

**SIGNATURE DOCUMENT FOR  
DEPARTMENT OF STATE HEALTH SERVICES  
CONTRACT NO. HHS000077800032  
UNDER THE  
HIV PREVENTION SERVICES GRANT**

**I. PURPOSE**

The **DEPARTMENT OF STATE HEALTH SERVICES** ("DSHS" or "System Agency"), a pass-through entity, and **HEALTH EDUCATION LEARNING PROJECT** ("Grantee") (each a "Party" and collectively the "Parties") enter into the following grant contract to provide funding for the HIV Prevention Services Project (the "Contract"), as described in **ATTACHMENT A, STATEMENT OF WORK.**

**II. LEGAL AUTHORITY**

This Contract is made in accordance with awards by the Centers for Disease Control and Prevention (CDC-PS18-1802 – Integrated HIV Surveillance and Prevention Programs for Health Departments, Funding Opportunity Number: CDC-PS18-1802), which is incorporated herein by reference, and is authorized by and in compliance with the provisions of Texas Health and Safety Code Chapter 12 or 1001 or Texas Government Code Chapter 531, 771, 791 or 2155.

**III. DURATION**

This Contract is effective on the signature date of the latter of the Parties to sign this agreement or January 1, 2020, whichever is later, and terminates on December 31, 2020, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. The System Agency, at its own discretion, may extend this Contract subject to terms and conditions mutually agreeable to both Parties.

**IV. BUDGET**

The total amount of this Contract will not exceed **SEVEN HUNDRED THOUSAND DOLLARS (\$700,000.00)**. All expenditures under the Contract will be in accordance with **ATTACHMENT B, BUDGET.**

**V. CONTRACT REPRESENTATIVES**

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

**System Agency**

Department of State Health Services  
1100 West 49<sup>th</sup> Street, MC 1990  
Austin, Texas 78756  
Attn: Deanna Kinsfather, Contract Manager  
Email: [Deanna.kinsfather@dshs.texas.gov](mailto:Deanna.kinsfather@dshs.texas.gov)

**Grantee**

Health Education Learning Project  
1717 S. Main Street  
Fort Worth, TX 76110  
Phone: (817) 332-7722  
Email: deejay@helpfw.org

Either Party may change its designated Representative by providing written notice to the other Party.

**VI. LEGAL NOTICES**

Any legal notice required under this Contract will be deemed delivered when deposited by the System Agency 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:

**System Agency**

Department of State Health Services  
1100 West 49th Street, MC 1911  
Austin, Texas 78756  
Attention: General Counsel

**Grantee**

Health Education Learning Project  
1717 S. Main Street  
Fort Worth, TX 76110  
Attention: DeeJay Johannessen, Executive Director

Notice given by Grantee will be deemed effective when received by the System Agency. Either Party may change its address for notice by written notice to the other Party.

**VII. ADDITIONAL GRANT INFORMATION**

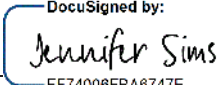
Federal Award Identification Number (FAIN): **NU62PS92459**  
Federal Award Date: **12/11/2018**  
Name of Federal Awarding Agency: **Centers for Disease Control and Prevention**  
CFDA Number: **93.940**  
Awarding Official Contact Information:  
Arthur C. Lusby, M.B.A  
Lead Grants Management Specialist  
Centers for Disease Control and Prevention  
Infectious Diseases Services Branch  
2920 Brandywine Road, MS E-15  
Atlanta, GA 30341  
Telephone: (770) 488-2685

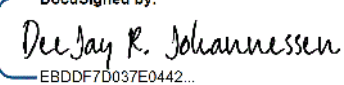
**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR  
DEPARTMENT OF STATE HEALTH SERVICES  
CONTRACT NO. HHS000077800032**

**DSHS**

**GRANTEE**

DocuSigned by:  
  
FF74Q08FBA6747E...  
Name: Jennifer Sims

DocuSigned by:  
  
EBDDF70037E0442...  
Name: DeeJay R. Johannessen

Title: Deputy Commissioner

Title: Executive Director

Date of execution: November 11, 2019

Date of execution: November 3, 2019

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000077800032 ARE HEREBY INCORPORATED BY REFERENCE:**

- ATTACHMENT A - STATEMENT OF WORK**
- ATTACHMENT B - BUDGET**
- ATTACHMENT C - HHSC UNIFORM TERMS AND CONDITIONS – GRANT**
- ATTACHMENT D – SUPPLEMENTAL CONDITIONS**
- ATTACHMENT E - FEDERAL ASSURANCES AND LOBBYING FORM**
- ATTACHMENT F - FFATA CERTIFICATION**

**ATTACHMENTS FOLLOW**

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000077800032 ARE HEREBY INCORPORATED BY REFERENCE, AS IF PHYSICALLY ATTACHED:**

- ATTACHMENT G – DATA USE AGREEMENT**
- ATTACHMENT H - SYSTEM AGENCY SOLICITATION NO. HHS0000778**
- ATTACHMENT I - GRANTEE’S SOLICITATION RESPONSE**

**ATTACHMENT A  
STATEMENT OF WORK**

**I. GENERAL REQUIREMENTS FOR ALL GRANTEES**

All activities conducted under this Contract will support the goals and objectives of the National HIV/STD Strategy and the Texas HIV Plan. The goals of the Texas HIV Plan are to increase HIV awareness among members of the public, community leaders, and policy makers, increase access to HIV prevention efforts for communities and groups at highest risk, successfully diagnose all HIV infections, increase timely linkage to HIV-related treatment for those newly diagnosed with HIV, increase continuous participation in systems of treatment among people living with HIV, and increase viral suppression among people living with HIV.

