any duty or obligation with respect to the Contract.

ARTICLE IX. DAMAGES

9.01 Availability and Assessment

HHSC will be entitled to actual, direct, indirect, incidental, special, and consequential damages resulting from Contractor's failure to comply with any of the terms of the Contract. In some cases, the actual damage to HHSC as a result of Contractor's failure to meet the responsibilities or performance standards of the Contract are difficult or impossible to determine with precise accuracy. Therefore, if provided in the Contract, liquidated damages may be assessed against

Contractor for failure to meet any aspect of the Work or responsibilities of the Contractor. HHSC may elect to collect liquidated damages:

- (a) Through direct assessment and demand for payment to Contractor; or
- (b) By deducting the amounts assessed as liquidated damages against payments owed to Contractor for Work performed. In its sole discretion, HHSC may deduct amounts assessed as liquidated damages as a single lump sum payment or as multiple payments until the full amount payable by the Contractor is received by the HHSC.

9.02 Specific Items of Liability

Contractor bears all risk of loss or damage due to defects in the Work, unfitness or obsolescence of the Work, or the negligence or intentional misconduct of Contractor or Contractor Agents. Contractor will ship all equipment and Software purchased and Third Party Software licensed under the Contract, freight prepaid, FOB HHSC's destination. The method of shipment will be consistent with the nature of the items shipped and applicable hazards of transportation to such items. Regardless of FOB point, Contractor bears all risks of loss, damage, or destruction of the Work, in whole or in part, under the Contract that occurs prior to acceptance by HHSC. After acceptance by HHSC, the risk of loss or damage will be borne by HHSC; however, Contractor remains liable for loss or damage attributable to Contractor's fault or negligence.

Contractor will protect HHSC's real and personal property from damage arising from Contractor or Contractor Agents performance of the Contract, and Contractor will be responsible for any loss, destruction, or damage to HHSC's property that results from or is caused by Contractor or Contractor Agents' negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of HHSC, Contractor will notify HHSC thereof and, subject to direction from HHSC or its designee, will take all reasonable steps to protect that property from further damage. Contractor agrees, and will require Contractor Agents, to observe safety measures and proper operating procedures at HHSC sites at all times. Contractor will immediately report to the HHSC any special defect or an unsafe condition it encounters or otherwise learns about.

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Contractor WILL BE SOLELY RESPONSIBLE FOR ALL COSTS INCURRED THAT ARE ASSOCIATED WITH INDEMNIFYING THE STATE OF TEXAS OR HHSC WITH RESPECT TO INTELLECTUAL, REAL AND PERSONAL PROPERTY. ADDITIONALLY, HHSC RESERVES THE RIGHT TO APPROVE COUNSEL SELECTED BY Contractor TO DEFEND HHSC OR THE STATE OF TEXAS AS REQUIRED UNDER THIS SECTION.

ARTICLE X. TURNOVER

10.01 Turnover Plan

HHSC may require Contractor to develop a Turnover Plan at any time during the term of the Contract in HHSC's sole discretion. Contractor must submit the Turnover Plan to HHSC for

review and approval. The Turnover Plan must describes Contractor's policies and procedures that will ensure:

- (a) The least disruption in the delivery the Work during Turnover to HHSC or its designee; and
- (b) Full cooperation with HHSC or its designee in transferring the Work and the obligations of the Contract.

10.02 Turnover Assistance

Contractor will provide any assistance and actions reasonably necessary to enable HHSC or its designee to effectively close out the Contract and transfer the Work and the obligations of the Contract to another vendor or to perform the Work by itself. Contractor agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Contract and remains in effect until completed to the satisfaction of HHSC.

ARTICLE XI. ADDITIONAL LICENSE AND OWNERSHIP PROVISIONS

11.01 HHSC Additional 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 Contract. Such data will include all results, technical information, and materials developed for or obtained by HHSC from Contractor in the performance of the Work. If applicable, Contractor will reproduce and include HHSC's copyright, proprietary notice, or any product identifications provided by Contractor.

11.02 Third Party Software

Contractor grants HHSC a non-exclusive, perpetual, license for HHSC to use Third Party Software and its associated documentation for its internal business purposes. HHSC will be entitled to use 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 expense.

Terms in any licenses for Third Party Software will be consistent with the requirements of this section. Prior to utilizing any Third Party Software product not identified in the Solicitation Response, Contractor will provide HHSC copies of the license agreement from the licensor of the Third Party Software to allow HHSC to, in its discretion, object to the license agreement that must, at a minimum, provide HHSC with necessary rights consistent with the short and long-term goals of the Contract. Contractor will assign to HHSC all licenses for the Third Party Software as necessary to carry out the intent of this section.

Contractor will, during the Contract, maintain any and all Third Party Software 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 notified by HHSC that any such version would prevent HHSC from using any functions, in whole or in part, of HHSC systems or would cause deficiencies in HHSC systems.

11.03 Software and Ownership Rights

In accordance with 45 C.F.R. Part 95.617, all appropriate 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 government purposes all Work, materials, Custom Software and modifications thereof, source code, associated documentation designed, developed, or installed with Federal Financial Participation under the Contract, including but not limited to those materials covered by copyright.

ARTICLE XII. UNIFORM ICT ACCESSIBILITY CLAUSE

12.01 Applicability

This Section applies to the procurement or development of Information and Communication Technology (ICT) for HHSC, or any changes to HHSC's ICT. This Section also applies if the Contract requires Contractor to perform a service or supply a goods that include ICT 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 ICT in the performance of a contract, unless the parties agree that the ICT will become property of the state or will be used by HHSC's Client/Recipient after completion of the Contract.

