

**DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. TBD
UNDER THE
NEWBORN SCREENING PROGRAM BENEFITS CONTRACTORS OPEN ENROLLMENT
No. HHS0001837**

I. PURPOSE

This contract ("Contract") is entered into by and between the **TEXAS DEPARTMENT OF STATE HEALTH SERVICES** ("System Agency" or "DSHS"), an administrative agency within the executive department of the State of Texas and having its principal office at 1100 West 49th Street, Austin, Texas 78756, and **AAPEX Community Pharmacy, Inc.** ("Contractor"), having its principal office at 6065 Hillcroft Street, Suite 109, Houston, Texas 77081 (each a "Party" and collectively the "Parties"). Contractor shall provide Newborn Screening Program Benefits to eligible clients in accordance with the terms of this Contract and all attachments hereto.

II. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of Texas Health and Safety Code Chapters 12 and 1001, Texas Administrative Code (TAC), Title 25, Chapter 37 – Maternal and Infant Health Services, Subchapter D - Newborn Screening Program (§§37.51-37.63), and Texas Government Code Chapter 531, Subchapter D.

III. STATEMENT OF SERVICES TO BE PROVIDED

Contractor shall perform or cause to be performed Newborn Screening Program Benefits in accordance with the Statement of Work attached hereto and incorporated herein as **Attachment A, Statement of Work**.

IV. DURATION

This Contract is effective upon the signature date of the latter of the Parties to sign this agreement, and terminates on August 31, 2020, unless renewed, extended, or terminated pursuant to the terms and conditions of this Contract. System Agency, at its own discretion, may extend this Contract for up to two (2) additional two-year terms, subject to terms and conditions mutually agreeable to the Parties.

V. BUDGET

System Agency will reimburse Contractor only for allowable services to eligible clients in accordance with payment procedures and rates listed in the NBS Program Benefits Contractor

Procedures Manual located at: <http://www.dshs.texas.gov/newborn/benefits.aspx>, as amended, as funding allows. Continued funding for this Contract is contingent upon availability of State funds.

VI. CONTRACT REPRESENTATIVES

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

System Agency

Department of State Health Services
1100 W 49th St, MC 1990
Austin, TX 78756
Attention: Riley Rainosek

Contractor

AAPEX Community Pharmacy, Inc.
6065 Hillcroft St, Ste 109
Houston, TX 77081-1005
Attention: A M JAMAL

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:

System Agency

Department of State Health Services
Attention: General Counsel
1100 W. 49th Street, MC 1911
Austin, TX 78756

Contractor

AAPEX Community Pharmacy, Inc.
6065 Hillcroft St, Ste 109
Houston, TX 77081-1005
Attention: A M JAMAL

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.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. TBD

DEPARTMENT OF STATE HEALTH
SERVICES

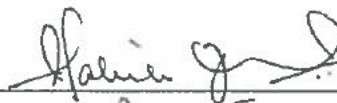
AAPEX COMMUNITY PHARMACY, INC.



Manda Hall, M.D.
Associate Commissioner
Community Health Improvement

Date of execution:

9/6/18



Name:

A. M. Jarama

Title:

PRESIDENT

Date of execution:

9-5-2018

THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. TBD ARE
HEREBY ATTACHED AND INCORPORATED BY REFERENCE:

- ATTACHMENT A – STATEMENT OF WORK
- ATTACHMENT B – UNIFORM TERMS AND CONDITIONS
- ATTACHMENT C – SUPPLEMENTAL AND SPECIAL CONDITIONS
- ATTACHMENT D – GENERAL AFFIRMATIONS
- ATTACHMENT E – FEDERAL ASSURANCES/CERTIFICATIONS
- ATTACHMENT F – DATA USE AGREEMENT
- ATTACHMENT G – NBS OPEN ENROLLMENT
- ATTACHMENT H – NBS OPEN ENROLLMENT APPLICATION

ATTACHMENTS FOLLOW

ATTACHMENT A STATEMENT OF WORK

I. CONTRACTOR RESPONSIBILITIES

- A. Contractor must provide services in accordance with the NBS Program Benefits Contractor Procedures Manual, which can be found at <http://www.dshs.texas.gov/newborn/benefits.aspx>, as revised, and applicable rules and regulations, as amended, including but not limited to Health and Safety Code Section 33.032 and 25 Texas Administrative Code Sections 37.51-37.64.
- B. Contractor must ensure initial benefits eligibility screening is conducted in accordance with the NBS Benefits Contractor Procedures Manual, as amended, and as directed by DSHS prior to providing services. Eligible clients shall meet the following criteria:
 - 1. Have an abnormal screening result (pending confirmation of diagnosis), or a confirmed diagnosis of a disorder screened by the program as referenced in TAC 37.53 (relating to Disorders for Which Blood Specimen Screening is Performed);
 - 2. Be a Texas resident;
 - 3. Have a family income at or below 350% of the federal poverty income guidelines;
 - 4. If required, make financial participation payments in a timely manner;
 - 5. Provide updated medical; financial; and residency information and/or documentation upon request;
 - 6. Identify a parent, managing conservator, or guardian who agrees to abide by these eligibility requirements if the client is a minor; and
 - 7. Be ineligible for any other benefit program, such as Medicaid, Children with Special Health Care Needs (CSHCN), Children's Health Insurance Program (CHIP), Title V Genetic Services, or private insurance that would pay for all or part of the benefits in question.
- C. Contractor must prioritize services among eligible clients in the following order depending on available funding:
 - 1. Children 0-2 years of age
 - 2. Children 3-5 years of age
 - 3. Children 6-21 years of age
 - 4. Pregnant Women
 - 5. Women of Childbearing Age
 - 6. Other Adults (Female or Male)

D. Contractor must comply with all documentation requirements set forth in the NBS Benefits Contractor Procedures Manual, as amended, and as required by applicable federal and state laws and regulations.

E. Pharmacy Services contractors shall:

1. Provide medications, vitamins, dietary supplements, and medical foods prescribed by an enrolled Physician Specialist contractor.
2. Maintain pharmacy licensure throughout the term of the Contract.
3. Ensure items are shipped to the client within 24 hours of Contractor receiving the prescription. If problems arise with this time frame the Contractor shall notify the physician specialist, client, and the NBS Benefits Program of the delay, the reason for the delay, and the estimated time the item will be shipped.
4. Ensure that with each order clients are informed of the number of refills available for each item and the date of expiration of services so that the client is reminded of the need to submit a renewal application to the physician specialist to continue to receive NBS Benefits.