Grantees for **ALL** activities funded under this award will:

- A. Conduct Human Immunodeficiency Virus (HIV) Prevention activities in accordance with the Department of State Health Services (DSHS) RFA #HHS0000778 to ensure HIV Prevention services are provided to persons at greatest risk of acquiring and/or transmitting HIV infection as directed by DSHS;
- B. Comply with the terms of the approved Work Plan for this Contract;
- C. Comply with all applicable state and federal policies, standards and guidelines, including, but not limited to:
  1. DSHS HIV and STD Program Operating Procedures and Standards (POPS), including any revision, located at <https://dshs.texas.gov/hivstd/pops/>;
  2. DSHS TB/HIV/STD Confidential Information Security policy, TB/HIV/STD Breach of Confidentiality Response Policy, and Breach Report Form/Breach Report Instructions, located at: <https://www.dshs.texas.gov/hivstd/policy/security.shtm>;
  3. Any letters or memos with additional directions and policies issued by DSHS; and
  4. All the above-named applicable documents are incorporated herein by reference and made a part of this Contract. Grantee will receive advance written approval from DSHS before varying from any of these requirements and will update its implementation documentation within forty-eight (48) hours of making approved changes so that staff working on activities under this Contract know of the change(s);
- D. Comply with all applicable federal and state regulations and statues, including, but not limited to:
  1. Chapters 81 and 85 of the Texas Health and Safety Code;
  2. Chapter 93 of the Texas Health and Safety Code (relating to Education and Prevention Programs for Hepatitis C); and
  3. Title 25 of the Texas Administrative Code (TAC) Chapters 97 and 98, Subchapter B;

- E. Comply with the Texas Health and Safety Code, §85.085, Physician Supervision of Medical Care, to ensure a licensed physician supervises any medical care or procedure (including HIV testing) provided as part of activities conducted under this Contract;
- F. Ensure activities begin no later than 90 days following the Contract start date;
- G. Submit data on program activities and client contacts using timelines, systems and formats specified by DSHS;
- H. Use collected data, together with input from clients and stakeholders, to improve services and assure they meet intended outcomes and emerging needs of the priority population(s);
- I. Submit written interim and annual reports to DSHS that summarize the activities and services delivered and discuss the barriers and facilitators of the effective delivery of services (refer to Section III. Program Data Reporting, Security and Confidentiality Requirements);
- J. Participate in local HIV planning and evaluation activities and in local efforts to coordinate HIV prevention and treatment services;
- K. Maintain formal agreements that include active collaboration and coordination with local providers of services that are relevant to the needs of the client;
- L. Ensure staff and volunteers are appropriately and adequately trained to provide relevant services. Participate in DSHS-identified trainings and coaching sessions as directed by DSHS (refer to Section VI. Training Requirements for additional details);
- M. Cooperate with any DSHS-funded activities to raise awareness of HIV, promote prevention services, and encourage testing and use of pre-exposure prophylaxis (PrEP) and non-occupational post-exposure prophylaxis (nPEP);
- N. Participate in Data to Care activities as requested by local health departments and DSHS;
- O. Deliver all services in a culturally competent and sensitive manner, taking low health literacy into account, using the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care. Grantee will implement strategies to ensure that the program is culturally, linguistically and educationally appropriate to meet the needs of the priority population(s), and ensure that program staff have strong socio-cultural identification with the priority populations(s);
- P. Make free condoms readily available to clients;
- Q. Submit literature/materials to be used in prevention activities funded by DSHS for review and approval by a locally constituted review panel that meets DSHS requirements found at <https://www.dshs.texas.gov/hivstd/info/pmrp.shtm>;
- R. Perform other activities as may be reasonably requested by DSHS to meet the goals of the Texas HIV Plan; and

- S. Ensure that content in publications partially or fully funded by this award is verified by DSHS and that DSHS is acknowledged.

DSHS reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfall. DSHS Program will monitor Grantee's expenditures on a quarterly basis. If expenditures are below that projected in Grantee's total Contract amount as approved for this Contract, Grantee's budget may be subject to a decrease for the remainder of the Contract term. Vacant positions existing after ninety (90) days may result in a decrease in funds.

## **II. FUNDING OPPORTUNITY-SPECIFIC REQUIREMENTS**

### A. Core HIV Prevention

Grantee will:

1. Implement the following four components of a core HIV prevention program:
  - a. Engagement of groups and communities to be served;
  - b. Condom distribution;
  - c. Focused HIV and syphilis testing and tailored health education; and
  - d. Linkage/enrollment in medical care for clients who are living with HIV, and referral to PrEP and nPEP and other needed services for clients with a negative HIV test result who are at a higher risk for acquiring HIV;
2. Provide outreach and education to the priority population(s) identified in the approved Work Plan;
3. Engage in active recruitment and outreach strategies that include traditional outreach, social network activities, and the use of social media platforms;
4. Maintain a Community Advisory Board to assist with programmatic decision-making;
5. Maintain a condom distribution program with the essential elements described in the DSHS POPS <https://www.dshs.texas.gov/hivstd/pops/>;
6. Establish and maintain focused HIV testing programs that expand the availability of HIV testing to the proposed priority population(s). Grantee will use a combination of strategies to encourage testing, such as offering testing in a variety of settings, providing testing to couples, using tangible reinforcements, or using text messages or other electronic communication to provide testing reminders;
7. Ensure that syphilis testing is provided to all individuals testing for HIV unless the client refuses. Grantee will consider collecting specimens for:
  - a. Other Sexually Transmitted Infections (STI) (including specimens for extra genital screening for chlamydia and gonorrhea); and/or
  - b. Hepatitis C antibody testing for at-risk population(s);

8. Maintain a valid Clinical Laboratory Improvement Amendment (CLIA) Certificate of Waiver if performing rapid testing;
9. Ensure that HIV testing programs include all required components of a testing session as described in the DSHS POPS, Chapters 1 and 2;
10. Implement testing processes that follow the requirements in DSHS Policy 2013.02 (<https://www.dshs.texas.gov/hivstd/policy/policies/2013-02.shtm>);
11. Ensure that all pregnant women who do not report being in prenatal care are actively referred to prenatal care;
12. Ensure clients receive their HIV test results in a timely and appropriate manner;
13. Ensure that clients with negative HIV test results receive information on PrEP and nPEP. Ensure referrals are made to these and other needed health and social services as appropriate;
14. Ensure positive HIV test results are given in person in accordance with Texas Health and Safety Code §81.109;
15. Provide the minimum required components for counseling and linkage to care for people living with HIV as outlined in Section 1.1.2 of the DSHS POPS;
16. Facilitate initial linkage to care for newly diagnosed clients and facilitate engagement in care for previously diagnosed clients who are not currently in care for their HIV infections. Grantee is responsible for confirming clients are linked to care; and
17. Address barriers to successful linkage to HIV medical care and coordinate with area providers that offer services to facilitate access to HIV-related care.