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 / service.

12.02 Definitions

The legacy term “Electronic and Information Resources” (EIR) and the term “Information and Communication Technology” (ICT) are considered equivalent in meaning for the purpose of applicability of HHSC Uniform Terms and Conditions, policies, accessibility checklists, style guides, contract specifications, and other contract management documents. To the extent that any other of the following definitions conflict with definitions elsewhere in this Contract, the following definitions are applicable to this Section only.

1. **“Accessibility Standards”** refers to the Information and Communication Technology Accessibility Standards and the Web Accessibility Standards/Specifications under the Web Content Accessibility Guidelines version 2.0 Level AA, (WCAG 2.0).
2. **“Information and Communication Technology (ICT)”** is any information technology, equipment, or interconnected system or subsystem of equipment for which the

principal function is the creation, conversion, duplication, automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information. Examples of ICT are electronic content, telecommunications products, computers and ancillary equipment, software, information kiosks and transaction machines, videos, IT services, and multifunction office machines which copy, scan, and fax documents.

3. **“Information and Communication Technology Accessibility Standards”** refers to the accessibility standards for information and communication technology contained in the Web Content Accessibility Guidelines version 2.0 Level AA.
4. **“Web Accessibility Standards/Specifications”** refers to the web standards contained in WCAG 2.0 Level AA.
5. **“Products”** means information resources technologies that are, or are related to, ICT.
6. **“Service”** means the act of delivering information or performing a task for employees, clients, or members of the public through a method of access or delivery that uses ICT.

12.03 Accessibility Requirements

Under Texas Government Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHSC must procure Products or Services that comply with the Accessibility Standards when such Products or Services are available in the commercial marketplace or when such Products or Services are developed in response to a procurement solicitation. Accordingly, Contractor must provide ICT and associated Product and/or Service documentation and technical support that comply with the Accessibility Standards.

12.04 Evaluation, Testing and Monitoring

HHSC may review, test, evaluate and monitor Contractor’s Products, Services and 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.

1. Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or Service, nor (2) the absence of such 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, Services, documentation, and other items and information needed to conduct such review, evaluation, testing and monitoring

12.05 Representations and Warranties

1. Contractor represents and warrants that: (i) as of the effective date of the contract, the Products, Services and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the contract, 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 such Accessibility Standards after the expiration or termination of the contract term, unless HHSC and/or Client/Recipient, as applicable uses the Products in a manner that renders it noncompliant.
2. In the event Contractor should have known, becomes aware, or is notified that the Product 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 but not limited to remediation, repair, replacement, and upgrading of the Product, 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 contract.
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.

12.06 Remedies

1. Pursuant to Texas Government Code Sec. 2054.465, neither Contractor nor any other person has cause of action against HHSC for a claim of a failure to comply with Texas Government 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 and consequential damages and any other remedies to which HHSC may be entitled. This remedy is cumulative of any and all other remedies to which HHSC may be entitled under this contract and other applicable law.

ARTICLE XIII. MISCELLANEOUS PROVISIONS

13.01 Conflicts of Interest

Contractor warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and

further that Contractor or Contractor Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Contractor will, and require Contractor Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal gain. Contractor and Contractor Agents will operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract.

Contractor agrees that, if after Contractor's execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to HHSC. In addition, Contractor will promptly and fully 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.

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

13.02 Flow Down Provisions

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

13.03 Manufacturer's Warranties

Contractor assigns to HHSC all of the manufacturers' warranties and indemnities relating to the Work, including without limitation, Third Party Software, to the extent Contractor is permitted by the manufacturers to make such assignments to HHSC.

13.04 Notice of Criminal Activity and Disciplinary Actions

(a). Contractor shall immediately report in writing to their contract manager when Contractor has knowledge or any reason to believe that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, subcontractor or volunteer that is providing services under this Contract has:

Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or

Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

(b). Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

13.05 Notice of IRS or TWC Insolvency

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

13.06 Disaster Services

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

- (a) Health and medical equipment and supplies; and
- (b) Food, drug and medical device safety;

13.07 HIV/AIDS Model Workplace Guidelines

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

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

13.08 Notice of a License Action

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

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

13.09 Interim Extension Amendment

- a. Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.

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

View Burden Statement

OMB Number: 4040-0007
Expiration Date: 02/28/2022

Exhibit G-1--ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

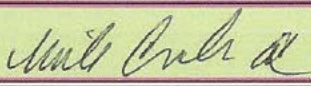
1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. 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.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Previous Edition Usable

Authorized for Local Reproduction

Standard Form 424B (Rev. 7-87)
Prescribed by OMB Circular A-102

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Sr. Director, Health Systems
APPLICANT ORGANIZATION Morris & Dickson, Co., LLC	DATE SUBMITTED August 28, 2019

Standard Form 424B (Rev. 7-97) Back

Exhibit G-2

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

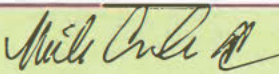
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION Morris & Dickson Co., LLC	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input type="text"/>	* First Name: <input type="text" value="Mike"/> Middle Name: <input type="text"/>
* Last Name: <input type="text" value="Casida"/>	Suffix: <input type="text"/>
* Title: <input type="text" value="Sr. Director, Health Systems"/>	
* SIGNATURE: 	* DATE: <input type="text" value="08/29/2019"/>