F. Manufacturers or retailers of Medical Foods or Low Protein Foods contractors shall:

1. As applicable, provide Low Protein Foods that are specially formulated and intended for the dietary management of a disorder identified by the DSHS NBS Program for individuals with distinctive nutritional needs that cannot be met by normal diet alone.
2. As applicable, provide Medical Foods (such as formulas), Vitamins, and Dietary Supplements prescribed by health care providers specializing in metabolic, endocrine, and hematologic, pulmonary, or immunologic disorders, necessary for treatment and management of diagnosed disorders.
3. As applicable, provide the prescribed Medical Foods, Vitamins, and Dietary Supplements as specified by the Physician Specialist's prescription.
4. As applicable, provide modified foods which are low in protein. Low Protein Foods can be found in the NBS Benefits Program Contractor Procedures Manual at <http://www.dshs.texas.gov/newborn/benefits.aspx>, and are defined as follows:
 - a. Must be lacking in the compounds which cause complications of the metabolic disorder;
 - b. Must be products listed in enrolled provider's catalog;
 - c. Are not generally available in grocery stores, health food stores, or pharmacies;
 - d. Are not used as food by the general population; and
 - e. Are not foods covered under the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program.

5. Ensure items are shipped to the client within 24 hours of receiving the order from the client. If problems arise with this time frame, the Contractor shall notify the physician specialist, client, and NBS Program Benefits of the delay, the reason for the delay, and the estimated time frame for the item to be shipped.
6. Ensure that products provided to clients and billed to NBS Program Benefits are listed in the enrolled provider's pre-approved Texas NBS Program Benefits Catalog.
7. Ensure that with each order clients are informed of the number of refills available for each item and the date of expiration of services so that the client is reminded of the need to submit a renewal application to the physician specialist to continue to receive NBS Benefits.

II. PERFORMANCE MEASURES

System Agency will monitor Contractor's performance of the requirements as stated in this **Attachment A**, and compliance with the Contract's terms and conditions.

III. INVOICE AND PAYMENT

- A. Monthly Billing and Report Forms and Instructions, including the State of Texas Purchase Voucher, may be found at
<http://www.dshs.texas.gov/newborn/benefits.aspx>.
- B. Requests for reimbursement must be submitted to DSHS in aggregate each month, using the State of Texas Purchase Voucher (B-13), within thirty (30) days following the end of the month for which services are being billed or within sixty (60) days in cases of potentially Medicaid or CHIP eligible individuals who are denied eligibility by DSHS.
 1. The monthly purchase voucher (B-13) and associated invoices (on Health Insurance Claim Form 1500), must be submitted via secure email or fax to NBSBenefits@dshs.texas.gov or 512-776-7593.
 2. The monthly purchase voucher (B-13) only, without the 1500 claim forms, must also be submitted monthly to invoices@dshs.texas.gov with a copy to the Assigned Contract Manager (ACM).
- C. In billing DSHS, Contractor will certify that all billed services have been provided only to individuals determined eligible for NBS Program Benefits, in accordance with the NBS Program Benefits Contractor Procedures Manual, as amended, located at <http://www.dshs.texas.gov/newborn/benefits.aspx>, and will attach applicable documentation of services provided. DSHS reserves the right to request additional documentation.



TEXAS

Health and Human Services

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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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.

ATTACHMENT B – UNIFORM TERMS AND CONDITIONS

“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.

ATTACHMENT B -- UNIFORM TERMS AND CONDITIONS

- 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.

ATTACHMENT B – UNIFORM TERMS AND CONDITIONS

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT TO STATE

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

3.4 RECAPTURE OF FUNDS

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

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

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

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

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

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

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

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY

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,

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.

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

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

ATTACHMENT B – UNIFORM TERMS AND CONDITIONS

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

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:

- 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.

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.

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.

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

ATTACHMENT B -- UNIFORM TERMS AND CONDITIONS

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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ATTACHMENT C
CONTRACTOR SUPPLEMENTAL & SPECIAL CONDITIONS

SUPPLEMENTAL CONDITIONS

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

SPECIAL CONDITIONS

SECTION 1.01 NOTICE OF CONTRACT ACTION

Contractor shall notify their assigned contract manager if Contractor has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five days of becoming aware of the action and include the following:

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

SECTION 1.02 NOTICE OF BANKRUPTCY

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

SECTION 1.03 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

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

SECTION 1.04 CONTRACTOR'S NOTIFICATION OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL

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

ATTACHMENT C
CONTRACTOR SUPPLEMENTAL & SPECIAL CONDITIONS

SECTION 1.05 NOTICE OF IRS OR TWC INSOLVENCY

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

SECTION 1.06 DISASTER SERVICES

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

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

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

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

SECTION 1.08 TELEMEDICINE/TELEPSYCHIATRY MEDICAL SERVICES

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

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

ATTACHMENT C
CONTRACTOR SUPPLEMENTAL & SPECIAL CONDITIONS

- f. Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- g. Priority in scheduling the system for clinical care of individuals;
- h. Quality oversight and monitoring of satisfaction of the individuals served; and
- i. Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

SECTION 1.09 SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

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

SECTION 1.10 THIRD PARTY PAYORS

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

As applicable, the Contractor shall:

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

ATTACHMENT C
CONTRACTOR SUPPLEMENTAL & SPECIAL CONDITIONS

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

SECTION 1.11 MEDICAL RECORDS RETENTION

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

SECTION 1.12 NOTICE OF A LICENSE ACTION

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

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

SECTION 1.13 INTERIM EXTENSION AMENDMENT

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

SECTION 1.14 CHILD ABUSE REPORTING REQUIREMENT

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

ATTACHMENT C
CONTRACTOR SUPPLEMENTAL & SPECIAL CONDITIONS

shall retain reporting documentation on site and make it available for inspection by the System Agency.