## B. Structural Interventions

Grantee will:

1. Implement projects to reduce HIV acquisition and transmission that act at the community level and/or systems level. This work must reduce health inequities and new HIV infections by directly addressing the social determinants of health such as stigma, lack of social support, or policies or organizational practices that create barriers to prevention and treatment;
2. Implement one or both of the following:
  - a. Community-level interventions that aim to improve health by changing community norms and attitudes, community awareness, and community behavior of priority population(s); and/or
  - b. System interventions that aim to improve health by changing policies, health system/organizational practices, and power structures;

3. Focus interventions and activities on one or more of the outcomes below:
  - a. Strengthening community involvement in HIV prevention efforts by increasing a sense of community ownership, participation, and collaboration in HIV prevention activities;
  - b. Increasing local coordination and collaboration among community members, groups, organizations, and sectors (e.g., private business, public institutions);
  - c. Increasing community support, education, and dialogue;
  - d. Creating an environment in which people of color, LGBTQ individuals, youth, and other marginalized population(s) are empowered to reduce the risk of HIV acquisition and barriers to accessing HIV prevention are reduced/eliminated;
  - e. Elimination of structural, social, and economic barriers related to health care;
  - f. Improved health outcomes for LGBTQ communities and people of color; and/or
  - g. Increased participation in HIV-related care and PrEP\nPEP;
4. Ensure that activities are focused on or designed to primarily benefit the priority population(s) as per the approved Work Plan;
5. For intervention-based projects, provide evidence-based or “homegrown” interventions for the priority population(s) in accordance with an approved Work Plan and DSHS POPS, including any revisions, located at <http://www.dshs.texas.gov/hivstd/pops/default.shtm>, and The Effective Interventions website located at <https://www.effectiveinterventions.org/en/Home.aspx>;
6. For community mobilization projects, establish networks and collaborations necessary to mount a community-wide response to the HIV epidemic in their local area to engage individuals, groups, organizations, and the public and private sectors of the community to increase awareness and act to reduce the number of new HIV infections;
7. Ensure system-level interventions are designed to change policies, social or organizational structures, or standard operating procedures to increase access to and relevance of services, and remove barriers to prevention, testing, and treatment services;
8. Assess needs, resources and/or practices prior to implementation of the proposed interventions. The assessment design and implementation will be guided by stakeholders and persons with experience in formal assessment. If the program has conducted a recent assessment or such information from their current work with community-level interventions, mobilization, or systems interventions is available, this may satisfy requirements, but the decision to require a new or supplemental assessment from Grantee is at the sole discretion of DSHS;
9. Develop a plan that summarizes major activities with milestones and goals. Monitor and report on progress as per the approved Work Plan;
10. If new information about community needs and resources becomes available, provide



justification to, and obtain written approval from, DSHS prior to the customization, tailoring and/or adaptation of the approved Work Plan, priority population(s), activities, number of sessions, etc., of an intervention;

11. Maintain mechanisms for community or stakeholder engagement, such as Community Advisory Boards; and
12. Carry out activities as per the approved Work Plan and conduct periodic assessments of progress that follow a formal evaluation plan. The evaluation plan should include measures, data collection protocols, data analysis, and a process for program modification based on monitoring results.

### **III. TANGIBLE REINFORCEMENTS**

Grantee will:

- A. Receive approval for tangible reinforcements in advance, in writing, by DSHS Program. Funds may be used to purchase tangible reinforcements (bus tokens, movie gift cards, food gift cards, t-shirts, grocery store gift cards, etc.) to encourage at-risk clients to participate in prevention programs; and
- B. Maintain a policy regarding the use of tangible reinforcements and a log for tracking the purchase and distribution of tangible reinforcements. The policy and log are subject to review by DSHS Program during program reviews and at any other time. The policy will limit the use of tangible reinforcements to the following types of situations: for participation in rapid assessment activities; for recruitment of clients into prevention with People Living with HIV (PLWH), testing and linkage programs and Evidence-Based Interventions (EBIs); for retention of clients in EBIs and prevention with PLWH; for clients upon completion of all sessions of an EBI; for recruitment and retention of peer volunteers; for clients who return for HIV testing; for participation in community assessments or focus groups; and to encourage clients to return for test results. Funds may not be used to make cash payments or cash-equivalent payments to intended recipients of services except as noted above.

### **IV. PROGRAM DATA REPORTING, SECURITY AND CONFIDENTIALITY REQUIREMENTS**

DSHS may make alterations to reporting systems and requirements or require the use of new reporting systems or collection methods, at its sole discretion. In the event of such a change, Grantee will be notified at least thirty (30) days in advance of the changed requirements, except in cases where the system in use suffers technical failure. Information submitted through the DSHS systems will be considered the performance data of record in evaluating attainment of goals and programmatic performance.

Data may be included in Grantee reports to parties other than DSHS, provided DSHS is acknowledged and the information is aggregated in such a way that no individual client may be identified. Data may not be used for research purposes by Grantee or any other party without prior

approval of DSHS' Institutional Review Board and pre-approval by DSHS Program. Grantee may not share electronic data sets with other parties without advance written permission of DSHS.

