

SERVICES AGREEMENT

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CONTRACT NO. HHS000172800001

I. PURPOSE

The Texas Health and Human Services Commission (“HHSC”) (“System Agency”), an administrative agency within the executive department of the State of Texas and having its principal office at 4900 North Lamar Boulevard, Austin, Texas, 78751, and Deer Oaks EAP Services LLC (“Contractor”), having its principal office at 126 East Main Plaza, Suite 8, San Antonio, Texas, 78205 (each a “Party” and collectively “the Parties”) enter into the following contract for Employee Assistance Program (“EAP”) services (the “Contract”).

II. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of Title 10, Subtitle D of the Texas Government Code and Section 531.039 of the Texas Government Code. The State Employee Health Fitness and Education Act 1983 as codified in Chapter 664 of the Texas Government Code authorizes state agencies to establish wellness programs such as an EAP. An EAP must be designed to assist organizations in addressing productivity issues by assisting employees in identifying and resolving personal concerns. These concerns include, but are not limited to: health, marital, work, family, financial, alcohol and other substance abuse, legal, emotional, stress, or other personal issues that may affect job performance.

III. STATEMENT OF SERVICES TO BE PROVIDED

CONTRACTOR will provide statewide professional EAP services in accordance with the specifications contained in the RFP for the Health and Human Services Commission, and the fees set forth in its pricing sheet dated January 11, 2019 and Cost language and Exhibit 1 - Pricing Assumptions documents submitted on January 24, 2019.

IV. DURATION

The Contract is effective on February 1, 2019 or the signature date of the latter of the Parties to sign this agreement, whichever is later, and terminates on January 31, 2022; unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. System Agency, at its own discretion, may extend this Contract for up to three (3) one-year renewal periods at its sole option, or as necessary to complete the mission of the procurement, and subject to terms and conditions mutually agreeable to the Parties.

V. BUDGET

The total amount of this Contract will not exceed Three Million Five Hundred Thousand (\$3,500,000.00).

VI. CONTRACT REPRESENTATIVES

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

CONTRACTOR:

Greg Brannan, Director of Business Development & Training
Deer Oaks EAP Services
126 East Main Plaza, Suite 8
San Antonio, Texas, 78205
301-829-0364 (telephone)
Email: gbrannan@deeroaks.com

HHSC:

Pollett Jones-Reasonover, Contract Manager
Health and Human Services Commission
4900 North Lamar Blvd.
Austin, Texas 78751
(512) 407-3284 (telephone)
(512) 424-6852 (facsimile)
Email: pollett.jones-reasonover@hhsc.state.tx.us

VII. LEGAL NOTICES

Any legal notice required under this Contract shall 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:

HHSC:

Executive Commissioner
Health and Human Services Commission
4900 North Lamar Blvd.
Austin, Texas 78751
(512) 424-6586

With a required copy to:

Karen Ray, Chief Counsel
Health and Human Services Commission
4900 North Lamar Blvd.
Austin, Texas 78751

CONTRACTOR:

Laura Davies
126 East Main Plaza, Suite 8
San Antonio, Texas, 78205
(210) 224-2106 (telephone)
Email: ladavies@deeroaks.com

Legal notice given by Contractor shall be deemed effective when received by the System Agency. Either Party may change its address for notice by written notice to the other Party.

VIII. AGREEMENT ELEMENTS

(a) *Agreement Documentation*

The Agreement between the Parties will consist of this executed contract document (the "EAP Services Agreement"); HHSC's Uniform Terms and Conditions (UTCs), Version 2.15; the HHSC Special Terms, the Required HHSC Forms, Exhibits, and Certifications; the RFP, as clarified by Questions and Answers and Addenda officially issued by HHSC; CONTRACTOR's proposal dated November 26, 2018, as modified by its submissions dated January 11, 2019; January 16, 2019; January 22, 2019; and January 24, 2019; and all agreed modifications to the above-referenced documents.

(b) *Order of Documents*

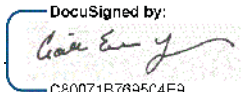
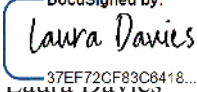
In the event of any conflict or contradiction between or among the Agreement elements, the documents will control in the following order of priority:

- (1) The EAP Services Agreement;
- (2) Exhibit I – Pricing and Assumptions
- (3) HHSC Special Conditions
- (4) HHSC's Uniform Terms and Conditions, Version 2.15 (attached hereto and incorporated by reference);
- (5) Request for Proposal No. HHS0001728, as clarified by Questions and Answers and Addenda officially issued by HHSC (attached hereto and incorporated by reference);
- (6) CONTRACTOR's proposal, dated November 26, 2018, as modified by its submissions dated January 11, 2019; January 16, 2019; January 22, 2019; and January 24, 2019 (hereby and incorporated by reference); and
- (7) Required HHSC Forms and Certifications (attached hereto and incorporated by reference).

A listed document includes all amendments to the document.

IX. AUTHORITY TO EXECUTE

The Parties have executed this contract in their capacities as stated below with authority to bind their organizations on the dates set forth by their signatures.

<p>Texas Health and Human Services Commission</p> <p> C80071B7695C4E9...</p> <p>Cecile Young</p> <p>Chief Deputy Executive Commissioner</p> <p><u>February 4, 2019</u> Date of Execution</p>	<p>Deer Oaks EAP Services, LLC</p> <p> 37EF72CF83C8418...</p> <p>Laura Davies Chief Financial Officer</p> <p><u>February 1, 2019</u> Date of Execution</p>
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**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT No. HHS000172800001
ARE HEREBY ATTACHED AND INCORPORATED BY REFERENCE:**

REQUEST FOR PROPOSAL No. HHS0001728

EXHIBIT A – AFFIRMATIONS AND SOLICITATION ACCEPTANCE

EXHIBIT B – FEDERAL ASSURANCES

EXHIBIT C – HHSC UNIFORM TERMS AND CONDITIONS – VENDOR

EXHIBIT D – HHSC SPECIAL CONDITIONS

EXHIBIT E – UNIFORM EIR ACCESSIBILITY CLAUSE

EXHIBIT F – MANDATORY SECURITY REQUIREMENTS STATEMENT

EXHIBIT G – DATA USE AGREEMENT AND SECURITY AND PRIVACY INQUIRY

EXHIBIT H – EXCEPTIONS

EXHIBIT I – PRICING AND ASSUMPTIONS

EXHIBIT J – REQUEST FOR PROPOSAL HHS0001728

Exhibit A. AFFIRMATIONS AND SOLICITATION ACCEPTANCE

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

Respondent affirms, without exception, as follows:

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

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

13. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
14. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
15. Under Section 231.006(d) of the Texas Family Code regarding child support, Respondent certifies that the individual or business entity named in this Response is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Respondent subject to Section 231.006 of the Texas Family Code must include in the Response the names and social security numbers (SSNs) of each person with at least 25% ownership of the business entity submitting the Response:

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

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

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

16. Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Respondent's subcontracts, if any, if payment in whole or in part is from federal funds.
17. Respondent certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

18. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
19. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of the contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.
20. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
21. Respondent agrees that any payments due under any contract resulting from this Solicitation shall be applied towards any debt or delinquency that is owed to the State of Texas.
22. Respondent represents and warrants that payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
23. Respondent agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
24. Respondent agrees that upon request of HHSC, Respondent shall provide copies of its most recent business continuity and disaster recovery plans.
25. Respondent expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Respondent represents and warrants to HHSC that the technology provided to HHSC for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
 - providing equivalent access for effective use by both visual and non-visual means;
 - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
 - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

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

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

26. If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
27. If Respondent is submitting a Response for the purchase or lease of covered television equipment, then Respondent certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
28. Should Respondent be awarded a contract resulting from this solicitation, Respondent represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of the contract, none of its employees including, but not limited to those will provide services under the contract, were employees of an HHS Agency.
29. Respondent acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Respondent may not accept employment from Respondent before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.
30. Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Solicitation and any resulting contract and that Respondent's provision of the requested goods and/or services under this Solicitation and any resulting contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
31. Respondent understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Respondent agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.
32. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Response, neither I nor any representative of the Respondent has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Response, neither I nor any representative of the Respondent has violated any federal antitrust law; and (c) neither I

nor any representative of the Respondent has directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Respondent.

33. Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Respondent or any of the individuals or entities included in numbered paragraph 1 of this Affirmations and Solicitation Acceptance within the five (5) calendar years immediately preceding the submission of this Solicitation response that would or could impair Respondent's performance under any contract resulting from this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Respondent's performance under a contract awarded as a result of this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. In addition, Respondent acknowledges this is a continuing disclosure requirement. Respondent represents and warrants that, if awarded a contract as a result of this Solicitation, Respondent shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.
34. Respondent represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Respondent does not boycott Israel and will not boycott Israel during the term of any contract resulting from this Solicitation.
35. Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the contract to determine the eligibility of:
- (a) all persons employed by Respondent to perform duties within Texas; and
 - (b) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.
36. Respondent understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Respondent is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of any contract resulting from this Solicitation.
37. Respondent represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to any contract resulting from this Solicitation.
38. Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the

performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.

39. By submitting this Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of this Response.

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

Legal Name of Respondent: Laura Davies

DocuSigned by:
Laura Davies
37EF72CF83C8418...

Authorized Representative

Laura Davies, President and CFO

Printed Name and Title of Authorized Representative

26-2031311

Federal Employer Identification Number

078619872

DUNS Number

126 E. Main Plaza

Physical Street Address

Mailing Address, if different

February 1, 2019

Date Signed

2/1/19

Phone Number

██████████

Fax Number

████████████████████

Email Address

San Antonio, TX 78205

City, State, Zip Code

City, State, Zip Code

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.

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

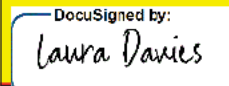
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE President and CFO
APPLICANT ORGANIZATION Deer Oaks EAP Services, LLC	DATE SUBMITTED February 1, 2019

EXHIBIT C



**Health and Human Services Commission
HHSC Uniform Terms and Conditions - Vendor
Version 2.15**

Published and Effective September 1, 2017

Responsible Office: Chief Counsel

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EXHIBIT A**ARTICLE I. DEFINITIONS AND INTERPRETATIONS****1.1 DEFINITIONS**

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

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

“Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.

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

“Contractor” means the Party selected to provide the goods or services under this Contract, if any.

“Deliverable” means a work product prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.

“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.

“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” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, and other intangible proprietary information.

“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 Contractor, collectively.

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

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“[Project](#)” means the goods or Services described in the Signature Document or a Work Order of this Contract.

“[Public Information Act](#)” or “[PIA](#)” means Chapter 552 of the Texas Government Code.

“[Scope of Work](#)” means the description of Services and Deliverables specified in the Contract as may be amended.

“[Services](#)” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

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

“[Solicitation](#)” means the document issued by the System Agency under which the goods or services provided under the Contract were initially requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

“[Solicitation Response](#)” means Contractor’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and addenda.

“[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 Textravel](#)” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“[Subcontract](#)” means any written agreement between Contractor and a third party to fulfill the requirements of the Contract. All Subcontracts are required to be in writing.

“[Subcontractor](#)” means any individual or entity that enters a contract with the Contractor to perform part or all of the obligations of Contractor under this Contract.

“[System Agency](#)” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“[Technical Guidance Letter](#)” or “[TGL](#)” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Contractor.

“[Work](#)” means all Services to be performed, goods to be delivered, and any appurtenant actions performed and items produced, conceived, or developed, including Deliverables.

“[Work Order](#)” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

1.2 INTERPRETIVE PROVISIONS

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

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- b. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- c. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.
- d. Any references to “sections,” “appendices,” or “attachments” are references to sections, appendices, or attachments of the Contract.
- e. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- f. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- g. All Attachments within this Contract, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract.
- h. This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each will be performed in accordance with its terms.
- i. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- j. Time is of the essence in this Contract.