ATTACHMENT D
GENERAL AFFIRMATIONS

By entering into this Contract, Contractor affirms, without exception, as follows:

1. Contractor represents and warrants that these General Affirmations apply to Contractor and all of Contractor'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 Contract.
2. Contractor represents and warrants that all statements and information provided to the System Agency are current, complete, and accurate. This includes all statements and information relating in any manner to this Contract and any solicitation resulting in this Contract.
3. Contractor 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 Contract.
4. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
5. Under Section 2155.006, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
6. Under Section 2261.053, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
7. Under Section 231.006, Texas Family Code (relating to delinquent child support), Contractor certifies that it is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
8. Contractor certifies that: (a) the entity executing this Contract; (b) its principals; (c) its Subcontractors; and (d) any personnel designated to perform services related to this Contract are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal Department or Agency. 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 Contractor's Subcontracts if payment in whole or in part is from federal funds.
9. Contractor certifies that it, its principals, its Subcontractors, and any personnel designated to perform services related to this Contract are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity.

ATTACHMENT D
GENERAL AFFIRMATIONS

10. Contractor certifies it is in compliance with all State of Texas statutes and rules relating to procurement; and that (a) the entity executing this Contract; (b) its principals; (c) its Subcontractors; and (d) any personnel designated to perform services related to this Contract are not listed on the federal government's terrorism watch list described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/public/SAM/>, which Contractor may review in making this certification. Contractor acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. This provision shall be included in its entirety in Contractor's Subcontracts if payment in whole or in part is from federal funds.
11. In accordance with Texas Government Code Section 669.003 (relating to contracting with the executive head of a state agency), Contractor certifies that it (1) is not the executive head of the System Agency; (2) was not at any time during the past four years the executive head of the System Agency; and (3) does not employ a current or former executive head of the System Agency.
12. Contractor 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.
13. Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract 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).
14. Contractor represents and warrants that it will comply with Texas Government Code Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.
15. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the System Agency to perform services under this Contract during the twelve (12) month period immediately following the employee's last date of employment at the System Agency.
16. Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of the System Agency who during the period of state service or employment participated on behalf of the System Agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the officer's or employee's service or employment with the System Agency ceased.
17. Contractor understands that the System Agency does not tolerate any type of fraud. The System 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

ATTACHMENT D
GENERAL AFFIRMATIONS

Office. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud including, but not limited to, HHS Circular C-027.

18. Contractor represents and warrants that it has not violated state or federal antitrust laws and has not communicated its bid for this Contract directly or indirectly to any competitor or any other person engaged in such line of business. Contractor hereby assigns to System Agency any claims for overcharges associated with this Contract under 15 U.S.C. § 1, *et seq.*, and Texas Business and Commerce Code § 15.01, *et seq.*
19. Contractor 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 Contractor or any of the individuals or entities included numbered paragraph 1 of these General Affirmations within the five (5) calendar years immediately preceding the execution of this Contract that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to the System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to the System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to the System Agency's consideration of entering into this Contract. In addition, Contractor represents and warrants that it shall notify the System Agency 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 the System Agency shall constitute breach of contract and may result in immediate termination of this Contract.
20. Pursuant to Texas Government Code §2270.002, Contractor affirms that it: (a) does not boycott Israel; and (b) will not boycott Israel during the term of this Contract.
21. Contractor affirms that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization.
22. Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
23. Contractor 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 this Contract.
24. Contractor represents and warrants that the individual signing this Contract is authorized to sign on behalf of Contractor and to bind Contractor.

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ATTACHMENT E -- FEDERAL ASSURANCES/CERTIFICATIONS

OMB Number: 4040-0007

Expiration Date: 01/31/2019

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.

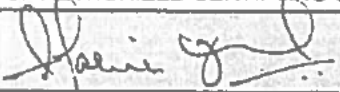
NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

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.

ATTACHMENT E – FEDERAL ASSURANCES/CERTIFICATIONS

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
APPLICANT ORGANIZATION ADAP Community Pharmacy, Inc.	DATE SUBMITTED 9-5-2018

ATTACHMENT E -- FEDERAL ASSURANCES/CERTIFICATIONS

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

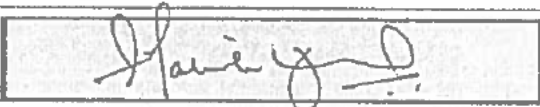
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this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

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

Statement for Loan Guarantees and Loan Insurance

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

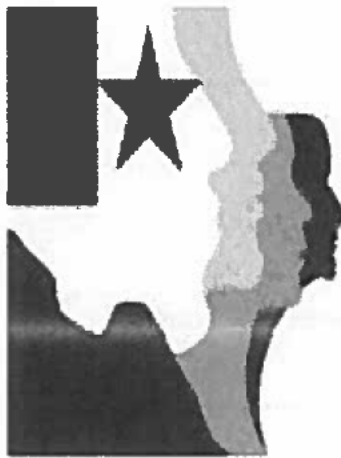
If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States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

* APPLICANT'S ORGANIZATION	
Apex Community Pharmacy, Inc.	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix.	* First Name
	A
Middle Name	m
* Last Name	Samar
Suffix.	
* Title	President
* SIGNATURE	* DATE
	9-5-2018

HHS Contract No. _____

ATTACHMENT F – DATA USE AGREEMENT

**Attachment 2-
Security and Privacy Initial Inquiry
[Attach Completed SPI Here]**



TEXAS

Health and Human Services Commission

Cecile Young, Acting Executive Commissioner

**Open Enrollment
For
Department of State Health Services
Newborn Screening Program Benefits Contractors**

Enrollment Number: *HHS0001837*

Enrollment Period Opens: *July 16, 2018*

Enrollment Period Closes: *August 31, 2024*

NIGP Class/Item Code:

948-07	948-48
948-32	948-55
948-33	948-72
948-47	948-74

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Department of State Health Services
Newborn Screening Program Benefits
Open Enrollment Number: **HHS0001837**

1 GENERAL INFORMATION

1.1 Scope

The State of Texas, by and through the Department of State Health Services ("**DSHS**" or "**System Agency**") seeks contractors to provide Newborn Screening ("**NBS**") Program Benefits services, such as Dietary Supplements, Medications, Vitamins, Low Protein Foods, and follow-up care at no cost or reduced cost, to eligible clients who have a heritable congenital disorder detected through the DSHS NBS Program in accordance with Texas Health and Safety Code Chapter 33, Texas Administrative Code, Title 25, Chapter 37, and the specifications contained in this open enrollment.