Grantee will:

- A. Follow requirements for prevention data collection, submission and quality assurance found in the DSHS data workplan located on the DSHS data resource website page at <https://www.dshs.texas.gov/hivstd/fieldops/prevdata.shtm>;
- B. Submit data on program activities and client contacts using systems, formats and submission deadlines specified by DSHS. DSHS may change the program reporting requirements or formats during the project period based on program evaluation or reporting needs;
- C. Ensure that data submitted to DSHS is complete and accurate. Grantee will conduct data quality assurance prior to monthly submissions following the DSHS workplan quality assurance procedures. Data quality assurance activities will be documented and made available for review by DSHS staff upon request;
- D. Protect the security of program reporting data and the confidentiality of client information;
- E. Protect paper records and electronic data collected and stored at its facility from security breaches, and keep such data confidential;
- F. Ensure client privacy is maintained and data is collected confidentially when data/information is elicited verbally from clients;
- G. Ensure that data entry into program reporting systems will occur in a confidential environment, safeguarding against unauthorized disclosure of client information and ensuring that such environments are consistently maintained;
- H. Ensure data entered into program reporting systems is input only by properly authorized staff;
- I. Assure data integrity is maintained and that data entered in program reporting systems is entered accurately;
- J. Understand that users of the program data systems will require user identification and authentication (such as challenge passwords);
- K. Ensure that persons entering data do not circumvent such security measures;
- L. Ensure data is accessed only by authorized persons;
- M. Ensure program data is used in a manner that protects client privacy and is in accordance with federal and state law and the terms of this Contract;
- N. Implement policies and procedures for use of data in a secure manner that protects client

- privacy and prevents against unauthorized access to, and use of, program data;
- O. Implement policies and procedures (consistent with the requirements and constraints listed herein) for publication and redistribution of data if program data is shared with other parties or providers;
  - P. Protect data transported within your entity or to external parties consistent with the constraints and requirements listed herein;
  - Q. Protect data transmitted electronically within your entity or to external parties (when not using DSHS data reporting systems) consistent with the constraints and requirements listed herein;
  - R. Maintain retention and disposal policies and procedures consistent with state and federal retention requirements and the requirements of this Contract, and assure that program data cannot be inappropriately accessed;
  - S. Agree to publish, implement, and make available policies on data security and client privacy, and train staff regularly regarding those requirements (Grantee will maintain records documenting such training);
  - T. Require each individual member of Grantee's staff, and volunteers, to sign an agreement pledging to abide by Grantee's policies and procedures pertaining to data security and client privacy. Grantee will maintain these written agreements and make them available upon request to DSHS in a timely manner;
  - U. Abide by rules of conduct/data security guidelines provided by DSHS to safeguard the program reporting data;
  - V. Develop a personnel sanction policy to hold Grantee staff and volunteers and subgrantee staff responsible for any violations of these policies. If Grantee uses subgrantees: Grantee accepts full responsibility and accountability for each subgrantee's performance under this Contract including all provisions related to confidentiality;
  - W. Agree to make staff available for training on the use of program reporting systems and data security;
  - X. Comply with DSHS efforts to maintain lists of staff under this Contract authorized to use the program reporting systems;
  - Y. Immediately report breaches of confidentiality involving the program data reporting systems to DSHS, and fully assist DSHS in any investigation resulting from such breach;
  - Z. Comply with all requests by DSHS to inspect, or require copies of, any of the documentation referenced herein at any time, and comply with such requests in a timely manner. All documentation under this Contract will be readily available for inspection by DSHS staff during site visits;

AA. Use data collected through the above mechanisms for program planning, evaluation, quality assurance, and monitoring, consistent with confidentiality restrictions in state and federal law. Grantee will use evaluation, quality assurance and monitoring of data to make appropriate adjustments to program activities so that the Grantee performs quality services and meets performance standards; and

BB. A minimum of 10% of the total Contract amount will be dedicated to planning, reporting, and evaluation of the proposed activities. This includes expenditures for needs assessment and consultation with community members to design or revise program design and implementation; collection and reporting of required program data; evaluation of progress towards program goals; and assessment of client satisfaction.

**V. PROGRAM MONITORING AND PROGRESS REPORTS**

Grantee will:

- A. Along with each subgrantee or volunteer, if applicable, cooperate with the direct monitoring by DSHS. Monitoring will be conducted via site visits and may be announced or unannounced. This monitoring may consist of the review of records and reports, interviews of staff, required forms, educational materials, and other materials pertaining to this project, including testing documents (if applicable);
- B. Submit required Interim and Annual Progress Reports in a format approved by DSHS, and by deadlines given by DSHS, that include a cumulative data summary of its compliance with the performance measures for the appropriate activities detailed in Section VIII, Performance Measures, below and a detailed response to all items listed in the report;
- C. Provide the above-referenced reports to [hivstdreport.tech@dshs.texas.gov](mailto:hivstdreport.tech@dshs.texas.gov) with a copy to the designated DSHS HIV/STD Program Consultant and the Public Health Regional HIV/STD Program Manager/Coordinator by the following dates: July 31, 2020, and January 31, 2021;
- D. Provide to the DSHS Program Consultant and appropriate Contract Management Section staff, the names of the contact person(s) responsible for programmatic concerns and all communications regarding this program, the contact person for fiscal issues, and the names of the contact persons for each of the subgrantees (if applicable);
- E. Maintain expertise in any subcontracted project content, protocols and methods, and provide technical assistance to subgrantee staff as needed; and
- F. Along with any relevant subgrantee(s) or volunteer(s), cooperate with DSHS policies for addressing all concerns or problems identified during the Contract period.
- G. If Grantee performance is deficient, DSHS will notify the Grantee in writing. The Program Consultant will identify the corrective action required by the Grantee to address the deficiency. The Program Consultant will deliver, or coordinate the delivery of, additional technical assistance to support the Grantee in taking the corrective action. If the corrective action is successful in resolving the problem, DSHS will notify the Grantee in

writing that resolution has been achieved. If the corrective action is unsuccessful in resolving the problem, DSHS has all the following options:

1. Revise deliverables (e.g., requiring Grantee to report with increased frequency);
2. Require the Grantee to provide a revised staffing plan that demonstrably supports the realization of program requirements;
3. Progressively reduce the total Contract amount in response to repeated failures to comply with requirements;
4. Suspend payment on the Contract pending correction of the deficiency by the Grantee; or
5. Terminate the Contract.