ARTICLE II. CONSIDERATION

2.1 PROMPT PAYMENT

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

2.2 EXPENSES

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

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

2.3 WORK ORDERS

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

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

ARTICLE III. STATE AND FEDERAL FUNDING**3.1 FUNDING**

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT TO STATE

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

3.4 RECAPTURE OF FUNDS

The System Agency may withhold all or part of any payments to Contractor to offset overpayments made to the Contractor. Overpayments as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures. Contractor

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understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs will be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

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

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

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

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

4.4 FEDERAL CERTIFICATIONS

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

EXHIBIT A**ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY****5.1 OWNERSHIP**

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

5.2 INTELLECTUAL PROPERTY

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

ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE**6.1 BOOKS AND RECORDS**

Contractor will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor’s Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Contractor will maintain legible copies of this Contract and all related documents for a minimum of 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.

6.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Contractor and any of Contractor’s affiliate or subsidiary organizations, or Subcontractors will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States,

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the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Contractor will include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

6.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- a. Contractor must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at Contractor or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance will be solely the decision of the System Agency.
- b. As part of the Services, Contractor must provide to HHSC upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

6.4 SAO AUDIT

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

6.5 CONFIDENTIALITY

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

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6.6 PUBLIC INFORMATION ACT

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

ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION

7.1 CONTRACT MANAGEMENT

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

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

7.2 TERMINATION FOR CONVENIENCE

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

7.3 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:

a. **Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Contractor has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Contractor's duties under the Contract. Contractor's misrepresentation in any aspect of Contractor's Solicitation Response, if any, or Contractor's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

b. **Failure to Maintain Financial Viability**

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Contractor no longer maintains the financial

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viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

7.4 CONTRACTOR RESPONSIBILITY FOR ASSOCIATED COSTS.

If the System Agency terminates the Contract for Cause, the Contractor will be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Contractor. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to Contractor's failure to perform any Work in accordance with the terms of the Contract.

7.5 EQUITABLE SETTLEMENT

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

ARTICLE VIII. MISCELLANEOUS PROVISIONS

8.1 AMENDMENT

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

8.2 INSURANCE

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

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

8.3 DELEGATION OF AUTHORITY

Whenever, by any provision of the Contract, any right, power or duty is imposed or conferred on HHSC, the right power or duty so imposed or conferred is possessed and exercised by the System Agencies Executive Commissioner unless such is delegated to duly appointed agents or employees. The Executive Commissioner of the System Agency will reduce any delegation of authority to writing and provide a copy to Contractor on request. The authority delegated to Contractor by the System Agency is

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limited to the terms of the Contract. Contractor may not rely upon implied authority and is not delegated authority under the Contract to:

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

8.4 LEGAL OBLIGATIONS

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

8.5 E-VERIFY

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

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

8.6 PERMITTING AND LICENSURE

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

8.7 INDEMNITY

TO THE EXTENT ALLOWED BY LAW, CONTRACTOR WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND

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LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- **CONTRACTOR'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY CONTRACTOR, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS; OR**
- **WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

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

8.8 ASSIGNMENTS

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

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

8.9 SUBCONTRACTS

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

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

8.10 HUB/MENTOR PROTÉGÉ

In accordance with State law, it is the System Agency's policy to assist HUBs whenever possible in providing goods and services to the System Agency. The System Agency encourages those parties with whom it contracts for the provision of goods and services to adhere to this same philosophy in selecting Subcontractors to assist in fulfilling their obligations with the System Agency. In addition to information required by this Contract, the contracting Party will provide the procurement department of the System Agency with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder.

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

8.11 RELATIONSHIP OF THE PARTIES

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

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

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

EXHIBIT A**8.12 TECHNICAL GUIDANCE LETTERS**

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

8.13 GOVERNING LAW AND VENUE

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

8.14 SEVERABILITY

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

8.15 SURVIVABILITY

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

8.16 FORCE MAJEURE

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

EXHIBIT A**8.17 DISPUTE RESOLUTION**

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

8.18.2017NO WAIVER OF PROVISIONS

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

8.19 PUBLICITY

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

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

8.20 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

8.21 NO WAIVER OF SOVEREIGN IMMUNITY

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

8.22 ENTIRE CONTRACT AND MODIFICATION

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

EXHIBIT A**8.23 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.

8.24 PROPER AUTHORITY

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

8.25 CIVIL RIGHTS

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

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

- b. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. Civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Contractor agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- c. Contractor agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for

EXHIBIT A

the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>

- d. Contractor agrees to comply with Executive Orders 13279 and 13559, and their implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Contractor must provide written notice to beneficiaries of their rights.
- e. Upon request, Contractor will provide HHSC Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- f. Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice must be directed to:

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

8.26 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

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

8.27 NOTICE OF LEGAL MATTER OR LITIGATION

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

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TEXAS

Health and Human Services

Health and Human Services Commission
Special Conditions
Version 1.2
9.1.17

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HHSC SPECIAL CONDITIONS

The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions –Vendor- Version 2.14

Article I. SPECIAL DEFINITIONS

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

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

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

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

“Minor Administrative Change” refers to a change to the Contract that does not increase the fees or term and done in accordance with Section 5.02 of these Special Conditions.

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

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

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

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

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

Article II. GENERAL PROVISIONS

2.01 Other System Agencies Participation in the Contract

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

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

2.02 Most Favored Customer

Contractor agrees that if during the term of the Contract, Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, Contractor will notify HHSC within (10) business days from the date Contractor executes any such agreement. Contractor agrees, at HHSC's option, to amend the Contract to accord equivalent advantage to HHSC.

2.03 Cooperation with HHSC Vendors

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

2.04 Renegotiation and Reprocurement Rights

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

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

Article III. CONTRACTORS PERSONNEL AND SUBCONTRACTORS

3.01 Qualifications

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

Article IV. PERFORMANCE

4.01 Measurement

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

- (a) Compliance with Contract requirements, including all representations and warranties;
- (b) Compliance with the Work requested in the Solicitation and Work proposed by Contractor in its response to the Solicitation and approved by HHSC;

- (c) Delivery of Work in accordance with the service levels proposed by Contractor in the Solicitation Response as accepted by HHSC;
- (d) Results of audits, inspections, or quality checks performed by the HHSC or its designee;
- (e) Timeliness, completeness, and accuracy of Work; and
- (f) Achievement of specific performance measures and incentives as applicable.

Article V. AMENDMENTS AND MODIFICATIONS

5.01 Formal Procedure

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

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

5.02 Minor Administrative Changes

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Work or the Contract that do not increase the fees or term. Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in Section 5.01 of these Special Conditions. Upon approval of a Minor Administrative Change, HHSC and Contractor will maintain written notice that the change has been accepted in their Contract files.

Article VI. PAYMENT

6.01 Enhanced Payment Procedures

HHSC will be relieved of its obligation to make any payments to Contractor until such time as any and all set-off amounts have been credited to HHSC. If HHSC disputes payment of all or any portion of an invoice from Contractor, HHSC will notify the Contractor of the dispute and both Parties will attempt in good faith to resolve the dispute in accordance with these Special Conditions. HHSC will not be required to pay any disputed portion of a Contractor invoice unless, and until, the dispute is resolved. Notwithstanding any such dispute, Contractor will continue to perform the Work in compliance with the terms of the Contract pending resolution of such dispute so long as all undisputed amounts continue to be paid to Contractor.

Article VII. CONFIDENTIALITY

7.01 Consultant Disclosure

Contractor agrees that any consultant reports received by HHSC in connection with the Contract may be distributed by HHSC, in its discretion, to any other state agency and the Texas legislature. Any distribution may include posting on HHSC's website or the website of a standing committee of the Texas Legislature.

7.02 Confidential System Information

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

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

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

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

Article VIII. DISPUTES AND REMEDIES

8.01 Agreement of the Parties

The Parties agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under the Contract before resorting to formal dispute resolution processes otherwise provided in the Contract. The Parties will use all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in the Contract, unless HHSC immediately terminates the Contract in accordance with the terms and conditions of the Contract.

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

8.02 Operational Remedies

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

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

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

HHSC will provide notice to Contractor of the imposition of an operational remedy in accordance with this section, with the exception of accelerated monitoring, which may be unannounced. HHSC may require Contractor to file a written response as part of the operational remedy approach.

8.03 Equitable Remedies

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

8.04 Continuing Duty to Perform

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

Article IX. DAMAGES

9.01 Availability and Assessment

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

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

9.02 Specific Items of Liability

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

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

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Contractor WILL BE SOLELY RESPONSIBLE FOR ALL COSTS INCURRED THAT ARE ASSOCIATED WITH INDEMNIFYING THE STATE OF

TEXAS OR HHSC WITH RESPECT TO INTELLECTUAL, REAL AND PERSONAL PROPERTY. ADDITIONALLY, HHSC RESERVES THE RIGHT TO APPROVE COUNSEL SELECTED BY Contractor TO DEFEND HHSC OR THE STATE OF TEXAS AS REQUIRED UNDER THIS SECTION.

Article X. TURNOVER

10.01 Turnover Plan

HHSC may require Contractor to develop a Turnover Plan at any time during the term of the Contract in HHSC's sole discretion. Contractor must submit the Turnover Plan to HHSC for review and approval. The Turnover Plan must describes Contractor's policies and procedures that will ensure:

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

10.02 Turnover Assistance

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

Article XI. UNIFORM ICT ACCESSIBILITY CLAUSE

11.01 Applicability

This Section applies to the procurement or development of Information and Communication Technology (ICT) for HHSC, or any changes to HHSC's ICT. This Section also applies if the Contract requires Contractor to perform a service or supply a goods that include ICT that: (i) HHSC employees are required or permitted to access; or (ii) members of the publis are required or permitted to access. This Section does not apply to incidental uses of ICT in the performance of a contract, unless the parties agree that the ICT will become property of the state or will be used by HHSC's Client/Recipeint after completion of the Contract.

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

11.02 Definitions

The legacy term "Electronic and Information Resources" (EIR) and the term "Information and Communication Technology" (ICT) are considered equivalent in meaning for the purpose of applicability of HHSC Uniform Terms and Conditions, policies, accessibility checklists, style guides, contract specifications, and other contract management documents. To the extent that any other of the following

definitions conflict with definitions elsewhere in this Contract, the following definitions are applicable to this Section only.

1. **“Accessibility Standards”** refers to the Information and Communication Technology Accessibility Standards and the Web Accessibility Standards/Specifications under the Web Content Accessibility Guidelines version 2.0 Level AA, (WCAG 2.0).
2. **“Information and Communication Technology (ICT)”** is any information technology, equipment, or interconnected system or subsystem of equipment for which the principal function is the creation, conversion, duplication, automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information. Examples of ICT are electronic content, telecommunications products, computers and ancillary equipment, software, information kiosks and transaction machines, videos, IT services, and multifunction office machines which copy, scan, and fax documents.
3. **“Information and Communication Technology Accessibility Standards”** refers to the accessibility standards for information and communication technology contained in the Web Content Accessibility Guidelines version 2.0 Level AA.
4. **“Web Accessibility Standards/Specifications”** refers to the web standards contained in WCAG 2.0 Level AA.
5. **“Products”** means information resources technologies that are, or are related to, ICT.
6. **“Service”** means the act of delivering information or performing a task for employees, clients, or members of the public through a method of access or delivery that uses ICT.

11.03 Accessibility Requirements

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

11.04 Evaluation, Testing and Monitoring

1. HHSC may review, test, evaluate and monitor Contractor’s Products, Services and associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing.
1. Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or Service, nor (2) the absence of such review, testing, evaluation or monitoring, will

result in a waiver of the State's right to contest the Contractor's assertion of compliance with the Accessibility Standards.

2. Contractor agrees to cooperate fully and provide HHSC and its representatives timely access to Products, Services, documentation, and other items and information needed to conduct such review, evaluation, testing and monitoring.

11.05 Representations and Warranties

1. Contractor represents and warrants that: (i) as of the effective date of the contract, the Products, Services and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the contract, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the state or an HHS agency's client or recipient after the contract expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or termination of the contract term, unless HHSC and/or Client/Recipient, as applicable uses the Products in a manner that renders it noncompliant.
2. In the event Contractor should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, Contractor represents and warrants that it will, in a timely manner and at no cost to HHSC, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, repair, replacement, and upgrading of the Product, or providing a suitable substitute.
3. Contractor acknowledges and agrees that these representations and warranties are essential inducements on which HHSC relies in awarding this contract.
4. Contractor's representations and warranties under this subsection will survive the termination or expiration of the contract and will remain in full force and effect throughout the useful life of the Product.