1.2 Point of Contact

The DSHS Points of Contact for inquiries concerning this open enrollment are:

Sara Mosqueda, Contract Manager
1100 W 49th St, MC 1990
Austin, TX 78756
512-776-2956 (phone)
512-776-7391 (fax)
sara.mosqueda@dshs.texas.gov

And:

Susana Garcia
1100 W 49th St, MC 1990
Austin, TX 78756
512-776-2118 (phone)
512-776-7391 (fax)
susana.garcia@dshs.texas.gov

Applicant must direct all communications relating to this open enrollment to the DSHS Points of Contact named above unless specifically instructed to an alternate Contact by Department of State Health Services ("**DSHS**") or Texas Health and Human Services Commission ("**HHSC**") Procurement and Contracting Services ("**PCS**").

1.3 Procurement Schedule

All dates are subject to change at HHSC's discretion. Applications must be received by the DSHS Point of Contact identified in subsection 1.2 by the open enrollment closing period provided in the Procurement Schedule below. Late applications will be deemed non-responsive and will not be considered.

Department of State Health Services
Newborn Screening Program Benefits
 Open Enrollment Number: **HHS0001837**

Procurement Schedule	
Open Enrollment Period Opens	7/16/2018
Open Enrollment Period Closes	5:00 PM CST 8/31/2023
OE Posted on <u>HHS Open Enrollment Opportunities</u>	On or After 7/16/2018
Anticipated Contract Start Date	<i>September 1, 2018 or Approximately Ten Days (10) after all screening requirements are met.</i>

1.4 Background

1.4.1 Overview of the Health and Human Services Commission (HHSC)

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

As a result of the consolidation pursuant to the 78th Texas Legislature, Regular Session (2003), House Bill 2292, some of the contracting and procurement activities for the HHS Agencies have been assigned to the Procurement and Contracting Services (PCS) Division of HHSC. As such, PCS will administer the initial stages of the procurement process, including enrollment announcement and publication.

1.4.2 Program Overview

In 2005, during the Regular Session of the 79th Legislature, House Bill 790 was passed requiring expansion of the newborn screening panel to the American College of Medical Genetics (ACMG) recommended core panel, as funds allowed. Effective December 2006, the Newborn Screening Program began screening for 27 disorders. Increasing the panel from 7 to 27 disorders led to an increase in the number of presumptive positive screens as well as a greater need for confirmatory testing, evaluation, and Treatment services. Two additional conditions were added in 2009 and 2012 and, on May 26, 2015, twenty-four (24) secondary conditions were added. The program now screens for a total of 53 conditions by dried bloodspots.

The legislation resulted in the adoption of Texas Administrative Code (TAC), Title 25, Chapter 37 – Maternal and Infant Health Services, Subchapter D - Newborn Screening Program (§§37.51-37.63), which details the disorders for which newborns are screened; responsibilities of providers and parents; screening procedures; the

Department of State Health Services
Newborn Screening Program Benefits
 Open Enrollment Number: **HHS0001837**

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provisions of follow-up care; and the provision of services to provide through program benefits for specified populations.

In order to meet increased need for services, DSHS entered into an open enrollment process to procure the services from public and private providers. The NBS Program Benefits Program (the "Program") began operating in March 2007. The program offers reimbursement to enrolled providers for the provision of specified services to eligible clients at Medicaid rates, as program funding allows.

The Program provides services to eligible clients in accordance with 25 TAC §§37.51-37.63. The services covered by the Program fall into four categories of contractors:

- 1 Physician Specialists;
- 2 Laboratories;
- 3 Pharmacies; and
- 4 Manufacturers or Retailers of Medical Foods (such as Low Protein Foods, formulas, Vitamins, and Dietary Supplements).

The services that are provided under the Program include but are not limited to:

- 1 Clinical evaluations and follow-up care
- 2 Confirmatory, follow-up and monitoring; laboratory testing;
- 3 Medications;
- 4 Vitamins;
- 5 Dietary Supplements; and
- 6 Medical Foods (Low Protein Foods and formulas).

1.5. Eligible Applicants

To be eligible to apply for a contract and receive an award through this open enrollment, Applicants shall:

- 1.5.1.** Be an entity free to participate in state contracts and not be debarred by the Texas Comptroller of Public Accounts:

<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>

- 1.5.2.** Be free to participate in federal contracts with the System of Award Management (SAM). Applicant is ineligible to apply for funds under this OE if currently debarred, suspended, or otherwise excluded or ineligible for participation in Federal or State assistance programs. Search the federal excluded list at the following website: https://www.sam.gov/portal/SAM/?portal:componentId=3c9caa24-5c93-4ce9-877a-b244446a54e9&interactionstate=JBPNs_r00ABXc0ABBfanNmQnJpZGdIVmld0lkA AAAAQATL2pzZi9uYXZpZ2F0aW9uLmpzcAAHX19FT0ZfXw**&portal:type=action#111#1

Department of State Health Services
Newborn Screening Program Benefits
Open Enrollment Number: **HHS0001837**

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1.5.3. Be authorized as a public or private entity to do business in Texas with the Secretary of State. See: <https://direct.sos.state.tx.us/acct/acct-login.asp>;

1.5.4. Be free of exclusions with the US Department of Health and Human Services, Office of Inspector General. <https://exclusions.oig.hhs.gov/>

1.5.5. Be free from negative reports in the Vendor Performance Tracking System on the Centralized Master Bidders List (CMBL):
<https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>;

1.5.6. If applying to be a Physician Specialist under the Program, meet the following requirements:

- a) Be currently licensed as a Medicaid Provider in Texas; and
- b) Be Board Certified/Board Eligible, which includes active candidates of the American Board of Medical Genetics and Genomics, in Medical Biochemical Genetics, or Clinical Biochemical Genetics; (Medical Geneticists who are physicians and boarded in Clinical Genetics are eligible, but must be able to document having been active in the management of patients with inborn errors of metabolism at least 25% of their time in the past two (2) years prior to submitting an application); or
- c) Board Certified/Board Eligible in Adult and Pediatric Endocrinology (Adult-Endocrinology, Diabetes, and Metabolism), or Pediatric Endocrinology; or
- d) Board Certified/Board Eligible in Adult and Pediatric Hematology (Adult-Hematology) or Pediatric Hematology (Hematology/Oncology); or
- e) Board Certified/Board Eligible in Adult and Pediatric Pulmonology; or
- f) Board Certified/Board Eligible in Allergy and Immunology.