## **VI. QUALITY ASSURANCE ACTIVITIES**

Grantees that enter into contracts with subgrantees are entirely responsible to DSHS for the performance of those subgrantees. If subgrantees are used, Grantee is expected to adequately monitor the implementation of interventions and other funded activities under this Contract, the efficient and effective use of resources by the subgrantees(s), and the capacity and performance of subgrantee staff implementing interventions and other funded activities under this Contract and ensure that subgrantees are properly collecting and reporting data. DSHS staff may also monitor the subgrantees' activities and conduct periodic site visits, with notification to the Grantee.

Grantee will:

- A. Ensure that performance of activities under this Contract is of a high quality and consistent with all the requirements of this Contract, to meet DSHS' high performance expectations;
- B. Implement an orientation plan for Grantee's new staff (i.e., new hires involved in activities funded under this Contract), which will be reviewed by DSHS staff during monitoring visits. The plan will be consistent with all the terms of this Contract;
- C. Solicit feedback (e.g., client surveys) from clients being served by Grantee under this Contract and create a summary of the client feedback for each intervention at least once during the term of this Contract. This summary will be available for review during DSHS site visits;
- D. Designate and train staff to be responsible for quality assurance activities, including ensuring accurate and consistent data collection and reporting;
- E. Follow DSHS POPS Section 1.9 for quality assurance requirements for focused HIV testing;
- F. Ensure that staff members performing client-level, group-level, and structural interventions are monitored according to the following schedule:

Length of time the Grantee staff member has been performing the intervention:	Staff will be monitored at least:
3 months or less	One out of every 3 sessions
4 to 6 months	Twice a month
7 to 12 months	Monthly
1 to 2 years	Quarterly
2 years or more	Every 6 months

G. Maintain written monitoring and evaluation records of all staff involved in Contract activities, including those of subgrantees. DSHS may specify evaluation and monitoring tools to be used. Information related to quality assurance activities, along with any other documentation associated with activities under this Contract, is subject to review by DSHS Program during program reviews and at any other time.

**VII. TRAINING REQUIREMENTS**

Grantee will:

- A. Authorize and require staff to attend training, conferences, and meetings as directed by DSHS;
- B. Appropriately budget funds in order to meet training requirements in a timely manner, and ensure staff and volunteers are trained as specified in the training requirements listed at <https://www.dshs.texas.gov/hivstd/training/> and as otherwise specified by DSHS. Grantee will document that these training requirements are met; and
- C. Ensure that staff hired for HIV and syphilis testing are trained to perform blood draws within three (3) months of employment.

**VIII. PERFORMANCE MEASURES**

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

Performance of Grantee, including, but not limited to, compliance with Program policies and procedures referenced herein, attainment of performance measures, maintenance of adequate staff, and submission of required data and narrative reports will be regularly assessed. Failure to comply with stated requirements and contractual conditions will constitute a breach of contract.

A. Core HIV Prevention

Grantee will:

1. Ensure at least 95% of clients testing positive for HIV will receive results counseling;
2. Ensure at least 90%\* of clients newly diagnosed with HIV will be linked to HIV-related medical care within 3 months;  
*\* While the goal is to link 100% of persons living with HIV to HIV medical care, this performance measure reflects DSHS minimum performance standards.*
3. Ensure the required new diagnoses rate is achieved:
  - a. Area 1 – 1.4%;
  - b. Area 2 – 1.2%; and
  - c. Area 3 – 0.9%;
4. Conduct 2,100 tests by the end of the Contract term;
5. Identify 33 newly diagnosed people living with HIV by the end of the Contract term;
6. Conduct 1,575 tests for the identified priority population(s) by the end of the Contract term; and
7. Ensure 83,333 condoms are distributed by the end of the Contract term.

#### B. Structural-Level Interventions

Grantee will:

1. Ensure 80 partners are involved with structural/community interventions by the end of the Contract term;
2. Ensure 25 planned activities to engage the community occur by the end of the Contract term; and
3. Ensure 100,000 individuals are engaged/reached by community activities by the end of the Contract term.

### **IX. INVOICE AND PAYMENT**

Grantee will:

- A. Request payments monthly using the State of Texas Purchase Voucher (Form B-13) at <http://www.dshs.texas.gov/grants/forms.shtm>, the Voucher Support Form and acceptable supporting documentation for reimbursement of the required services/deliverables. Grantees are required to identify expenditures by budget category and funding code. Voucher and any supporting documentation will be mailed or submitted by fax or electronic mail to the address/number below:

Department of State Health Services  
Claims Processing Unit, MC 1940

1100 West 49th Street  
P.O. Box 149347  
Austin, TX 78714-9347  
FAX: (512) 458-7442  
EMAIL: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov) and [cmsinvoices@dshs.texas.gov](mailto:cmsinvoices@dshs.texas.gov); and

- B. Be paid on a cost reimbursement basis and in accordance with the Budget in Attachment B of this Contract.



**ATTACHMENT B  
BUDGET  
Contract No. HHS000077800032**

Categorical Budget:

PERSONNEL	\$402,490.00
FRINGE BENEFITS	\$135,579.00
TRAVEL	\$16,601.00
EQUIPMENT	\$0.00
SUPPLIES	\$39,288.00
CONTRACTUAL	\$36,970.00
OTHER	\$69,072.00
TOTAL DIRECT CHARGES	\$700,000.00
INDIRECT CHARGES	\$0.00
<b>TOTAL</b>	<b>\$700,000.00</b>

**ATTACHEMENT C**  
**HHSC UNIFORM TERMS AND CONDITIONS – GRANT**

HHSC Uniform Terms and Conditions Version 2.16  
Published and Effective: March 26, 2019  
Responsible Office: Chief Counsel



**TEXAS**  
**Health and Human Services**

**Health and Human Services Commission**  
**HHSC Uniform Terms and Conditions - Grant**  
**Version 2.16.1**

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## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.1 DEFINITIONS

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

“Amendment” means a written agreement, signed by the Parties, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters.