11.06 Remedies

1. Pursuant to Texas Government Code Sec. 2054.465, neither Contractor nor any other person has cause of action against HHSC for a claim of a failure to comply with Texas Government Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of Contractor's representations and warranties, Contractor will be liable for direct and consequential damages and any other remedies to which HHSC may be entitled. This remedy is cumulative of any and all other remedies to which HHSC may be entitled under this contract and other applicable law.

Article XII. MISCELLANEOUS PROVISIONS

12.01 Conflicts of Interest

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

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

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

12.02 Flow Down Provisions

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

EXHIBIT E - UNIFORM EIR ACCESSIBILITY CLAUSE

(a) Applicability.

This section applies if the contract requires the CONTRACTOR to procure or develop Electronic and Information Resources (EIR) for HHSC, or to change any of HHSC EIR. This section also applies if the contract requires the CONTRACTOR to perform a service or supply goods that include EIR that: (i) HHSC employees are required or permitted to access; or (ii) members of the public are required or permitted to access.

This section does not apply to incidental uses of EIR in the performance of a contract, unless the parties agree that the EIR will become property of the state or will be used by the HHS agency's Client/Recipient after completion of the contract.

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

(b) Definitions.

1. **"Accessibility Standards"** means the Electronic and Information Resources Accessibility Standards and the Website Accessibility Standards/Specifications.
2. **"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, but is not limited to, telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.
3. **"Electronic and Information Resources Accessibility Standards"** means the accessibility standards for electronic and information resources contained in Volume 1 Texas Administrative Code Chapter 213.
4. **"Website Accessibility Standards/Specifications"** means conformance with WCAG 2.0 at the AA level.
5. **"Products"** means information resources technologies that are, or are related to, EIR.

(c) Accessibility Requirements.

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

(d) Evaluation, Testing and Monitoring.

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

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

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

(e) Representations and Warranties.

1. CONTRACTOR 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 contract, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the state or an HHS agency's client or recipient after the contract expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or termination of the contract term, unless [HHS AGENCY and/or Client/Recipient, as applicable] uses the Products in a manner that renders it noncompliant.
2. In the event CONTRACTOR should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, CONTRACTOR represents and warrants that it will, in a timely manner and at no cost to HHSC, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, and upgrading of the Product, or providing a suitable substitute.
3. CONTRACTOR acknowledges and agrees that these representations and warranties are essential inducements on which HHSC relies in awarding this contract.
4. CONTRACTOR's representations and warranties under this subsection will survive the termination or expiration of the contract and will remain in full force and effect throughout the useful life of the Product.

(f) Remedies.

1. Pursuant to Texas Government Code Sec. 2054.465, neither CONTRACTOR nor any other person has cause of action against HHSC for a claim of a failure to comply with Texas Government Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of CONTRACTOR's representations and warranties, CONTRACTOR will be liable for direct and consequential damages and any other remedies to which HHSC may be entitled. This remedy is cumulative of any and all other remedies to which HHSC may be entitled under this contract and other applicable law.



Dr. Courtney N. Phillips, HHS Executive Commissioner

Request for Proposals (RFP)

For Employee Assistance Program

RFP No. HHS0001728

Date of Release: October 31, 2018

Responses Due: November 20, 2018

NIGP Class/Item Code:

915-05 Low Call Volume Services
915-49 High Volume Telephone Call Answering Services
915-85 Support Services
948-07 Administrative Services
952-21 Counseling Services
952-38 Employee Assistance Programs
958-56 Health Care Management
961-75 Translation Services

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ARTICLE 1. EXECUTIVE SUMMARY, AUTHORITY, AND DEFINITIONS

1.1 EXECUTIVE SUMMARY

Since 1991, the Texas Health and Human Services Commission (HHSC) has overseen and coordinated the planning and delivery of health and human services programs in Texas. HHSC is established in accordance with Texas Government Code Chapter 531, and is responsible for the oversight of all Texas Health and Human Services (HHS) agencies.

The State of Texas, by and through HHSC, seeks an Employee Assistance Program (EAP) to provide statewide professional services in accordance with the specifications contained in this Request for Proposal (RFP). HHSC's mission for this procurement is to provide a confidential resource and safe environment to assist HHS employees with issues that may impact their job performance or work behavior. The EAP will be a resource to assist the HHSC and the Texas Department of State Health Services (DSHS) with promoting emotional health and wellness at work and at home. The approximate number of employees (headcount) at HHSC is 35,400 and at DSHS is 3,000.

HHSC's objectives for this procurement are:

- a) secure an EAP Contractor to provide a broad scope of services to include high quality assessment, short-term counseling, and referrals for long-term counseling, if necessary, to Employee(s) and Employee(s)' Dependent(s) utilizing EAP services;
- b) provide services with consideration given the fact that HHS agencies include persons of diverse language; cultural, ethnic and religious backgrounds; and persons with disabilities;
- c) promote emotional health and wellness at work and at home;
- d) provide access to a variety of services as listed in this RFP;
- e) provide employees and supervisors with tools to effectively manage work and personal issues; and
- f) provide supportive, professional, confidential, and timely assistance.

To be considered for award, Respondents must execute **Exhibit A, Affirmations and Solicitation Acceptance, v 1.3** and **Exhibit B, Federal Assurances and Certifications** of this Solicitation and provide all other required information and documentation as set forth in this Solicitation.

1.2 DEFINITIONS

Refer to **Exhibit C, HHSC Uniform Terms and Conditions, Vendor, v 2.15** and **Exhibit D, System Agency's Supplemental and Special Terms and Conditions, v 1.2**, for additional definitions.

Additionally, as used in this Solicitation, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“AA” or “Level AA” means the level of compliance that the guidelines comply with. Guidelines are developed by Web Accessibility Initiative (WAI) and also list versions series.

“Accessibility” means people with disabilities can access the same information and perform the same functions as anyone else. Accessible products must be:

- **Perceivable** – content available to most senses;
- **Operable** – usable by keyboard, mouse, voice;
- **Understandable** – readable, predictable, instructions provided; and
- **Robust** – works with a variety of users and assistive technology (any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities).

To achieve this, all electronic documents, websites, and other forms of information technology provided by the Respondent to meet this Contract must comply fully with all provisions of Section 508 of the 1973 Rehabilitation Act 29 U.S.C. §794d; 36 C.F.R. Part 1194 and Section 255 of the Telecommunications Act of 1934, as amended 47 U.S.C §255. Web based applications, web sites, and other electronic documents conforming to all Level A and Level AA of the Web Content Accessibility Guidelines 2.0 published by the World Wide Web consortium shall be considered to meet the requirements of Section 508 of the 1973 Rehabilitation Act. **See also Exhibit E Uniform EIR Accessibility Clause.**

"Addendum" means a written clarification or revision to this Solicitation issued by the System Agency.

“Article” means the separate numbered part of the RFP Solicitation excluding Attachments or Exhibits. Example: Article 1.

“Contractor” means the Party selected to provide the services under the contract if any.

“Employee(s) and Employee(s)’ Dependent(s)” (also referred to as “Participant”) means the following individuals eligible for EAP services:

- an employee of HHS (the approximate number of employees (headcount) at HHSC is 35,400 and at DSHS is 3,000); or
- an HHS employee’s spouse (including common law spouse); or
- an HHS employee’s dependent child (including natural/biological child, adopted child, stepchild, foster child, legal ward/guardian) who is twenty-six (26) years of age or younger, and
 - resides in the same household; or
 - does not reside in the same household, but is covered under a Qualified Medical Support Order;
- an HHS employee’s disabled dependent child who is eligible for health insurance coverage under the Group Benefit Plan administered by the Employees Retirement System of Texas (ERS); or
- an individual whom an HHS employee is legally claiming as a dependent for federal income tax purposes in the current year; or

- an employee's child (including natural/biological child, adopted child, stepchild, foster child, legal ward/guardian) of any age who has served or is currently serving in the military.

“Employee Assistance Program (EAP)” means a confidential workplace service that helps employees deal with work-life stressors, improve life style, better physical and mental health, poor morale, family issues, financial concerns, relationship problems, and even drug or legal concerns. Available to both employees and their families to help workers remain productive at work. Employees have a confidential place to go with their personal problems. It also helps employees deal with stressors — from drug abuse to legal problems, etc.

“ESBD” means the Electronic State Business Daily, the electronic marketplace where State of Texas bid opportunities over \$25,000 are posted. The ESBD may currently be accessed at <http://www.txsmartbuy.com/sp>

“HHS” means the Health and Human Services which includes the HHSC and DSHS.

“PHI” means Protected Health Information. The HIPAA Privacy Rule provides federal protections for personal health information held by covered entities and gives patients an array of rights with respect to that information.

“Provider” means one that provides direct services and/or on behalf of the Contractor (counselors, trainers, affiliates, etc.).

“Required Submittal” means a document the Respondent is required to submit with RFP response.

“Respondent” means the entity responding to this Solicitation.

“Section” means sub-parts within or under the Article, in the body of the RFP Solicitation. Example: 1.1 Title would be the section.

“W3C” means World Wide Web Consortium. The W3C is the standards governing body for all web technologies.

“WAI” means Web Accessibility Initiative which is a program within the W3C (World Wide Web Consortium) that develops the guidelines.

“WCAG” or “WGA” means Web Content Accessibility Guideline. Reference guidelines for accessibility requirements for Federal 508, HHS Policy and ISO. Federal 508 also includes additional requirements for hardware and communications technologies and extends the WCAG guidelines to apply them to software.

1.3 AUTHORITY

The System Agency is soliciting the services listed herein under Title 10, Subtitle D of the Texas Government Code and Section 531.039 of the Texas Government Code.

ARTICLE 2. SCOPE OF WORK/SPECIFICATIONS

2.1 DESCRIPTION OF SERVICES/STATEMENT OF WORK/SPECIFICATIONS

2.1.1 General Information

Health and Human Services (HHS) provides an Employee Assistance Program (EAP) for its employees and their family members. HHS recognizes that a variety of personal problems can disrupt employees' personal and work lives. While many employees may solve their problems on their own or with the help of friends, family, or community organizations, employees may also need professional assistance and advice.

The EAP provides confidential access to professional counseling, training and educational services for help in confronting such personal problems as work stress, alcohol and other substance abuse, marital and family difficulties, financial or legal troubles, and emotional distress. The EAP is available to all HHS Employees and Employees' Dependents and offers problem assessments, short-term counseling, referrals to appropriate community services, and referrals for long-term counseling.

The State Employee Health Fitness and Education Act 1983 as codified in Chapter 664 of the Texas Government Code authorizes state agencies to establish wellness programs such as an EAP. An EAP must be designed to assist organizations in addressing productivity issues by assisting employees in identifying and resolving personal concerns. These concerns include, but are not limited to: health, marital, work, family, financial, alcohol and other substance abuse, legal, emotional, stress, or other personal issues that may affect job performance. Through the EAP, Participants can confidentially and without charge utilize services including, but not limited to:

- a) Toll-free, 24-hour, seven (7) days a week telephonic access to professional counselors for consultation, referral, and crisis management;
- b) Professional assessment of issues related to mental health, substance abuse, the workplace, and other challenges in living such as: family and/or marriage counseling, depression, stress, gambling addiction, financial difficulties, anger management, coping with change, natural disasters, and workplace violence;
- c) Face-to-face, short-term focused counseling for individuals and families; up to a maximum of six (6) counseling sessions per issue for the purpose of identifying areas of concern and for problem-solving;
- d) Referral for additional services, including referrals to long-term counseling professionals as needed;
- e) Promotional and educational materials covering a range of emotional, family, work, and living skills;
- f) Education and training opportunities related to life and work issues;
- g) Critical Incident Stress Debriefings; and
- h) EAP work-site services for supervisors, managers, and human resource professionals to deal with unusual and complex issues.