1.5.7. If applying to be a laboratory under the Program, meet the following requirements:

1.5.7.1. Be certified by Clinical Laboratory Improvement Amendments (CLIA); Must provide a copy of the CLIA certification attached to the Application; and

1.5.7.2. Have the capacity to conduct confirmatory testing and follow-up testing for patients identified through the Texas Newborn Screening Program as being at risk for a hereditary metabolic, endocrine, or hematologic disorder.

1.5.8. If applying to be a pharmacy under the Program, meet the following requirement: Must be able to dispense Medications, Medical Foods, Vitamins and Dietary Supplements prescribed by an enrolled Physician Specialist; and provide a copy of licensure with the enrollment Application identifying pharmacy classification in one of the following:

- 1.5.8.1.** Class A (may include compounding pharmacies);
- 1.5.8.2.** Class C (institutional);
- 1.5.8.3.** Class D (clinical); or
- 1.5.8.4.** Class E (mail-order).

Department of State Health Services
Newborn Screening Program Benefits
Open Enrollment Number: **HHS0001837**

1.5.9. If applying to be a Manufacturer or Retailer of Medical Foods, meet the following requirements:

- a) Be a manufacturer or retailer of Medical Foods (Low Protein Foods and formulas), Dietary Supplements and Vitamins that are prescribed by an enrolled physician specialist;
- b) Provide a catalog of low protein food products (if applicable); and
- c) Provide the tax ID number and license/permit number, as appropriate, as part of its application.

Applicant is not considered eligible to apply unless the Applicant meets the applicable eligibility requirements listed above at the time the open enrollment application is submitted. Applicant must continue to meet these conditions throughout the selection and funding process. DSHS expressly reserves the right to review and analyze the documentation submitted and to request additional documentation, and determine the Applicant's eligibility to receive a contract.

1.6. Strategic Elements

1.6.1. Contract Type and Term

DSHS will award one (1) or more contracts under this open enrollment. The initial contract term will begin on the effective date stated in the contract, which is anticipated to be September 1, 2018 or upon execution, and will end on August 31, 2020, unless sooner terminated or extended as set forth in the resulting contract.

Based upon the availability of federal and state funds, DSHS may renew the awarded contracts for two (2) additional two-year terms or as necessary to complete the mission of the procurement. The 2 additional two-year terms are as follows:

Renewal 1: September 1, 2020 through August 31, 2022

Renewal 2: September 1, 2022 through August 31, 2024

1.6.2. Contract Elements

The term "Contract" means the Contract awarded as a result of this enrollment and all exhibits thereto. At a minimum, the following documents will be incorporated into the Contract: this enrollment and all attachments and exhibits hereto; any modifications, addendum or amendments issued in conjunction with this enrollment; HHSC's Uniform Terms and Conditions (UTCs), Version 2.14(see below); the Data Use Agreement for Contractors who access agency confidential information and who are not exempt (<https://hhs.texas.gov/doing-business-hhs/business-contracting-opportunities>); and the successful Applicant's application.



C_vendor UTC.pdf

1.6.3. Security and Privacy Initial Inquiry (SPI)

The Applicant must submit the Information Security and Privacy Initial Inquiry (SPI) form with their Application to this open enrollment. The SPI form is available at: <https://hhs.texas.gov/doing-business-hhs/business-contracting-opportunities>

1.7. Amendments and Announcements Regarding this Open Enrollment

HHSC will post all official communication regarding this open enrollment on the [HHS Open Enrollment Opportunities](#) page. HHS reserves the right to revise the open enrollment at any time and to make unilateral amendments to correct grammar, organization and clerical errors. It is the responsibility of each Applicant to comply with any changes, amendments, or clarifications posted to the [HHS Open Enrollment Opportunities](#) page. Applicant must check [HHS Open Enrollment Opportunities](#) frequently for changes and notices of matters affecting this open enrollment.

Applicant's failure to periodically check [HHS Open Enrollment Opportunities](#) will in no way release the Applicant from "addenda or additional information" resulting in additional costs to meet the requirements of the open enrollment.

All questions and comments regarding this open enrollment should be sent to the DSHS Point of Contact identified in subsection 1.2. Questions must reference the appropriate page and section number. HHSC will post subsequent answers to questions to the [HHS Open Enrollment Opportunities](#) page as appropriate. HHSC reserves the right to amend answers prior to the open enrollment closing date.

Applicants should notify HHS of any ambiguity, conflict, discrepancy, omission or other error in the open enrollment.

1.8. Delivery of Notices

Any notice required or permitted under this announcement by one party to the other party must be in writing and correspond with the contact information noted in subsection 1.2 of this open enrollment. At all times, Applicant will maintain and monitor at least one active email address for the receipt of Application-related communications from HHS. It is the Applicant's responsibility to monitor this email address for Application-related information.

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2. STATEMENT OF WORK

2.1. Contractor Requirements

2.1.1 Contractor must provide services in accordance with the NBS Program Benefits Contractor Procedures Manual, which can be found at <http://www.dshs.texas.gov/newborn/benefits.aspx>, as revised, and applicable rules and regulations, as amended, including but not limited to Health and Safety Code Section 33.032 and 25 Texas Administrative Code Sections 37.51-37.64.

2.1.2 Contractor must ensure initial benefits eligibility screening is conducted in accordance with the NBS Benefits Contractor Procedural Manual and as directed by DSHS prior to providing services.

2.1.3 Contractor must comply with all documentation requirements set forth in the NBS Benefits Contractor Procedural Manual and as required by applicable federal and state laws and regulations.

2.1.4 Physician Specialist contractors shall:

2.1.4.1 Provide medical services to eligible clients, including but not limited to evaluations and management of metabolic, pulmonology, or immunologic, endocrine, and hematological disorders, diagnostic laboratory tests, and follow up care.

2.1.4.2 Provide services within the scope of the physician's license, certification, registration, or other legal authorization, at the location and in the manner specified in the contract.

2.1.4.3 Ensure that prescribed Treatment is provided to the client utilizing a provider who is enrolled in the NBS Benefits Program. The NBS Benefits Program will maintain a list of enrolled laboratories, pharmacies and manufactures or retailers of Medical Foods. The client shall be responsible for obtaining the prescribed Treatment or lab tests from the enrolled providers. The Physician Specialist contractor shall coordinate clients' services including providing follow-up to ensure client services have been provided.

2.1.5 Laboratory Services contractors shall:

2.1.5.1 Conduct confirmatory testing and follow-up testing for individuals identified through the DSHS Newborn Screening Program as being at risk for a hereditary metabolic, endocrine, hematologic, pulmonology, or immunologic disorders.