“Attachment” means documents, terms, conditions, or information added to this Contract following the Signature Document or included by reference, and made a part of this Contract.

“Contract” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference for all purposes.

“Deliverable” means the work product(s), including all reports and project documentation, required to be submitted by Grantee to the System Agency.

“Effective Date” means the date agreed to by the Parties as the date on which the Contract takes effect.

“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.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Grantee” means the Party receiving funds under this Contract. May also be referred to as “Contractor” in certain attachments.

“Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code, or its designee.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

- i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
- ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
- iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
- iv. domain name registrations; and
- v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

“Parties” means the System Agency and Grantee, collectively.

“Party” means either the System Agency or Grantee, individually.

“Program” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

“Project” means specific activities of the Grantee that are supported by funds provided under this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

“Signature Document” means the document executed by both Parties that specifically sets forth all of the documents that constitute the Contract.

“Solicitation” or “Request for Applications (RFA)” means the document (including all amendments and attachments) issued by the System Agency under which applications for Program funds were requested, which is incorporated by reference for all purposes in its entirety.

“Solicitation Response” or “Application” means Grantee’s full and complete response (including any attachments and addenda) to the Solicitation, which is incorporated by reference for all purposes in its entirety.

“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.

“State of Texas Travel” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“Statement of Work” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

“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, authorized representatives and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

“Work Product” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee’s performance of its duties under the Contract or through use of any funding provided under this Contract.

“Uniform Grant Management Standards” or “UGMS” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas

Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

## **1.2 INTERPRETIVE PROVISIONS**

- A. The meanings of defined terms include the singular and plural forms.
- 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, 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, 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. PAYMENT METHODS AND RESTRICTIONS**

### **2.1 PAYMENT METHODS**

- A. Except as otherwise provided by this Contract, the payment method will be one or more of the following:
  - i. Cost Reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
  - ii. Unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
  - iii. Advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has

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implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law, state and federal regulations, and at the sole discretion of the System Agency.

- B. Grantee shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

**2.2 FINAL BILLING SUBMISSION**

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received after the deadline may not be paid.

**2.3 FINANCIAL STATUS REPORTS (FSRs)**

Except as otherwise provided, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to System Agency by the last business day of the month following the end of each quarter for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

**2.4 USE OF FUNDS**

Grantee shall expend funds under this Contract only for approved services and for reasonable and allowable expenses directly related to those services.

**2.5 USE FOR MATCH PROHIBITED**

Grantee shall not use funds provided under this Contract for matching purposes in securing other funding without the written approval of the System Agency.

**2.6 PROGRAM INCOME**

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use Program Income, as provided in UGMS Section III, Subpart C, .25(g)(2), to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Contract.



**2.7 NONSUPPLANTING**

Grant funds may be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds in place to support current programs and related activities.

**2.8 ALLOWABLE COSTS**

Allowable Costs are restricted to costs that comply with the Texas Uniform Grant Management Standards (UGMS) and applicable state and federal rules and law. The Parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.

**2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable contracts. Grantee will provide the necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and Uniform Grant Management Standards (UGMS).

**ARTICLE III. STATE AND FEDERAL FUNDING**

**3.1 FUNDING**

This Contract is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability of state funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages, that are caused or associated with such termination, or cancellation, and System Agency will not be required to give prior notice.

**3.2 NO DEBT AGAINST THE STATE**

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

**3.3 DEBT AND DELINQUENCIES**

Grantee agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

**3.4 RECAPTURE OF FUNDS**

A. At its sole discretion, the System Agency may i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s), or ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice -

any funds erroneously paid by System Agency which are not expressly authorized under the Contract.

- B. "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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

**ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS**

**4.1 ALLOWABLE COSTS**

- A. System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include, but are not limited to:

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local, and Tribal Governments	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or Uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
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B. OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

**4.2 AUDITS AND FINANCIAL STATEMENTS**

**A. Audits**

- i. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee will be subject to the sanctions and remedies for non-compliance with this Contract.
- ii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.
- iii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS.
- iv. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits.
- v. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

**B. Financial Statements**

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements.

#### **4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS**

##### **A. Audits**

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically one copy of the single audit or program-specific audit to the System Agency via:

i. HHS portal at: or,

<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>

ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

##### **B. Financial Statements**

Due no later than nine months after the Grantee's fiscal year end, Grantees which are not required to submit an audit, shall submit electronically financial statements via:

i. HHS portal at:

<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,

ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

#### **ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS**

##### **5.1 GENERAL AFFIRMATIONS**

Grantee certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the Grantee has reviewed the General Affirmations and that Grantee is in compliance with all requirements.

##### **5.2 FEDERAL ASSURANCES**

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Assurances and that Grantee is in compliance with all requirements.

##### **5.3 FEDERAL CERTIFICATIONS**

Grantee further certifies that, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Contract.

#### **ARTICLE VI. INTELLECTUAL PROPERTY**

##### **6.1 OWNERSHIP OF WORK PRODUCT**

All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated

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therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Grantee agrees to execute all papers and to perform such other property rights as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

#### **6.2 GRANTEE'S PRE-EXISTING WORKS**

To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Contract ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works, and Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

#### **6.3 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS**

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this **Article VI**.

#### **6.4 DELIVERY UPON TERMINATION OR EXPIRATION**

No later than the first calendar day after the termination or expiration of the Contract or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Contract. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Contract without the prior written consent of System Agency.

#### **6.5 SURVIVAL**

The provisions and obligations of this **Article VI** survive any termination or expiration of the Contract.

## ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE

### 7.1 BOOKS AND RECORDS

Grantee shall 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, Grantee shall maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the Contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

### 7.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall 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 shall 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 shall 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 Office of the Texas Attorney General, 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, Grantee shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

### 7.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Grantee must act to ensure its and its Subcontractors' 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 services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Contract.