The EAP is strictly confidential and is designed to safeguard the Participant's privacy and rights. All providers are expected to be guided by a Professional Code of Ethics.

Any changes to the delivery of services provided by the Contractor under this RFP should be communicated and submitted to the HHSC Contract Manager for approval at least sixty (60) days prior to implementation.

2.1.2 Services Implementation Plan

2.1.2.1 Transition Plan

An acceptable transition plan is required from the new Contractor immediately after contract execution and prior to implementation of the new contract. The transition plan should, include a process for continuation of services to ensure the best possible outcome, define the responsibilities of all parties involved in the implementation process and provide contact information.

HHSC expects the Contractor to cooperate to ensure a seamless transition with any future EAP Contractor.

2.1.2.2 On-Site Overview

Within the first thirty (30) calendar days after Contract execution, at a mutually agreed upon time, the Contractor will present an on-site, condensed overview of the EAP to key stakeholders in Austin. The overview will provide key stakeholders with a description of the EAP services; its benefits, its impact on working conditions, and how to access services.

2.1.2.3 Informational Campaign

In support of an informational campaign to be conducted within the first thirty (30) calendar days after Contract execution, Contractor shall provide:

- a) An EAP orientation for employees in electronic format that complies with WCAG 2.0 AA.
- b) Education strategy and distribution of Pamphlets, brochures, posters, wallet cards (the minimum number of pamphlets, brochures and wallet cards needed will be the number of employees in each HHS agency plus twenty percent (20%) to be used for newly hired employees); and
- c) Informational website that complies with WCAG 2.0 AA and includes all information provided through the pamphlets, brochures, posters and wallet cards mentioned above.

All printed materials provided shall be offered in an accessible format, for example, in large print or accessible electronic or braille format.

2.1.3 Work Requirements

The services defined and described in this section are the minimum HHSC will require the Contractor to perform. Contractor will provide services with consideration given the fact that HHS agencies include persons of diverse language (English, Spanish, Mandarin, Vietnamese, and others), cultural, ethnic, religious backgrounds, and persons with disabilities. All services provided must comply with Section 508 of the Rehabilitation

Act (29 U.S.C. § 794d) and the Americans with Disabilities act (ADA) (42 U.S.C. § 12101 et seq.). Contractor, subcontractors and affiliates have to abide by all state and federal provisions related to the data privacy rights of Participants and confidentiality as required by law concerning the relationship between Contractor, subcontractors, affiliates and Participants.

All work requirements should be provided at no cost to the participants and without increasing the cost indicated in **Form A** Respondent's Cost Proposal. The following outline the service delivery requirements.

2.1.3.1 Direct Services

Services shall include short-term counseling, assessment and/or referral when indicated, and training and education services.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Direct Services	<ol style="list-style-type: none"> 1. Provide initial assessment and/or referral services. Referral information should be provided within forty-eight (48) hours from the first EAP contact. 2. Provide short-term counseling services related, but not limited to, substance abuse, marital/family problems, psychological/emotional problems, financial problems, legal concerns, vocational problems, and health-related problems. 3. Provide referral services related, but not limited to, substance abuse, marital/family problems, psychological/emotional problems, financial problems, legal concerns, vocational problems, and health-related problems. 4. Provide training and educational seminars across the state as requested. 5. Ensure compliance with HIPAA requirements (Pub.L. 104-191). 6. Ensure compliance with Section 508 of the 1973 Rehabilitation Act. 7. Ensure compliance with the ADA.

2.1.3.2 24-Hour Helpline

The Contractor will provide two (2) toll-free helplines, 24 hours 7 days a week, staffed with trained licensed counselors.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Helpline	<ol style="list-style-type: none"> 1. Provide two (2) toll-free helplines 24 hours 7 days a week, staffed with trained counselors. One of the helplines should be designated as a Teen helpline. 2. Provide a variety of relay service options for deaf/hard of hearing, and/or speech-impaired participants. 3. A sample assessment questionnaire to be completed on Form B

Function	Requirements
	<p>Respondent's Sample 24-Hour Hotline Assessment Questionnaire used during the initial helpline call shall be submitted with proposal response.</p> <ol style="list-style-type: none"> Assess cases of extreme crisis (harmful to self or others) during the initial call and immediately refer to the appropriate resources. Contractor will be required to follow up after initial helpline contact within 48 hours to ensure referrals were successfully connected to the appropriate resources. Ensure compliance with Section 255 of the Telecommunications Act.

2.1.3.3 Trained Counselors

Staff delivering counseling services must have at least a master's degree from an accredited college or university in a behavioral science, counseling, psychology, social work, and certified and licensed in their particular licensing specialization such as addictions counseling, and must be licensed or certified by one or more of the following state regulating agencies and/or as required per specialized field (may include national certifications):

- Texas Medical Board
- Texas State Board of Examiners of Psychologists
- Texas State Board of Social Workers Examiners
- Texas State Board of Examiners of Professional Counselors
- Texas State Board of Examiners of Marriage and Family Therapists
- Texas Department of State Health Services

Exception to the master's degree requirement may be made for licensed, accredited, or certified staff in fields requiring specialized knowledge, training, and expertise obtained through professional training programs that do not award academic degrees. Exceptions include, but are not limited to, Certified Alcoholism and Drug Abuse Counselor (CADAC). Any other exceptions must be approved in advance by HHSC.

Staff delivering counseling must have a minimum of two (2) years of practical related work experience.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Trained Counselor	<ol style="list-style-type: none"> Recruit and ensure counselors meet the education and professional experience described in this section. Maintain a network of qualified counselors who meet the education and professional experience described in this section. Documentation of Respondent's provider network and their location. Professional education and experience of all trained counselors that will be delivering services shall be submitted on Form C Template for Provider Network Listing, By City with proposal response for

Function	Requirements
	<p>sample of the template.</p> <ol style="list-style-type: none"> 4. Ensure that staff delivering counseling services comply with the ADA and that electronic information or resources are provided conformant with WCAG 2.0 AA. 5. Provide an annual list of all affiliates/providers utilized for services to the HHSC Contract Manager, within thirty (30) calendar days prior to the end of each operational year or as requested by the HHSC Contract Manager, to select a sample for licensing verification. 6. Contractor should have a procedure to conduct due diligence to ensure counselors providing services have appropriate credentials and are not involved in malpractice, pending legal cases, legal actions, etc.

2.1.3.4 Counseling

The Contractor will make available a maximum of six (6) counseling sessions per issue for the purpose of identifying areas of concern and for problem-solving. There will be no limit to the number of issues for which Participants can request services.

Describe how the Contractor will provide services for the following requirements:

Function	Requirement
Counseling	<ol style="list-style-type: none"> 1. Provide a maximum of six (6) counseling sessions per issue with no limit to the number of issues. 2. Provide counselors within all major cities (see Section 2.1.3.12 Place of Performance) and within a reasonable driving distance for Participants who do not reside within geographical boundaries. (HHSC prefers that Participants not be required to travel more than 40 to 50 miles to receive services). 3. Facilities where counseling services are provided will comply with architectural requirements under the ADA. 4. Provide a list of available counselors to Participants requesting service. 5. Schedule face-to-face counseling sessions or alternative method of communication agreed upon by both parties. Face-to-face sessions are preferred. 6. Primary consideration of the Participant's preferred mode of communication shall be adhered to when providing services to Participants who are deaf/hard of hearing and/or speech-impaired. 7. Counselors will make available a minimum of forty-five (45) minutes per session. 8. Counseling sessions should be available within three (3) business days of the first contact with the EAP direct services provider. Attempts

Function	Requirement
	<p>will be made to see participants in need of more urgent care within a shorter timeframe. Participants in crisis will be connected directly by phone to a mental health professional for crisis counseling.</p> <p>9. All written, printed or electronic documents, websites or materials shall be available in an accessible electronic format that is conformant with WCAG 2.0 AA.</p>

2.1.3.5 Referrals

When a referral is indicated, the counselor will assist in locating the most appropriate resource for and in the best interest of the Participant. Additional resources may need to be referred in the event the Participant has exhausted the six (6) sessions per issue, or the service needed is specialized and outside of the counselor's area of expertise.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Referrals	<ol style="list-style-type: none"> 1. Counselors will assist in locating the most appropriate resources for and in the best interest of the Participant. 2. Resources covered by the Participant's insurance or health coverage should be identified if possible. 3. Counselors will assist with accessing resources if required. 4. The counselor will assist in accessing the resources and will follow up to determine services are received and the appropriateness and usefulness of the service.

2.1.3.6 Critical Incident Stress Debriefing

The EAP Contractor will provide an unlimited number of on-site Critical Incident Stress Debriefings, as needed, for HHS Participants who have experienced job-related critical incidents. Examples of critical incidents include, but are not limited to, death of a family member or employee; employment separation; violence in the workplace such as hostage or bomb threat; work conflict; workplace accidents; and grief/loss associated with such incidents.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Critical Incident Stress Debriefings	<ol style="list-style-type: none"> 1. The Contractor will provide an unlimited number of on-site Critical Incident Stress Debriefings, as needed. 2. Provide clinical mental health debriefing and consultation with HHS Executive Staff following critical incidents affecting public health and/or public safety regarding mental health messaging and staff needs (local and statewide), upon request. HHSC Contract Manager will make the determination, with Contractor's input, on how the debriefing

Function	Requirements
	<p>will be made to HHS Executive Staff. The Contractor's clinical manager will be the designated point of contact for executive staff, and Contractor staff (including the clinical manager) will meet with HHS Executive Staff to explore and define expectations and requirements of the executive level debriefing and consultation. In addition, the Contractor will assist HHSC Office of Communications with development of messaging to affected staff and broader audiences (other regional staff, public, media, etc.) in anticipation of, as well as during and after, critical incidents.</p> <ol style="list-style-type: none"> 3. Provide/facilitate training for HHS agency supervisors regarding critical incident, mental health, and best practices. 4. Ensure that staff-delivering services comply with the ADA and that information, websites and other electronic materials are conformant with WCAG 2.0 AA.

2.1.3.7 Education and Information Services

Education and information services are important to ensure awareness of the EAP and the related services. Awareness is often promoted through a variety of media to ensure effective communication is accomplished. Promotional and educational materials are to be developed and produced by the EAP Contractor and distributed to agency program contacts within five (5) business days after the request is made. Materials may be tailored to target audiences. Examples of target audiences include, but are not limited to, all employees, managers, direct care professionals, administrative professionals, executives, et cetera.

In addition, the EAP website will serve as a repository for education and information as a valuable resource for employees.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Education and Information Services	<ol style="list-style-type: none"> 1. Provide promotional materials about EAP services. All materials shall be approved by HHSC Contract Manager in advance of distribution. <ul style="list-style-type: none"> • Multimedia presentations and posters will be provided to each agency upon request. • The minimum number of brochures/pamphlets and wallet cards needed on an annual basis will be the number of employees in each HHS agency plus twenty percent (20%) to be used for newly hired employees. • Provide the text and graphics included in promotional/informational materials to each HHS agency in a format each agency may use to publicize the EAP via interagency e-mail or Intranet or transfer to

Function	Requirements
	<p>audio format or any other format deemed necessary by each HHS agency.</p> <ul style="list-style-type: none"> • Maintain and update all materials to ensure information is current. <p>2. Provide two monthly newsletters in electronic/email format; one tailored for employees and one tailored for supervisors. Newsletters should also be available at the Contractor's website for download and for historical purposes.</p> <p>3. Samples of the pamphlets, brochures, posters, wallet cards, newsletters and multi-media presentations shall be included with the proposal response on Form D Sample Promotional and Information Materials.</p> <p>4. Contractor shall provide and maintain a fully functional website for HHS employees to access EAP services information.</p> <ul style="list-style-type: none"> • The website must be compliant with Section 508 of the 1973 Rehabilitation Act. • The website must include information specific to the HHS EAP. • The website must be user friendly in terms of usability and finding information. • Access must be login and password required. User IDs and passwords will be set up for each agency. • The homepage of the website must include, but not limited to, the toll-free contact numbers and be easily visible to those accessing the site, HHSC point of contact information, program utilization reports, promotional material, and training information. This website must be conformant with WCAG 2.00 AA.