2.1.5.2 Maintain CLIA certification for the duration of the Contract.

2.1.5.3 Comply with the laboratory procedures requirements set forth in the NBS Benefits Program Contractor Procedures Manual.

2.1.6 Pharmacy Services contractors shall:

2.1.6.1 Provide Medications, Vitamins, Dietary Supplements, and Medical Foods prescribed by enrolled health care providers specializing in metabolic, endocrine, and hematologic, pulmonology, or immunologic disorders, necessary for Treatment and management of diagnosed disorders;

2.1.6.2 Ensure items are shipped to the client within 24 hours of Contractor's receiving the prescription. If problems arise with this time frame the Contractor shall notify the physician specialist, client, and the NBS Benefits program of the delay, the reason for the delay and the estimated time the item will be shipped.

2.1.6.3 Ensure that with each order clients are informed of the number of refills available for each item and the date of expiration of services so that the client is reminded of the need to submit a renewal application to the physician specialist to continue to receive NBS Benefits.

2.1.7 Manufacturers or Retailers of Medical Foods or Low Protein Foods contractors shall:

2.1.7.1 As applicable, provide Low Protein Foods that are specially formulated and intended for the dietary management of a disorder identified by the DSHS NBS Program for individuals with distinctive nutritional needs that cannot be met by normal diet alone;

2.1.7.2 As applicable, provide Medical Foods (such as formulas), Vitamins, and Dietary Supplements prescribed by health care providers specializing in metabolic, endocrine, and hematologic, pulmonology, or immunologic disorders, necessary for Treatment and management of diagnosed disorders, and

2.1.7.3 Medical Foods contractors shall provide the prescribed Medical Foods, Vitamins, and Dietary Supplements as specified by the physician specialist's prescription.

2.1.7.4 Low Protein Food contractors must provide modified foods which are low in protein. Low Protein Foods are defined as follows additional information regarding Low Protein Foods can be found in the NBS Benefits Program Contractor Procedures Manual at <http://www.dshs.texas.gov/newborn/benefits.aspx>):

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- 2.1.7.4.1** Must be lacking in the compounds which cause complications of the metabolic disorder;
 - 2.1.7.4.2** Must be products listed in enrolled providers' catalog;
 - 2.1.7.4.3** Are not generally available in grocery stores, health food stores, or pharmacies;
 - 2.1.7.4.4** Are not used as food by the general population; and
 - 2.1.7.4.5** Are not foods covered under the Food Stamps program.
- 2.1.7.5** Ensure items are shipped to the client within 24 hours of receiving the order from the client. If problems arise with this time frame, the applicant shall notify the physician specialist, client, and the NBS Program Benefits of the delay, the reason for the delay and the estimated time the item will be shipped.
- 2.1.7.6** Ensure that products provided to clients and billed to the NBS Program Benefits are listed in the enrolled provider's pre-approved Texas NBS Program Benefits catalog.
- 2.1.7.7** Ensure that with each order clients are informed of the number refills available for each item and the date of expiration of services so that the client is reminded of the need to submit a renewal application to the physician specialist to continue receive NBS Benefits.

2.2 Eligible Population

2.2.1 Contractor shall provide Program services only to clients who meet the eligibility criteria set forth in 25 TAC Section 37.61, *Eligibility Requirements for the Newborn Screening Program Benefits*, as amended, and must prioritize services among eligible individuals in the following order depending on available funding:

- 2.2.1.1** Children 0-2 years of age
- 2.2.1.2** Children 3-5 years of age
- 2.2.1.3** Children 6-21 years of age
- 2.2.1.4** Pregnant women
- 2.2.1.5** Women of child bearing age
- 2.2.1.6** Other adults (female or male)

2.3 Performance Measures

DSHS will monitor Contractor's performance of the requirements as stated in the Statement of Work, and compliance with the Contract's terms and conditions.

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3 PAYMENT

3.1 Payment

3.1.1 Availability of Funds

Contract awards resulting from this open enrollment are contingent upon the availability of funding.

If funding for these Contracts become unavailable during any budget period, DSHS may immediately terminate or reduce the amount of the resulting Contract at the discretion of DSHS. Contractor will have no right of action against DSHS if DSHS cannot perform its obligations under this Contract due to a lack of funding for any activities or functions outlined within this open enrollment.

Contractor may not use funds received from DSHS to replace any other federal, state, or local source of funds awarded under any other contract.

3.1.2 Method of Payment

DSHS will reimburse contractors only for allowable services to eligible clients in accordance with payment procedures and rates listed in the NBS Program Benefits Contractor Procedures Manual located at:

<http://www.dshs.texas.gov/newborn/benefits.aspx>, as amended, as funding allows.

3.2 Invoicing Process

Requests for reimbursement must be submitted to DSHS in aggregate each month within thirty (30) days following the end of the month for which services are being billed or within sixty (60) days in cases of potentially Medicaid or CHIP eligible individuals who are denied eligibility by DSHS. In billing DSHS, contractor shall certify that all billed services have been provided only to individuals determined eligible for the NBS Program Benefits, in accordance with the NBS Program Benefits Contractor Procedures Manual located at <http://www.dshs.texas.gov/newborn/benefits.aspx>, as amended, and shall attach applicable documentation of services provided. DSHS reserves the right to request additional documentation.

Failure to submit invoices on time may be considered a contract compliance issue and will be used in evaluating whether to renew or terminate the Contract.

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4 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB)

In accordance with CPA's Contract Management Guide, open enrollment contracts may be exempt from competitive bidding. The HHSC HUB Program Office has determined that the HUB requirements are not applicable because this is a non-competitive open enrollment; and therefore the submission of a **HUB Subcontracting Plan (HSP)** is not required with their Application at the time of submission.

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5 INFORMATION AND SUBMISSION INSTRUCTIONS

5.1 Open Enrollment Cancellation/Partial Award/Non-Award

At its sole discretion, DSHS may cancel this open enrollment.

5.2 Right to Reject Applications or Portions of Applications

At its sole discretion, DSHS may reject any and all responses or portions thereof.

5.3 Joint Applications

DSHS will not consider joint or collaborative responses that require it to contract with more than one Applicant in a single contract.