#### **7.4 SAO AUDIT**

- A. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The 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, under the direction of the legislative audit committee, 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 state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- B. Grantee shall comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

#### **7.5 CONFIDENTIALITY**

Grantee shall maintain as confidential, and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract.

### **ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION**

#### **8.1 CONTRACT REMEDIES**

To ensure Grantee's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to:

- i. suspending all or part of the Contract;
- ii. requiring the Grantee to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Grantee found to be in error;
- iv. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
- v. imposing any other remedies, sanctions or penalties authorized under this Contract or permitted by federal or state statute, law, regulation or rule.

#### **8.2 TERMINATION FOR CONVENIENCE**

The System Agency may terminate the Contract 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. The System Agency's right to terminate the Contract for convenience is cumulative of all rights and remedies which exist now or in the future.

#### **8.3 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:

i. **Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, in its sole discretion, that Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any, or Grantee's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

ii. **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 Grantee no longer maintains the financial viability required to complete the services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

**ARTICLE IX. MISCELLANEOUS PROVISIONS**

**9.1 AMENDMENT**

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

**9.2 INSURANCE**

- A. Unless otherwise specified in this Contract, Grantee shall 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. Grantee shall 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, Grantee shall 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, Grantee must produce renewal certificates for each type of coverage.
- B. These and all other insurance requirements under the Contract apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

**9.3 LEGAL OBLIGATIONS**

Grantee shall 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. Grantee shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.



**9.4 PERMITTING AND LICENSURE**

At Grantee's sole expense, Grantee shall 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 Grantee to provide the goods or services required by this Contract. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

**9.5 INDEMNITY**

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENCE ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Contract.**

**9.6 ASSIGNMENTS**

- A. Grantee 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 Grantee from its obligations under the Contract.
- B. Grantee 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.

**9.7 INDEPENDENT CONTRACTOR**

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Should Grantee subcontract any of the services required in the Contract, Grantee expressly understands and acknowledges that in entering such subcontract(s), System Agency is in no manner liable to any Subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

**9.8 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 (TGL). 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 for all purposes when it is issued.

**9.9 DISPUTE RESOLUTION**

- A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract.
- B. 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.

**9.10 GOVERNING LAW AND VENUE**

The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

**9.11 SEVERABILITY**

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

enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

**9.12 SURVIVABILITY**

Expiration or termination of the Contract for any reason does not release Grantee from any liability or obligation set forth in the Contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

**9.13 FORCE MAJEURE**

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

**9.14 NO WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

**9.15 PUBLICITY**

- A. Except as provided in the paragraph below, Grantee 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.
- B. Grantee may publish, at its sole expense, results of Grantee 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.
- C. Contractor is prohibited from using the Work for any Contractor or third party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Contractor's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Contractor as part of the Work.

**9.16 PROHIBITION ON NON-COMPETE RESTRICTIONS**

Grantee shall 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.

**9.17 NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing in the Contract will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

**9.18 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.

**9.19 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.

**9.20 PROPER AUTHORITY**

Each Party represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract.

**9.21 E-VERIFY PROGRAM**

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- i. all persons employed to perform duties within Texas during the term of the Contract; and
- ii. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Contract within the United States of America.

**9.22 CIVIL RIGHTS**

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
  - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
  - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);

- v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
  - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Contract.
- B. Grantee agrees to comply with all amendments to the above-referenced 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 aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee 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. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee 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://hhsex.hhsc.texas.gov/system-support-services/civil-rights/publications>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office  
701 W. 51<sup>st</sup> 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.

### 9.23 SYSTEM AGENCY DATA

As between the Parties, all data and information acquired, accessed, or made available to Contractor by or through System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder, (the "**System Agency Data**"), is owned solely by System Agency. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.

**ATTACHMENT D  
SUPPLEMENTAL AND SPECIAL CONDITIONS**

**SUPPLEMENTAL CONDITIONS**

There are no Supplemental Conditions for this Contract that modifies this Contract's HHS Uniform Terms and Conditions.

**SPECIAL CONDITIONS**

**SECTION 1.01 NOTICE OF CONTRACT ACTION**

Grantee shall notify their assigned contract manager if Grantee has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity 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 contract;
- d. Date of suspension or termination; and
- e. Contract or case reference number.

**SECTION 1.02 NOTICE OF BANKRUPTCY**

Grantee shall notify in writing its assigned contract manager of its plan to seek bankruptcy protection within five days of such action by Grantee.

**SECTION 1.03 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS**

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

**Section 1.04 Grantee's Notification of Change of Contact Person or Key Personnel**

The Grantee shall notify in writing their contract manager assigned within ten days of any change to the Grantee's Contact Person or Key Personnel.

**SECTION 1.05 NOTICE OF IRS OR TWC INSOLVENCY**

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

**SECTION 1.06 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, Grantee may be called upon to assist the System Agency in providing the following services:

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

**SECTION 1.07 CONSENT BY NON-PARENT OR OTHER STATE LAW TO MEDICAL CARE OF A MINOR**

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

**SECTION 1.08 TELEMEDICINE/TELEPSYCHIATRY MEDICAL SERVICES**

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

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



involved in the operation of the system and provision of the services prior to initiating the protocol;

- g. Priority in scheduling the system for clinical care of individuals;
- h. Quality oversight and monitoring of satisfaction of the individuals served; and
- i. Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

#### **SECTION 1.09 SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY**

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

#### **SECTION 1.10 THIRD PARTY PAYORS**

Except as provided in this Contract, Grantee shall screen all clients and may not bill the System Agency for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.

As applicable, the Grantee shall:

- a. Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Contract that may be covered by those programs and bill those programs for the covered services;
- b. Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
- c. Allow clients that are otherwise eligible for System Agency services, but cannot pay a deductible required by a third-party payor, to receive services up to the amount of the deductible and to bill the System Agency for the deductible;
- d. Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
- e. Maintain appropriate documentation from the third-party payor reflecting attempts to obtain reimbursement;

- f. Bill all third-party payors for services provided under this Contract before submitting any request for reimbursement to System Agency; and
- g. Provide third party billing functions at no cost to the client.