2.1.3.8 Trainings and Seminars

Trainings and seminars shall cover a wide range of work-life, wellness, and other EAP topics. HHS staff request on-site trainings or seminars through a coordinated process. On-site trainings/seminars may be sixty (60) to ninety (90) minutes in duration or longer for special events. Services will include customized training programs tailored to the workplace issues associated with HHS core competencies.

Over the period between September 1, 2016 through August 31, 2017, eighty-five (85) trainings and seminars were provided by the current EAP Contractor.

Training and seminars must be conducted in a manner that is accessible to staff with disabilities, and all materials presented must be available in a format that is conformant with WCAG 2.0 AA.

Trainings/seminars should include, but are not limited to, the following topics:

- a) New Employee EAP Orientation
- b) Workplace Issues and Resources

- c) Family Issues and Resources
- d) Health Issues and Resources
- e) Personal Issues and Resources
- f) Stress Management
- g) Supervisory Topics
- h) Health Fairs

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Trainings/ Seminars	<ol style="list-style-type: none"> 1. Provide on-site trainings/seminars to HHS employees and supervisors to train and inform them on a variety of topics. 2. The on-site trainings may be presented as web based, classroom, recorded or blended. 3. All training materials must meet ADA guidelines and requirements and be provided in an electronic format that is conformant with WCAG 2.0 AA. 4. Provide trainings that address workplace issues and resources specific to the health and social services industry. Contractor will tailor trainings to the audience that support agency-specific business needs. 5. A listing of training/seminars offered with topic descriptions shall be included with the proposal response using Form E Template for Trainings/Seminars List.

2.1.3.9 Surveys

The Contractor is responsible for developing and distributing satisfaction surveys. Surveys must allow the HHS agencies to assess the quality of services provided by the Contractor. Information from the surveys must be included in the utilization reports.

Surveys must collect Participant's demographics and information relevant to the evaluation of EAP services such as:

- a) Person Accessing Services (employee, dependent, or both)
- b) Agency
- c) Date Service Requested and Received
- d) Type of Service Received
- e) Ease of Accessing Services
- f) Initial Telephone Triage
- g) Availability of Appointment
- h) Convenience of Location
- i) Education Materials
- j) Responsiveness, Professionalism, and Knowledge of Provider
- k) Referrals
- l) Needs Met
- m) EAP Contractor Website Navigation

n) Overall Satisfaction

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Surveys	<ol style="list-style-type: none"> 1. Provide customer feedback surveys to Participants to assess the satisfaction of services received (CISD, training, short term, referrals, and other). 2. Surveys must include, at a minimum, the information listed in this section, and the opportunity for comments by the Participant who received the Contractor's services. 3. HHSC Contract Manager will approve the survey method and content. (Surveys may be conducted on line or through other methods as appropriate to the participants). 4. The survey method must meet all requirements of Section 508 of the 1973 Rehabilitation Act and/or Section 255 of the Telecommunications Act (47 U.S.C. §255). Electronic surveys must be conformant with WCAG 2.0 AA. 5. Provide to HHSC Contract Manager electronic copies of surveys upon request within three business days. 6. A sample customer feedback survey shall be submitted with the proposal response using Form F Respondent's Sample Customer Feedback Survey.

2.1.3.10 Reports

Timely and accurate reporting of EAP utilization and customer feedback is crucial to the monitoring and measurement of the success of the HHS EAP. HHSC has an established frequency of reporting that includes quarterly and annual utilization for the different EAP services. Reports are prepared for each HHS agency and a combined report is prepared for HHS. Information collected through assessments, surveys, and other sources must be incorporated into the utilization reports. **Refer to Form G Sample of Agency EAP Quarterly Utilization Report** for a sample. The following HHS reporting categories must be included in the quarterly reports:

- a) Demographics of Participants using EAP services
- b) Utilization rate for counseling and other EAP services
- c) Utilization rate for population by each HHS agency, state supported living centers, state hospitals, and for HHS as a whole
- d) Utilization rate specific to Participant's type (including whether employee, dependent, full-time, part-time, or retiree, etc.) and case status
- e) Utilization rate per activity type and primary presenting issues
- f) Detailed summary of organizational services performed such as in-service trainings, seminars, and critical incident stress debriefings
- g) Percentage of short-term issues that receive six (6) counseling sessions
- h) Percentage of issues that are referred for long-term counseling

- i) Number of surveys provided to Participants after completion of counseling and other services
- j) Survey responses including comments

All reports and related materials distributed must be accessible in accordance with Section 508 of the 1973 Rehabilitation Act.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Reports	<ol style="list-style-type: none"> Contractor shall provide specific statistical and evaluative data in the format agreed upon by the EAP Contractor and HHSC Contract Manager. Contractor will provide accurate Quarterly Utilization and Summary Reports for each of the HHS agencies and for HHS as a whole. <ul style="list-style-type: none"> At a minimum, Contractor will provide report categories detailed in this Section. Quarterly reports must include cumulative fiscal year-to-date totals and are due within thirty (30) days after end of each quarter. Contractor will provide accurate Annual EAP Utilization and Summary Reports, including interpretation of data and recommendations. Annual EAP Utilization and Summary Reports are due within forty-five (45) calendar days after fiscal year end. A sample quarterly utilization report shall be submitted with the proposal response use Form H Respondent's Sample Quarterly Utilization Report. Reports will be provided by email in an electronic format that is conformant with WCAG 2.0 AA. Reports will be available to HHS at the HHS EAP website maintained by the Contractor for downloading and for historical purposes.

2.1.3.11 Grievance Procedure

The Contractor shall have a formal operational grievance procedure to be distributed to Participants.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Grievance Procedure	<ol style="list-style-type: none"> Contractor shall have a formal, operational grievance procedure. Contractor shall provide formal grievance procedures to Participants at the time services are provided. All grievances must be resolved within thirty (30) days of the complaint. Contractor will provide a quarterly report in an agreed-upon format as determined by the HHSC Contract Manager.

Function	Requirements
	<p>5. Contractor will provide participants with resources and contact information to provide their complaints and grievances to regulating entities with appropriate jurisdiction and to HHSC.</p> <p>6. A printed copy of the grievance procedure shall be submitted with the proposal response using Form I Respondent's Grievance Procedure.</p>

2.1.3.12 Place of Performance

Services will be available to Employee(s) and Employee(s)' Dependent(s) in all major cities identified below and within a reasonable commuting distance of Participants who do not reside near the geographical boundaries of the cities identified below. HHSC prefers that Participants not be required to travel more than 40 to 50 miles to receive services. Respondents must address in their response how services will be made available within a reasonable commuting distance.

Locations where the Respondent will have counseling services available to Participants include, but are not limited to, the following Texas cities and their surrounding areas:

- Abilene
- Amarillo
- Arlington
- Athens
- Austin
- Beaumont
- Big Spring
- Brenham
- Brownsville
- Brownwood
- Bryan
- Carlsbad
- Cleburne
- College Station
- Conroe
- Corpus Christi
- Dallas
- Del Rio
- Denton
- Eagle Pass
- Edinburg
- El Paso
- Fort Worth
- Galveston
- Harlingen
- Houston
- Kerrville
- Killeen
- Laredo
- Longview
- Lubbock
- Lufkin
- McAllen
- Mexia
- Midland
- Mission
- Nacogdoches
- Odessa
- Paris
- Pharr
- Plano
- Pollok
- Richmond
- Rio Grande City
- Rosenberg
- Rusk
- San Angelo
- San Antonio
- Sherman
- Temple
- Terrell
- Texarkana
- Tyler
- Uvalde
- Vernon
- Victoria
- Waco
- Wichita Falls

Respondent's proposal to include a comprehensive written service delivery plan to provide all the required services in the designated Texas locations.

2.1.3.13 Special Considerations

Full-Time Employee Headcount

The HHSC Contract Manager will prepare and submit to the Contractor the Full-Time Employee (FTE) headcount for the HHS agencies (HHSC and DSHS) participating under the Contract no later than five (5) business days following the last workday of each month. The Contractor will send an invoice for each of the participating agencies to the HHSC Contract Manager no later than fifteen (15) calendar days after receiving the FTE headcount.

Respondent Documentation

The Respondent agrees to provide access to or copies of the following documentation:

- Personnel policies;
- Guidelines and regulations and affirmative action plan, if applicable; and
- By-laws, if applicable.

Participant Costs

All services under the Contract will be provided at no cost to Participants. The Contractor, or subcontractors, must not request payment from the Participant's insurance carrier. Payment for services from referral resources not included in the Contract will be the responsibility of the Participant.

2.1.3.14 Quality Management Plan

Contractor shall submit, implement, and maintain a Quality Management Plan including an overall approach for a comprehensive, continuous, and measurable quality management program. The plan must embody the Contractor endorsement of the fundamental importance of quality by promoting, reinforcing, and acknowledging quality management activities.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Quality Management	<ol style="list-style-type: none"> 1. Contractor shall submit, a Quality Management Plan within thirty (30) calendar days after Contract execution; and annually thereafter within thirty (30) calendar days prior to the end of each operational year. 2. The plan must include, but is not limited to, the following: <ul style="list-style-type: none"> • Strategies and processes to promote quality; • Procedures to periodically measure and report quality performance to HHSC Contract Manager throughout the Contract period; • How often the Contractor conducts internal audits and engages external auditing firms to conduct audits of its operations; and • A requirement that the Contractor shall supply to HHSC Contract Manager copies of all internal and external quality assurance audit reports when developed or received by the Contractor. 3. The plan must be submitted in an electronic format that is conformant

Function	Requirements
	<p>with WCAG 2.0 AA.</p> <ol style="list-style-type: none"> 4. Contractor agrees to perform quality assurance/quality control (QAQC) reviews in accordance with the Contractor's QMP. 5. Contractor agrees to address any deficiencies identified in the QAQC reviews, and provide resolution. 6. Contractor shall include provisions in all its subcontractor contracts to ensure subcontractors understand their responsibility for complying with QMP requirements. 7. All Contractor's QMP files will be auditable and available to HHSC upon request.

2.1.3.15 Security Management Plan

To ensure the security of confidential information, the Contractor must provide a comprehensive **Exhibit F** Security Management Plan that provides adequate protection of sensitive HHS employee information.

The plan must be in compliance with the requirements prescribed in:

- a) Federal Information Security Management Act (FISMA) (PL107-347, Title III, Section 301);
- b) OMB M-06-16 as it applies to electronic storage and transport of Personally Identifiable Information (PII) between systems and the internal processing of records;
- c) National Institute of Standards and Technology Special Publication 800-53 Rev.4; and Health and Human Services (HHS) Information Security (IS) Controls 1.0.

In accordance with Texas Administrative Code (TAC) Code §202.26, State agencies are required to define mandatory security controls. Contractor and its subcontractors must agree to, and comply with, the IS-Controls defined by HHSC, the **Exhibit G Texas HHS Data Use Agreement and the Security and Privacy Inquiry (SPI)**.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Security Management	<ol style="list-style-type: none"> 1. Contractor shall submit, implement, and maintain a Security Management Plan within thirty (30) calendar days after Contract execution or by the date specified by HHSC. The Contractor should develop a baseline of selected security controls, which includes an overall approach for establishing and maintaining security that meets all state and federal requirements, including HIPAA and FISMA and protects against unauthorized access as of the Contract effective date. The Contractor should update and submit the plan annually thereafter

Function	Requirements
	<p>within thirty (30) calendar days prior to the end of each operational year.</p> <ol style="list-style-type: none"> 2. The plan must include the selection of the appropriate set of security controls to adequately mitigate risk and clearly demonstrate the selected Contractor's commitment to security and the due diligence exercised in protecting the confidentiality, integrity, and availability of HHS data and information systems. 3. The plan must also include, but is not limited to, the following: <ul style="list-style-type: none"> • Management Controls; • Technical Controls; and • Operational Controls. 4. Contractor shall submit a Report of Security Breach immediately after discovery detailing the security breach, when and how it was discovered, operational impacts, and corrective measures to detect and prevent future occurrences. 5. Contractor is required to provide HHS, HHS employees, and HHS employees' dependents affected by the data breach: The name and contact details of its data protection officer or other contact point that can provide more information, a description of the likely consequences of the personal data breach, and a description of the measures taken, or proposed to be taken, to deal with the personal data breach and including, where appropriate, the measures taken to mitigate and remedy any possible adverse effects to HHS, HHS employees, and HHS employees' dependents. 6. The Contractor will conduct a review/audit on internal system controls annually, or as needed, and submit the results in a report to the HHSC Contract Manager. 7. The Contractor will conduct annual scanning, or as needed, of all applicable applications to identify and fix vulnerabilities no later than ten (10) days after the report is submitted. 8. Security requirements if storing Confidential PII/PHI concerning HHS employees in the Contractor's network and systems. Contractor's providers supporting the EAP using the Contractor's system or their own system for tracking/reporting should provide assurances that the Contractor is adequately protecting confidential and sensitive information. 9. The plan must be submitted in an electronic format that is conformant with WCAG 2.0 AA.