5.4 Withdrawal of Applications

Applicants have the right to withdraw their Application from consideration at any time prior to Contract award, by submitting a written request for withdrawal to the DSHS Point of Contact, as designated in subsection 1.2.

5.5 Costs Incurred

Applicants understand that issuance of this open enrollment in no way constitutes a commitment by the HHS agency to award a Contract or to pay any costs incurred by an Applicant in the preparation of an Application in response to this open enrollment. The HHS agency is not liable for any costs incurred by an Applicant prior to issuance of, or entering into a formal agreement, Contract, or purchase order. Costs of developing applications, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by an Applicant are entirely the responsibility of the Applicant, and will not be reimbursed in any manner by the State of Texas.

5.6 Application Submission Instructions

Applicant must submit an original application and three (3) electronic copies of all required documents as scanned versions (.pdf) on separate portable media devices, such as flash drives or compact discs.

5.6.1 These devices and their content must be compatible with Microsoft Office 2010. Applicants must ensure there are no encryptions on these devices, so as to prevent DSHS from opening the documents. **The electronic Application submission must be organized as directed in subsection 5.7 of this open enrollment.** If Applicant is having difficulty providing an electronic Application submission, contact the DSHS Point of Contact identified in subsection 1.2 of this open enrollment for hard copy submittal accommodations.

5.6.2 It is the Applicant's responsibility to appropriately mark and deliver the Application and related materials in response to this open enrollment by the Application due date.

5.6.3 Submission of an Application does not execute a Contract.

5.7 Organization of (Electronic or Paper) Submission of Application

Applicant must organize its scanned and signed Application packets in the following order and format. Each (flash drive, compact disc, E-mail or paper) submission of the Application packet must include the following five (5) file folders with the respective listed documents included, and the documents must be in the following order, and labeled accordingly

- Form A: Face Page;
- Form B: Newborn Screening Program Benefits Open Enrollment Application
 - Form B-1: Physician Specialist
 - Form B-2: Laboratory Provider
 - Form B-3: Pharmacy Provider
 - Form B-4: Medical Foods Provider
- Form C: Contact Person Information Form
- Form D: Exceptions Form
- Form E: Security and Privacy Inquiry (SPI)

5.8 Electronic (or Paper) Copy

Label the Electronic Media Device (*flash drive or compact disc*), E-mail Application submittal or Paper copy of the Application.

5.8.1 Each (flash drive, compact disc, E-mail submission or paper copy) must be labeled with the:

- Name of the Organization;
- Organization's point of contact;
- Organization's point of contact's job title;
- Organization's point of contact's telephone number and Email address;
- HHSC Procurement number of this open enrollment; and
- Date of submission.

5.9 Delivery of Applications

5.9.1 Submit all copies of the Application to the DSHS Contract Management Section(CMS) at the location provided below. **All required documents must be received by PCS by the due date and time listed in the Procurement Schedule in subsection 1.3 of this open enrollment.**

Delivery Option
Physical Address for Delivery (Operating Hours – 8:00 A.M. to 5:00 P.M.) Department of State Health Services Attn: Sara Mosqueda, Contract Manager Tower Building 1100 W. 49 th St. Mail Code: 1990 Austin, Texas 78756 Or email to NBSOE@dshs.texas.gov and to sara.mosqueda@dshs.texas.gov

5.9.2 DSHS will date and time-stamp all submissions when received. The clock in the DSHS office is the official timepiece for determining compliance with the deadlines in this procurement. DSHS reserves the right to reject late submissions. It is the Applicant's responsibility to appropriately mark and deliver the Application to DSHS by the specified time and date. All Applications must be submitted by hand delivery, by courier, scanned email, or mail.

DSHS will not accept Applications by any other method of delivery (e.g., telephone or facsimile).

5.9.3 All Applications become the property of HHS after submission.

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6 ELIGIBILITY DETERMINATION

6.1 Initial Compliance Screening

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

If the Application passes the initial screening, the contract manager will contact the Applicant for further instructions or actions.

6.2 Unresponsive Applications

Unless Applicant has taken action to withdraw the Application for this open enrollment, an Application will be considered unresponsive and will not be considered further when any of the following conditions occurs:

6.2.1 The Applicant fails to meet major open enrollment specifications, including:

6.2.1.1 The Applicant fails to submit the required Application, supporting documentation, or forms.

6.2.1.2 The Applicant is not eligible under subsection 1.5 of this open enrollment.

6.2.1.3 Applicant does not accept the payment rate established in this open enrollment.

6.2.2 The Application is not signed.

6.2.3 The Applicant's response is not clearly legible. Typewritten is preferred.

6.2.4 The Application is not received by the closing of the open enrollment period provided in subsection 1.3 of this open enrollment.

6.3 Corrections to Application

Applicants may amend their Application at any time prior to an unresponsive decision or Contract award decision by submitting a written amendment to the DSHS Point of Contact, as designated in subsection 1.2. DSHS may request modifications to the Application at any time.

6.4 Review and Validation of Applications

The Applicant must provide full, accurate, and complete information as required by this open enrollment. Applications must contain original signatures on all forms requiring signatures.

6.5 Additional Information

By submitting an Application, the Applicant grants DSHS the right to obtain information from any lawful source regarding the Applicant's, its directors', officers', and employees:

- 6.5.1 Past business history, practices, and conduct;
- 6.5.2 Ability to supply the goods and services; and
- 6.5.3 Ability to comply with Contract requirements.

By submitting an Application, an Applicant generally releases from liability and waives all claims against any party providing DSHS information about the Applicant. HHSC may take such information into consideration in screening or the validation of information on Applications or supporting documentation.

6.6 Debriefing

Any Applicant who is not awarded a Contract may request a debriefing by submitting a written request to the HHSC Point of Contact as provided in subsection 1.2 of this open enrollment. The debriefing provides information to the Applicant on the strengths and weaknesses of their Application.

6.7 Protest Procedures

The protest procedure for an Applicant, who is not awarded a Contract to protest an award or tentative award made by any HHS agency, is allowed for competitive Procurements. This Procurement is non-competitive and cannot be protested as provided in Texas Administrative Code (TAC) Rule §391.403.

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7 DEFINITIONS

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

Applicant – A person or entity that submits a response to a solicitation. For purposes of this document, "applicant" is intended to include such phrases as "offeror", "applicant", "bidder", "responder", or other similar terminology employed by DSHS (or HHSC) to describe the person or entity that responds to a solicitation.