**SECTION 1.11 HIV/AIDS MODEL WORKPLACE GUIDELINES**

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

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

**SECTION 1.12 MEDICAL RECORDS RETENTION**

Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

**SECTION 1.13 NOTICE OF A LICENSE ACTION**

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

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

**SECTION 1.14 INTERIM EXTENSION AMENDMENT**

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

**SECTION 1.15 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY AND SECURITY STANDARDS**

- a. Applicability:

The following Electronic and Information Resources (EIR) requirements apply to the Contract because the Grantee performs services that include EIR that the System Agency's employees are required or permitted to access, or members of the public are required or permitted to access.

This Section does not apply to incidental uses of EIR in the performance of the Agreement, unless the Parties agree that the EIR will become property of the State of Texas or will be used by HHSC's clients or recipients after completion of the Agreement.

Nothing in this section is intended to prescribe the use of designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a Product.

b. Definitions:

**"Accessibility Standards"** means accessibility standards and specifications for Texas agency and institution of higher education websites and EIR set forth in 1 TAC Chapter 206 and/or Chapter 213.

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

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

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

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

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

c. Evaluation, Testing, and Monitoring

1. The System Agency may review, test, evaluate and monitor Grantee's Products and services, as well as associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing. Neither the review, testing (including acceptance

testing), evaluation or monitoring of any Product or service, nor the absence of review, testing, evaluation or monitoring, will result in a waiver of the State's right to contest the Grantee's assertion of compliance with the Accessibility Standards.

2. Grantee agrees to cooperate fully and provide the System Agency and its representatives timely access to Products, records, and other items and information needed to conduct such review, evaluation, testing, and monitoring.

d. Representations and Warranties

1. Grantee represents and warrants that:

- i. As of the Effective Date of the Contract, the Products and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and
  - ii. If the Products will be in the custody of the state or a System Agency's client or recipient after the Contract expiration or termination, the Products will continue to comply with Accessibility Standards after the expiration or termination of the Contract Term, unless the System Agency or its clients or recipients, as applicable, use the Products in a manner that renders it noncompliant.
2. In the event Grantee becomes aware, or is notified that the Product or service and associated documentation and technical support do not comply with the Accessibility Standards, Grantee represents and warrants that it will, in a timely manner and at no cost to the System Agency, perform all necessary steps to satisfy the Accessibility Standards, including remediation, replacement, and upgrading of the Product or service, or providing a suitable substitute.
  3. Grantee acknowledges and agrees that these representations and warranties are essential inducements on which the System Agency relies in awarding this Contract.
  4. Grantee's representations and warranties under this subsection will survive the termination or expiration of the Contract and will remain in full force and effect throughout the useful life of the Product.

e. Remedies

1. Under Tex. Gov't Code § 2054.465, neither the Grantee nor any other person has cause of action against the System Agency for a claim of a failure to comply with Tex. Gov't Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of Grantee's representations and warranties, Grantee will be liable for direct, consequential, indirect, special, or liquidated damages and any

other remedies to which the System Agency may be entitled under this Contract and other applicable law. This remedy is cumulative of any other remedies to which the System Agency may be entitled under this Contract and other applicable law.

#### **SECTION 1.16 CHILD ABUSE REPORTING REQUIREMENT**

- a. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
- b. Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.
- c. Grantee shall use the System Agency's Child Abuse Reporting Form located at [www.dshs.state.tx.us/childabusereporting](http://www.dshs.state.tx.us/childabusereporting) as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

#### **SECTION 1.17 GRANTEE'S CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS.**

Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all the following minimum standards of:

- a) Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
- b) Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Contract are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
- c) Applying to all employees and visitors in this designated area; and
- d) Providing for or referring its employees to tobacco use cessation services.

If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

#### **SECTION 1.18 PROGRAM EQUIPMENT, PROGRAM SUPPLIES, PROPERTY MANAGEMENT AND REPORTING.**

- a. Grantee shall initiate the purchase of all Equipment approved in writing by the System Agency in the first quarter of the Contract term, as applicable. Failure to timely initiate the purchase of Equipment may result in the loss of availability of funds for the purchase of Equipment. Requests to purchase previously approved Equipment after the first quarter in the Contract must be submitted to the assigned System Agency contract manager.
- b. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered Supplies.

- c. Grantee shall maintain an inventory of Equipment, supplies defined as Controlled Assets, and real property and submit an annual cumulative report of the equipment and other property on HHS System Agency Grantee's Property Inventory Report to the assigned System Agency contract manager by e-mail not later than October 15 of each year.
- d. System Agency funds must not be used to purchase buildings or real property without prior written approval from the System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.
- e. At the expiration or termination of this Contract for any reason, title to any remaining equipment and supplies purchased with funds under this Contract reverts to System Agency. Title may be transferred to any other party designated by System Agency. The System Agency may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Grantee.

## ATTACHMENT E FEDERAL ASSURANCES AND LOBBYING FORM

View Burden Statement

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

### 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:

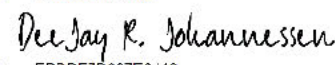
1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give 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.

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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. §§489a-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.

DocuSigned by:  EBDDE7D037E0442...	TITLE <b>Executive Director</b>
APPLICANT ORGANIZATION <b>Health Education Learning Project</b>	DATE SUBMITTED <b>November 3, 2019</b>

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**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.

<b>* APPLICANT'S ORGANIZATION</b> Health Education Learning Project	
<b>* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</b>	
Prefix: <input type="text"/>	* First Name: DeeJay Middle Name: <input type="text"/>
* Last Name: Johannessen	Suffix: <input type="text"/>
* Title: Executive Director	
<b>* SIGNATURE:</b> 	<b>* DATE:</b> November 3, 2019