2.1.3.16 Disaster Recovery and Business Continuity Plan

Contractor must provide a Disaster Recovery and Business Continuity Plan which addresses the transition phase and ongoing operations. It is critical the plan provides for uninterrupted service delivery.

The Contractor must identify what problems may be encountered and how it would plan to address and resolve these problems. HHSC is interested in a realistic assessment of where potential problems are likely to occur during the Transition Phase.

Describe how the Contractor will provide services for the following requirements:

Function	Requirements
Disaster Recovery and Business Continuity Plan	<p>1. Contractor shall submit, implement, and maintain a Disaster Recovery and Business Continuity Plan specific to the transition and on-going operations within thirty (30) calendar days after Contract execution or by the date specified by HHSC; and annually thereafter within thirty (30) calendar days prior to the end of each operational year.</p> <p>HHSC contract management, the HHSC IT Disaster Recovery Manager and the HHSC IT Business Continuity Planner must review and approve the Disaster Recovery Plan & Business Continuity plan following each submittal. Recommended changes by HHSC to either plan must be addressed by the contractor within 30 days of receipt.</p> <p>The plan must include, but is not limited to, the following:</p> <ol style="list-style-type: none"> An overall approach for reestablishing operations and service delivery in the event of an unplanned system outage (e.g. hardware or software outages) and/or in the event a catastrophe occurs affecting performance of operations; Any other systems and/or dependencies required for operations; A description of potential issues that may realistically occur, including, but not limited to, instances such as natural disasters, unplanned system outages, a facility is no longer available, etc., during the operations phase of a project and an outline of courses of action to address and resolve the anticipated problems; Documented Recovery Time Objective (RTO) and the Recovery Point Objective (RPO) in hours; A detailed description of backup and recovery procedures including restoration of State records stored by the Contractor and/or by a third-party custodian of State records.; Key personnel and contact information; Production & Recovery Datacenter locations; Establish a training plan outlining communication processes, short- and/or long-term resolutions, action steps, and response time frames addressing interruptions;

Function	Requirements
	<ul style="list-style-type: none"> i. A description of the documentation and tracking instruments that will allow HHSC to determine if performance measures are met; and j. A reporting mechanism specific to disaster recovery and contingency operations. k. A process for informing HHSC Contract Manager of any system outages immediately but no later than thirty (30) minutes of occurrence and providing documented Incident Reports within 24 hours of system outages detailing the incident, when and how it was discovered, system and operational impacts, and corrective measures to detect and prevent future incidents. <ol style="list-style-type: none"> 1. A commitment to include and collaborate with HHSC personnel for each annual Disaster Recovery Exercise. This includes, but is not limited to the HHSC Information Technology (IT) Disaster Recovery Manager, Business Continuity Manager, contract personnel and/or end users. 2. The plan must be submitted in an electronic format that is conformant with WCAG 2.0 AA. 3. Contractor will resolve outages within three (3) hours.

2.1.3.17 Performance Measures and Associated Remedies

HHSC will monitor the performance of the Contract issued under this RFP by performing desk reviews and conducting site visits as applicable. All services and deliverables under the Contract shall be provided at an acceptable quality level in compliance with the terms and conditions of the contract.

Service Level Agreement Table (See next page)

ARTICLE 3. CONTRACT AWARD, TERM, AND AMOUNT

3.1 CONTRACT AWARD, TERM, AND AMOUNT

3.1.1 Contract Award and Execution

The System Agency intends to award one Contract as a result of this Solicitation. Any award is contingent upon approval of the Executive Commissioner or their designee.

If, for any reason, a final Contract cannot be executed with a Respondent selected for award within ten (10) days of the System Agency's determination to seek to contract with that Respondent, the System Agency may negotiate a Contract with the next highest scoring Respondent or may withdraw, modify, or partially award this Solicitation.

3.1.2 Contract Term

The System Agency anticipates that the initial duration of any Contract resulting from this Solicitation shall be for a period of three (3) years with the option to renew for three (3) additional one-year terms for the purpose of completing a new procurement, and/or to transition to a new Contract if necessary to avoid interruption in System Agency services.

3.1.3 Contract Amount

External factors may affect the project, including budgetary and resource constraints. Any Contract resulting from this RFP is subject to the availability of state and federal funds. As of the issuance of this RFP, HHSC anticipates that budgeted funds will be available to reasonably fulfill the project requirements. If, however, funds are not available, HHSC reserves the right to withdraw the RFP or terminate the resulting Contract without penalty.

3.2 DATA USE AGREEMENT

By entering into a Contract or purchase order with the System Agency as a result of this Solicitation, Respondent agrees to be bound by the terms of the **Exhibit G Data Use Agreement**.

3.3 NO GUARANTEE OF VOLUME, USAGE, OR COMPENSATION

The System Agency makes no guarantee of total compensation to be paid to any Respondent under any awarded Contract, if any, resulting from this Solicitation. Any awarded Contract is subject to appropriations and the continuing availability of funds.

The System Agency reserves the right to cancel, make partial award, or decline to award a Contract under this Solicitation at any time at its sole discretion.

3.4 GOVERNMENTAL ENTITIES

The selected Respondent shall be bound to specific terms and conditions found in **Exhibit C, HHSC Uniform Terms and Conditions, Vendor, v 2.15** and **Exhibit D, the System Agency's Special Conditions, v 1.2**. However, to the extent Respondent is a governmental entity, responding to this Solicitation in its capacity as a governmental entity, certain terms and conditions may not be applicable. Furthermore, to the extent permitted by law, if a Solicitation response is received from a governmental entity, the System Agency reserves

the right to enter into an Interagency or Inter-local agreement with the governmental entity in lieu of awarding a Contract as a result of this Solicitation.

ARTICLE 4. ADMINISTRATIVE INFORMATION

4.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Release Date	October 31, 2018
Pre-Submittal Conference	This date will be added through an addendum after posting prior to the closing date.
Deadline for Submitting Questions	November 8, 2018 @ 5:00 PM Central Time
Deadline for submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by HHSC by the deadline.]	November 20, 2018 @2:00PM Central Time
Evaluation Period	December 4- December 12, 2018
Anticipated Notice of Award	January 2019
Anticipated Contract Start Date	February 1, 2019

Note: These dates are a tentative schedule of events. The System Agency reserves the right to modify these dates at any time upon notice posted to the ESBD. Any dates listed after the Solicitation Response deadline will occur at the discretion of the System Agency and may occur earlier or later than scheduled without notification on the ESBD.

4.2 CHANGES, AMENDMENT, OR MODIFICATION TO SOLICITATION

The System Agency reserves the right to change, amend, or modify any provision of this Solicitation, or to withdraw this Solicitation at any time prior to award if it is in the best interest of the System Agency. Any such revisions will be posted such on the ESBD. It is the responsibility of Respondent to periodically check the ESBD to ensure full compliance with the requirements of this Solicitation.

4.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Point of Contact listed in **Section 4.5.1** below as soon as possible so corrective addenda may be furnished to prospective Respondents.

4.4 INFORMALITIES

The System Agency reserves the right to waive minor informalities in a Solicitation Response if it is in the best interest of the System Agency. A "minor informality" is an omission or error that, in the System Agency's determination if waived or modified when evaluating Solicitation Responses, would not give a Respondent an unfair advantage over other Respondents or result in a material change in the Solicitation Response or Solicitation requirements.

4.5 INQUIRIES

4.5.1 Point of Contact

All requests, questions or other communication about this Solicitation shall be made in writing to the System Agency's Purchasing Department, addressed to the person listed below. All communications between Respondents and other System Agency staff members concerning the Solicitation are strictly prohibited. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

Name: Carolyn R. DeBoer, CTPM, CTCM
Title: Purchaser
Address: 1100 W 49th Street
Phone: 512-406-2447
Email: carolyn.deboer@hhsc.state.tx.us

4.5.2 Prohibited Communication

On issuance of this Solicitation, except for the written inquiries described in Section 4.5.3 and 4.5.4 below, the System Agency, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). Attempts to ask questions by phone or in person will not be allowed or recognized as valid. Respondent shall rely only on written statements issued by or through the System Agency's designated staff as provided by this Section. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

4.5.3 Exception

The only exception to the single point of contact is the HUB Coordinator. Should Respondents have questions regarding proper completion of the HUB Subcontracting Plan, the HUB coordinator may be contacted at Sherice.Williams@hhsc.state.tx.us with a copy to the purchaser listed above.

4.5.4 Questions

The System Agency will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by U.S. First Class mail or email to the Point of Contact listed in **Section 4.5.1** above. Respondents' names will be

removed from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

- a) Identifying Solicitation number
- b) Section Number
- c) Paragraph Number
- d) Page Number
- e) Text of passage being questioned
- f) Question

Note: Questions or other written requests for clarification must be received by the Point of Contact by the deadline set forth in Section 4.1 above. Please provide company name, address, phone number; fax number, e-mail address, and name of contact person when submitting questions.

4.5.5 Clarification

Respondents must notify the Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in the Solicitation in the manner and by the deadline for submitting questions. If a Respondent fails to properly and timely notify the Point of Contact of such issues, the Respondent submits its Solicitation at its own risk, and if awarded a Contract: (1) shall have waived any claim of error or ambiguity in the Solicitation and any resulting Contract, (2) shall not contest the interpretation by any System Agency of such provision(s), and (3) shall not be entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

4.5.6 Responses

Responses to questions or other written requests for clarification will be posted on the ESBD. The System Agency reserves the right to amend answers prior to the deadline for submission of Solicitation Responses. Amended answers will be posted on the ESBD. It is Respondent's responsibility to check the ESBD. The System Agency also reserves the right to provide a single consolidated response of similar at the System Agency's sole discretion.

4.5.7 Conference

The System Agency will conduct an optional pre-submittal conference and will announce the date, place and time through an addendum prior to the closing date.

People with disabilities who wish to attend the meeting and require auxiliary aids or services should contact the sole point of contact identified in this RFP at least seventy-two (72) hours before the meeting so appropriate arrangements can be made.

4.6 SOLICITATION RESPONSE COMPOSITION

4.6.1 Generally

Respondent will submit two (2) Solicitation Responses marked as "Original" on paper which include all required documents and five (5) digital copies of the Solicitation Response in searchable portable document format (.pdf) on USB drives compatible with

Microsoft Office. Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration.

A Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. Respondent should focus on the instructions and requirements of the Solicitation.

The System Agency, in its sole discretion, may reject any and all proposals or portions thereof.

4.6.2 Submission in Separate Parts

Solicitation Responses must be submitted in separate parts:

- Proposal and Respondent Information;
- Cost Proposal; and
- HUB Subcontracting Plan (HSP), if applicable.

Paper documents (i.e. the original and all hard copies) must be separated by binding or separate packaging. Electronic submissions must be separated by electronic medium used for submission (i.e. USB drive).

The entire Solicitation Response - all separated paper documents and electronic copies - must then be submitted in one package to HHSC at the address listed in Section 4.7.

4.6.3 Formatting and Supporting Documentation

The Narrative/ Technical Proposal should be formatted as follows: 8 1/2" x 11" paper, 12 pitch font size, and single-sided. If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the Solicitation Response, with specific reference made to the tab, page, section, and/or paragraph where the supporting information can be found.

4.6.4 Discrepancies

Discrepancies or disparities between the contents of original Solicitation Responses and copies will be interpreted in favor of the System Agency. If Respondent fails to designate an "ORIGINAL," the System Agency may reject the Solicitation Response or select a copy to be used as the original.

4.6.5 Exceptions

HHSC will more favorably evaluate responses that offer no or few exceptions, reservations, or limitations to the terms and conditions of the Solicitation.

Respondents are highly encouraged, in lieu of including exceptions in their Solicitation Responses, to address all issues that might be advanced by way of exception by submitting such issues pursuant to **Section 4.5.5**. Any exception included in a Solicitation Response may result in a Respondent not being awarded a Contract. If a Respondent includes exceptions in its Solicitation Response, Respondent is required to use **Exhibit H Exceptions Form** included in this Solicitation and provide all information requested on

the form (Solicitation Section Number, Solicitation Section Title, Language to which Exception is Taken, Proposed Language, and Statement as to whether or not, by indicating only "yes" or "no," Respondent still wants to be considered for a Contract award if the exception is denied). Any exception that does not provide all required information without qualification in the format set forth in **Exhibit H** may be rejected without consideration.

No exception, nor any other term, condition, or provision in a Solicitation response that differs, varies from, or contradicts this Solicitation will be considered to be part of any Contract resulting from this Solicitation unless expressly made a part of the Contract in writing by the System Agency.

A Solicitation Response should be responsive to the Solicitation as worded, not with any assumption that any or all terms, conditions, or provisions of the Solicitation will be negotiated. Furthermore, all Solicitation Responses constitute binding offers. **Any Solicitation Response to this Solicitation that includes any type of disclaimer or other statement indicating that the response does not constitute a binding offer may be disqualified.**

4.6.6 Assumptions

Respondent must identify on the Exceptions form any business, economic, legal, programmatic, or practical assumptions that underlie the Respondent's response to the Solicitation. The System Agency reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into any Contract resulting from this RFP are deemed rejected by the System Agency.

4.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY

4.7.1 Deadline

Solicitation Responses must be received at the address in Section 4.7.3 time-stamped by the System Agency no later than the date and time specified in Section 4.1.

4.7.2 Labeling

Solicitation Responses shall be placed in a sealed box and clearly labeled as follows:

SOLICITATION NO:	HHS0001728
SOLICITATION NAME:	Employee Assistance Program
SOLICITATION RESPONSE DEADLINE:	November 20, 2018, 2:00PM CST
FOR:	Employee Assistance Program Services
PURCHASER'S NAME:	Carolyn R. DeBoer
RESPONDENT'S NAME:	

The System Agency will not be held responsible for any Solicitation Response that is mishandled prior to receipt by the System Agency. It is Respondent's responsibility to mark appropriately and deliver the Solicitation Response to the System Agency by the specified date and time.

4.7.3 Delivery

Respondent must deliver Solicitation Responses by one of the methods below. Solicitation Responses submitted by any other method (e.g. facsimile, telephone, email) will **NOT** be considered.

U.S. Postal Service	Overnight/Express Mail	Hand Delivery
Health and Human Services Commission Procurement and Contracting Services Building ATTN: Response Coordinator 1100 W 49th MC 2020 Austin, Texas 78756	Health and Human Services Commission Procurement and Contracting Services Building ATTN: Response Coordinator 1100 W 49th MC 2020 Austin, Texas 78756	Health and Human Services Commission Procurement and Contracting Services Building ATTN: Response Coordinator 1100 W 49th MC 2020 Austin, Texas 78756

NOTE: All Solicitation Responses become the property of HHSC after submission and will not be returned to Respondent.

4.7.4 Alterations, Modifications, and Withdrawals

Prior to the Solicitation Response submission deadline, a Respondent may:

- (1) withdraw its Solicitation Response by submitting a written request to the Point of Contact identified in **Section 4.5.1**; or
- (2) modify its Solicitation Response by submitting a written amendment to the Point of Contact identified in **Section 4.5.1**.

The System Agency may request Solicitation Response Modifications at any time.

ARTICLE 5. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS

5.1 EVALUATION CRITERIA

5.1.1 Conformance with State Law

Solicitation Responses shall be evaluated in accordance with Title 10, Subtitle D of the Texas Government Code where applicable. The System Agency shall not be obligated to accept the lowest priced Solicitation Response, but shall make an award to the Respondent that provides the best value to the State of Texas.

5.1.2 Minimum Qualifications

Respondents must meet the minimum qualifications listed below. Furthermore, Solicitation Responses that appear unrealistic in terms of technical commitment, that show a lack of technical competence, or that indicate a failure to comprehend the risk and complexity of a potential Contract may be rejected, in the sole discretion of the System Agency.

To complete the information requested below, use **Form M Respondent's Background and Commitment Questionnaire**.

- a) Respondents must be licensed to provide the services indicated in this RFP and must have recently been in business for a minimum of five (5) years, or the principals/owners must have had recent ownership/executive management experience in a previous company that provided services similar in scope and complexity to the project described in this RFP for a minimum of five (5) years;
- b) Respondents shall have demonstrated experience and ability to perform the scope of work described in the RFP;
- c) Respondents must be financially solvent and adequately capitalized;
- d) Respondents must be authorized to do business in the State of Texas; and
- e) Respondents must explain and describe the work performed as a prime contractor or subcontractor.

5.1.3 Specific Criteria

Solicitation Responses shall be consistently evaluated and scored in accordance with the following criteria. See Exhibit I Example of Evaluation Score Sheet.

- a) Cost (25%)
- b) Quality of Service Delivery Plan (20%)
- c) Demonstrated Understanding of Work Requirements [20%]
- d) Experience of Key Personnel and Subcontractors (20%)
- e) Acceptance of Requirements, Uniform Terms, and Conditions of the Solicitation (15%)

5.1.4 Other Information

HHSC may contact references provided in response to this Solicitation, contact Respondent's clients, or solicit information from any available source, including the Texas Comptroller of Public Accounts' Vendor Performance Tracking System.

5.2 INITIAL COMPLIANCE SCREENING

The System Agency will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses, and Solicitation Responses that do not meet Section 4.6 above and/or do not include all required forms and information may be subject to rejection without further evaluation.

5.3 COMPETITIVE RANGE AND BEST AND FINAL OFFER

The System Agency will award one contract on the basis of the Best and Final Offer ("BAFO") from Respondents. The competitive range will consist of the Solicitation Response that receive the highest or most satisfactory ratings based on the published evaluation criteria and procedures governing this procurement. The System Agency, in the interest of administrative efficiency, may place reasonable limits on the number of Solicitation Responses that will be included in the competitive range.

The System Agency may, at its discretion, request that any or all Respondents provide a BAFO. A request for a BAFO from a System Agency does not guarantee an award or further negotiations.

5.4 ORAL PRESENTATIONS AND SITE VISITS

The System Agency may require an oral presentation from any or all Respondents. Respondents will be provided with advance notice of any such oral presentation and are responsible for their own presentation equipment. Failure to participate in the requested presentation may eliminate a Respondent from further consideration. The System Agency is not responsible for any costs incurred by the Respondent in preparation for any oral presentation.

5.5 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE SYSTEM AGENCY

The System Agency reserves the right to ask questions or request clarification from any Respondent at any time during the Solicitation process, including during oral presentations, site visits, or during the BAFO process.

ARTICLE 6. NARRATIVE/TECHNICAL PROPOSAL

6.1 NARRATIVE PROPOSAL

6.1.1 Executive Summary

Provide a high-level overview of the Respondent's approach to meeting the requirements contained in Article 2. The summary must demonstrate an understanding of the System Agency's goals and objectives for this Solicitation.

6.1.2 Project Work Plan

Describe the Respondent's proposed processes and methodologies for providing all components of the Scope of Work described in Article 2, including the Respondent's approach to meeting the project schedule. Respondent should identify all tasks to be performed, including all project activities, materials and other products, services, and reports to be generated during the Contract period and relate them to the stated purposes and specifications described in this Solicitation.

6.1.3 Value-Added Benefits

Describe any service or deliverables that are not required by this Solicitation that the Respondent proposes to provide at no additional cost to the System Agency. Respondents

are not required to propose value-added benefits, but inclusion of such benefits may result in a more favorable evaluation.

6.1.4 Key Staffing Profile

Respondent must provide a key staffing profile and resumes for staff that will be responsible for the performance of the services requested under this Solicitation.

6.2 TECHNICAL PROPOSAL

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

6.2.1 Software and Hardware Components

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

6.2.2 System Security

Detail on the Respondent's approach to security architecture, including the development and implementation measures that will provide security and protection for the system. Describe the proposed backup and recovery processing approach, and proposed virus protection strategy.

6.2.3 Disaster Recovery

Describe the Respondent's approach to reestablishing operations in the event of a catastrophe, as well as its approach to providing HHSC with a Disaster Recovery Plan and program to meet or exceed the disaster recovery requirements as described in section 2.1.3.16. Provide specifications on any hardware and software components utilized by the proposed security and disaster recovery solutions.

6.2.4 Performance Monitoring and Management

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

ARTICLE 7. REQUIRED RESPONDENT INFORMATION

7.1 COMPANY INFORMATION

Respondent must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in this Solicitation and to produce the specified goods or services on time. As a part of the Solicitation Response requested in Article 10, Respondent must provide the following information:

7.1.1 Company Narrative

Provide a detailed narrative explaining why Respondent is qualified to provide the services enumerated in Article 2, focusing on its company's key strengths and competitive advantages.

7.1.2 Company Profile

Provide a company profile to include:

- a) The company ownership structure (corporation, partnership, LLC, or sole proprietorship), including any wholly-owned subsidiaries, affiliated companies, or joint ventures. (*Please provide this information in a narrative and as a graphical representation.*) If Respondent is an Affiliate of, or has a joint venture or strategic alliance with, another company, Respondent must identify the percentage of ownership and the percentage of the parent's ownership. The entity performing the majority of the Work under a Contract, throughout the duration of the Contract, must be the primary bidder. Finally, provide your proposed operating structure for the services requested under this Solicitation and which entities (i.e. parent company, affiliate, joint venture, subcontractor) will be performing them;
- b) The year the company was founded and/or incorporated. If incorporated, please indicate the state where the company is incorporated and the date of incorporation;
- c) The location of company headquarters and any field office(s) that may provide services for any resulting Contract under this Solicitation;
- d) The number of employees in the company, both locally and nationally, and the location(s) from which employees will be assigned;
- e) The name, address, and telephone number of Respondent's point of contact for any resulting Contract under this Solicitation; and
- f) Indicate whether the company has ever been engaged under a contract by any Texas state agency. If "Yes," specify when, for what duties, and for which agency.

Note: If Respondent is an out-of-state company, a Certificate of Authority from the Texas Secretary of State to do business in Texas must be provided as well.

7.2 REFERENCES

Respondent shall provide a minimum of three (3) references from similar contracts or projects performed, preferably for state and/or local government, within the last five (5) years. Respondent must verify current contracts. Information provided shall include:

- a) Client name;
- b) Contract/project description;
- c) Total dollar amount of contract/project;
- d) Key staff assigned to the referenced contract/project that will be; designated for work under this Solicitation; and
- e) Client contract/project manager name, telephone number, fax number and email address.

7.3 MAJOR SUBCONTRACTOR INFORMATION

Respondent must identify any major subcontractors whom Respondent intends to utilize in performing fifteen percent (15%) or more of any Contract. Respondent must indicate whether or not Respondent holds any financial interest in any major subcontractor. It may be required as a condition of award that an authorized officer or agent of each proposed major subcontractor sign a statement to the effect that the subcontractor has read, and will agree to abide by, Respondent's obligations under any Contract awarded pursuant to this Solicitation.

7.4 LITIGATION AND CONTRACT HISTORY

Respondent must include in its Solicitation Response a complete disclosure of any alleged or significant contractual failures. In addition, Respondent must disclose any civil or criminal litigation or investigation over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable including any allegations of such that are currently pending.

Respondent must also disclose any settlement agreements entered into in the last five (5) years related to alleged contractual failures. Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations. Complete this information on **Form N Litigation and Contract History**.

7.5 CONFLICTS

Respondent must certify that it does not have any personal or business interests that present a conflict of interest with respect to the RFP and any resulting Contract. Additionally, if applicable, the Respondent must disclose all potential conflicts of interest. The Respondent

must describe the measures it will take to ensure that there will be no actual conflict of interest and that its fairness, independence and objectivity will be maintained. The System Agency will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the Contract. Failure to identify actual and potential conflicts of interest may result in disqualification of a Solicitation Response or termination of a Contract.

Please include any activities of affiliated or parent organizations and individuals who may be assigned to this Contract, if any. Complete this information on **Form O Conflicts**.

Additionally, pursuant to Section 2252.908 of the Texas Government Code, a successful Respondent awarded a Contract greater than one (1) million dollars, or that requires an action or vote of the governing body, must submit a disclosure of interested parties to the System Agency at the time the business entity submits the signed Contract. Rules and filing instructions may be found on the Texas Ethics Commission's public website and additional instructions will be given by HHSC to successful Respondents.

7.6 AFFIRMATIONS AND SOLICITATION ACCEPTANCE, CERTIFICATIONS

Respondent must complete and return all of the following listed forms:

- a) Exhibit A: Affirmations and Solicitation Acceptance
- b) Exhibit B: Federal Assurances and Certifications
- c) Exhibit H: Exceptions Form

7.7. OTHER REPORTS

7.7.1 DUN AND BRADSTREET REPORT

Respondents with a Dun and Bradstreet number must include a Comprehensive Insight Plus Report, Business Information Report or Credit eValuator Report with their Solicitation Response.

7.7.2 Financial Capacity and Annual Report

Respondent shall submit an annual report, which must include:

- a) Last four (4) years of audited financial statements;
- b) If applicable, last four (4) years of consolidated statements for any holding companies or affiliates;
- c) An unaudited financial statement of the most recent quarter of operation; and
- d) A full disclosure of any events, liabilities, or contingent liabilities that could affect Respondent's financial ability to perform this Contract.

If Respondent is unable to provide the annual report specified above, Respondent may, at the discretion of the System Agency, provide the following annual report:

- a) Last four (4) years unaudited financial statements or a balance sheet statement of financial position;
- b) An un-audited financial statement of the most recent quarter of operation; and

- c) A full disclosure of any events, liabilities, or contingent liabilities that could affect Respondent's financial ability to perform this Contract.

7.8 CORPORATE GUARANTEE

If the Respondent is substantially owned or controlled, in whole or in part, by one or more other legal entities, the Respondent must submit the information required under the "Financial Capacity" section above for each such entity, including the most recent financial statement for each such entity. The Respondent must also include a statement that the entity or entities will unconditionally guarantee performance by the Respondent of each and every obligation, warranty, covenant, term and condition of the Contract. If HHSC determines that an entity does not have sufficient financial resources to guarantee the Respondent's performance, HHSC may require the Respondent to obtain another acceptable financial instrument or resource from such entity, or to obtain an acceptable guarantee from another entity with sufficient financial resources to guarantee performance.

7.9 HUB SUBCONTRACTING PLAN

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

In accordance with Texas Government Code Chapter 2161, Subchapter F, §2161.252(b) a proposal that does not contain an HSP is non-responsive; and in accordance with Texas Administrative Code, Title 34, §20.285(b)(3), Responses that do not include a completed HSP shall be rejected without further evaluation. In addition, if HHSC determines that the HSP was not developed in good faith, it will reject the proposal for failing to comply with material RFP specifications.

Submit one (1) copy of the HSP, in accordance with the RFP, in a separate sealed envelope with the RFP submission labeled: HUB Subcontracting Plan, and include all supporting documentation in accordance with **Form J - HSP**. In addition, submit one (1) electronic copy of the HSP on a portable media, such as a flash drive, compatible with Microsoft Office.

ARTICLE 8. COST PROPOSAL

8.1 COST PROPOSAL

As noted above, cost information must not be included with the Respondent's Information and Narrative proposal. Respondent must submit **Form A Respondent's Cost Proposal** for the services listed in Article 2. Scope of Work. The Cost Proposal provided is for the services as specified in this Solicitation and to provide the services according to the minimum specifications, requirements, provisions, terms, and conditions set forth in this RFP.

The Respondent is to use the approximate number of employees for HHSC and DSHS (headcount) indicated in Section 1.1 Executive Summary to base its cost for the proposal

pricing. However, the figures are subject to change depending on legislative mandated staffing levels and other contingencies.

8.1.1 Invoices

Contractor will be paid on the completion and acceptance of Services and Deliverables by HHSC or its designee. Contractor will submit invoices monthly to the HHSC Contract Manager.

8.1.2 Time and Manner of Payment

Payments for Services and Deliverables under the Contract will be made in accordance with the timelines and procedures set forth in the Texas Prompt Payment Act, Chapter 2251, Texas Government Code.

ARTICLE 9. GENERAL TERMS AND CONDITIONS

9.1 GENERAL CONDITIONS

9.1.1 Amendment

The System Agency reserves the right to alter, amend or modify any provision of this Solicitation, or to withdraw this Solicitation, at any time prior to award, if it is in the best interest of the State.

9.1.2 Offer Period

Solicitation Responses shall be binding for a period of 240 days after the due date for submission of Solicitation Responses. Each Respondent may extend the time for which its Solicitation Response will be honored. Upon Contract execution, prices agreed upon by the Respondent(s) are an irrevocable offer for the term of the Contract and any Contract renewals or extension(s). No other costs, rates, or fees shall be payable to the Respondent unless expressly agreed upon in writing by the System Agency.

9.1.3 Costs Incurred

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

9.1.4 Contract Responsibility

The System agency will look solely to Respondent for the performance of all contractual obligations that may result from an award based on this Solicitation. Respondent shall not be relieved of its obligations for any nonperformance by its subcontractors.

9.1.5 Public Information Act

Solicitation Responses are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request. Subject to the PIA, certain information may be protected from public release. Respondents who wish to protect portions of the Solicitation Response from public disclosure should familiarize themselves with this law. Information pertaining to the Solicitation will be withheld or released only in accordance with the PIA.

9.2 INSURANCE

9.2.1 Required Coverage

For the duration of any Contract resulting from this Solicitation, Respondent shall acquire insurance, bonds, or both, with financially sound and reputable independent insurers. The Contractor and its subcontractors will need to demonstrate and maintain insurance coverage (including but not limited to General Liability Insurance, Professional Liability Insurance or other relevant insurance) to ensure that employees and/or family members may be safe, secure and confident that they will not be placed in harm's way. The successful Respondent will have insurance in the amount of the total amount of the contract between HHSC and the Contractor. Any subcontractor of the Contractor, providing services pursuant to this Request for Proposal, will have insurance in an amount that provides reasonable coverage in the event that claims may arise in the performance of the services under this procurement.

Failure to maintain insurance coverage or acceptable alternative methods of insurance shall be deemed a breach of Contract.

9.2.2 Alternative Insurability

Notwithstanding the preceding, the System Agency reserves the right to consider reasonable alternative methods of insuring the Contract in lieu of the insurance policies customarily required. It will be the Respondent's responsibility to recommend to the System Agency alternative methods of insuring the Contract. Any alternatives proposed by Respondent should be accompanied by a detailed explanation regarding Respondent's inability to obtain the required insurance and/or bonds. The System Agency shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

9.3 PROTEST

If a Respondent wishes to file a protest they may do so in accordance with the rules published by HHSC in the Texas Administrative Code 1 Chapter 391.

ARTICLE 10. SUBMISSION CHECKLIST

This checklist is provided for Respondent's convenience only and identifies documents requested in this Solicitation.

Original Solicitation Response Package

The Solicitation Package must include the two (2) "Original" Solicitation Responses in hard-copy, separated in three (3) Sections with a separate cover page as described in detail below, combined in one (1) package and clearly labeled "Original" on each.










1. Proposal and Respondent Information	RFP Location	
a. Narrative Proposal	(Section 6.1)	_____
b. Technical Proposal	(Section 6.2)	_____
c. Company Information	(Section 7.1)	_____
d. References	(Section 7.2)	_____
e. Major Subcontractor Information	(Section 7.3)	_____
f. Litigation and Contract History	(Section 7.4)	_____
g. Conflicts	(Section 7.5)	_____
h. Affirmations and Solicitation	(Section 7.6)	_____
Acceptance, Certifications		
i. Exceptions and Assumptions	(Sections 4.6.5 and 4.6.6)	_____
j. Dun and Bradstreet Report	(Section 7.7.1)	_____
k. Financial Capacity and Annual	(Section 7.7.2)	_____
Report		
l. Corporate Guarantee	(Section 7.8)	_____
2. Cost Proposal	(Article 8 and Form A)	_____
3. HUB Subcontracting Plan	(Section 7.9 and Form J)	_____








Copies to be provided (all clearly labeled as "Original Copy")

_____ Five (5) Electronic copies of **Solicitation Response** in searchable pdf format on individual USB drives. See 7.9 to review requirements for the **Form J** HSP submission.

The electronic copies must be organized with a file format that corresponds with the checklist provided in this RFP and compatible with Microsoft Office.

Respondent must complete and return all of the following listed forms.

Form A	Respondent's Cost Proposal Section 2.1.3 & Article 8	 FORM A RESPONDENT'S COS
Form B	Respondent's Sample 24-Hour Hotline Assessment Questionnaire Section 2.1.3.2	 FORM B RESPONDENT'S SAM
Form C	Template for Provider Network Listing, By City Section 2.1.3.3	 FORM C TEMPLATE FOR PROVIDER NET
Form D	Sample Promotional and Information Materials Section 2.1.3.7	 FORM D SAMPLE PROMOTIONAL AND
Form E	Template for Trainings/Seminars List Section 2.1.3.8	 FORM E TEMPLATE FOR TRAININGS SEM
Form F	Respondent's Sample Customer Feedback Survey Section 2.1.3.8	 FORM F RESPONDENT'S SAM
Form G	Sample of Agency EAP Quarterly Utilization Report Section 2.1.3.10	 FORM G SAMPLE OF AGENCY EAP QU,
Form H	Respondent's Sample Quarterly Utilization Report Section 2.1.3.10	 FORM H RESPONDENT'S SAM
Form I	Respondent's Grievance Procedure Section 2.1.3.11	 FORM I RESPONDENT'S GRIE

Form J	HUB Subcontracting Checklist and Plan Section 7.9	  FORM J HSP and Quick Checklist 02_1Language HHS0001; Form J HUB
Form K	Face Page	 Form K Face Page.docx
Form L	Experience Narrative Section 7.1	 FORM L Experience Narrative.docx
Form M	Respondent's Background and Commitment Questionnaire Section 5.1.2	 FORM M Respondents Backg
Form N	Litigation and Contract History Section 7.4	 FORM N LITIGATION AND CONTRACT HIS
Form O	Conflicts Section 7.5	 FORM O CONFLICTS.docx

The contract awarded is a result of this RFP and all exhibits listed below.


Exhibit A	Affirmations and Solicitation Acceptance	 Exhibit A Affirmations and So
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Exhibit B	Federal Assurances and Certifications, Version 1.3	 Exhibit B Federal Assurances.pdf
Exhibit C	HHSC Uniform Terms and Conditions, Vendor, Version 2.15	 Exhibit C HHSC Uniform Terms and C
Exhibit D	HHSC Special Conditions, Version 1.2	 Exhibit D HHSC Special Conditions.ç
Exhibit E	Uniform EIR Accessibility Clause	 Exhibit E UNIFORM EIR ACCESSIBILITY CL
Exhibit F	Mandatory Security Requirements Statements	 Exhibit F Mandatory Security
Exhibit G	Texas HHS System Data Use Agreement (DUA), Version 8.4 Attachment 2 – Security and Privacy Inquiry (SPI), Version 2.1	  Exhibit G Data Use Agreement.pdf Exhibit G Att 2 Security and Privacy
Exhibit H	Exceptions	 Exhibit H Exceptions.docx

Exhibit I	Example of Evaluation Score Sheet	 Exhibit I EAP RFP Evaluator Score Sheet
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