Budget Period – The duration of the budget (stated in the number of months the contract will reflect from begin date to end date of the term of the contract). Each renewal will have its own budget period.

Contract – A written document referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties. A DSHS contract is assembled using a core contract (base), one or more program attachments, and other required exhibits (general provisions, etc.).

Contract Term – The period of time during which the contract or program attachment will be effective from begin date to end, or renewal date. The contract term may or may not be the same as the budget period.

Debarment – An exclusion from contracting or subcontracting with state agencies on the basis of cause set forth in Title 34, Texas Administrative Code Chapter 20, Subchapter C, §20.105 et seq.

Effective Date – The date the contract term begins.

Fully Executed – When a contract is signed by each of the parties to form a legal binding contractual relationship. No costs chargeable to the proposed contract will be reimbursed before the contract is fully executed.

Project Period – The anticipated duration of the entire Project stated in total number of budget periods.

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

Solicitation – The process of notifying prospective contractors of an opportunity to provide goods or services to the state (e.g., OE).

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

Subcontractor – A written agreement between the DSHS contractor and a third party to provide all or a specified part of the services, goods, work, and materials required in the original contract. The contractor remains entirely responsible to DSHS for performance of all requirements of the contract with DSHS. The contractor must closely monitor the subcontractor's performance. Subcontracting can be done only when expressly allowed in the program attachment.

Supplant (verb) - To replace or substitute one source of funding for another source of funding. A recipient of contract funds under an OE must not use the funds to pay any costs that the recipient is already obligated to pay. If a contractor, prior to responding to an OE, had committed to provide funding for activities defined in the contract's statement of work (i.e., as represented in the OE Budget Summary), then the contractor must provide the amount of funding previously committed in addition to the amount requested under the OE.

Vendor – A type of contractor or subcontractor that provides services, and goods, if any, that assist in, but are not the primary means of, carrying out the DSHS-funded program. Under a vendor contract, the vendor will have few if any administrative requirements. (For example, a vendor might be required only to submit a summary report of services delivered and an invoice.) A vendor generally will deliver services to DSHS-funded clients in the same manner the vendor would deliver those services to its non-DSHS-funded clients.

A vendor contractor generally has most of the following characteristics: a) provides goods and services within normal business operations, b) provides similar goods and services to many different purchasers, c) operates in a competitive environment, d) is not subject to compliance requirements of the federal or state program, e) provides goods and services that are ancillary to the operation of the program. Note: Characteristics a, b, c, and d do not apply to vendor contractors that are universities.

Vendor Identification Number (Vendor ID No.) – Fourteen-digit number needed for any entity, whether vendor or subrecipient, to contract with the State of Texas and which must be set up with the State Comptroller's Office. It consists of a ten-digit identification number (IRS number, state agency number, or social security number) +check digit + 3 digit mail code. The Vendor ID No. includes all the numbers in the TINs (defined above), including a three digit mail code for a total of 14-digits.

Newborn Screening Program Benefits Additional Definitions

Diagnosis – A disorder that has been confirmed to be present in a patient based on clinical evaluation and additional testing including any of the following, as necessary, laboratory testing (blood, urine, or tissue tests), physiologic tests or radiologic exams.

Diagnostic Services – Laboratory studies or tests, x-rays and other appropriate services, ordered by the patient's health care practitioner(s) to evaluate an individual's health status for diagnostic purposes.

Dietary Supplement – Dietary Supplement is a preparation intended to supplement the diet and provide nutrients, such as Vitamins, minerals, fiber, fatty acids, or amino acids, that may be missing or may not be consumed in sufficient quantities in a person's diet. It is intended to be taken by mouth as a pill, capsule, tablet, or liquid; and is labeled on the front panel as being a Dietary Supplement.

Low Protein Foods – Modified foods low in protein.

Medications – A substance or preparation used in treating disease. Medications can be used for maintenance of health and the prevention, alleviation, or cure of disease.

Medical Foods – A food which is formulated to be consumed or by enteral administration under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation

Medical Management Services – Services include prescriptions for Medications, Medical Foods, Vitamins, Dietary Supplements and/or Low Protein Foods deemed necessary for the Treatment and management of the diagnosed disorder.

Prescription Drugs – Medically-necessary pharmaceuticals needed for the Treatment of a diagnosed condition.

Texas Resident – An individual who resides within the geographic boundaries of the state is considered a Texas Resident.

Treatment – Any specific procedure used for the management of a disease or pathological condition.

Vitamins - Vitamins are compounds that are necessary for growth and health. They are needed in small amounts only and are usually available in a person's diet.










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8 ATTACHMENTS AND FORMS

Applicants must complete and submit the forms in the format and order listed below.

8.1 Required Forms and Open Enrollment Application








Applicants must complete and submit the forms in the format and order listed below, as applicable.

Form A: Face Page	 Form A_FY2019_DSHS NBS
Form B: Open Enrollment Application	 Form B_FY2019_DSHS NBS
Form B-1: Physician Specialist	 Form B-1_FY2019_DSHS NI
Form B-2: Laboratory Provider	 Form B-2_FY2019_DSHS NI
Form B-3: Pharmacy Provider	 Form B-3_FY2019_DSHS N
Form B-4: Medical Foods Provider	 Form B-4_FY2019_DSHS NI
Form C: Contact Person Information	 Form C_FY2019_DSHS NBS
Form D: Exceptions Form	 Form D_FY2019_DSHS NBS
Form E: Security and Privacy Inquiry (SPI)	 hhs-spi-v2-1.pdf

A complete answer includes a written response and any supporting documents required by the form. In addition, "Not Applicable" is only an appropriate response when a given question or form does not apply to an Applicant's organization.

8.2 Exhibits

Contractor must abide by the requirements contained in the following exhibits, as applicable:

Exhibit A: General Affirmations	 General Affirmations.docx
Exhibit B: Uniform Terms and Conditions (UTC) - Vendor	 C_vendor-UTC.pdf
Exhibit B-1: Uniform Terms and Conditions (UTC) – State Governmental Body	 Governmental UTC.docx
Exhibit C: DSHS Supplemental and Special Conditions - Vendor	 DSHS Vendor Supplemental Speci
Exhibit C-1: DSHS Supplemental and Special Conditions – Interagency & Interlocal	 DSHS Interagency Interlocal Suppleme
Exhibit D: Data Use Agreement (DUA)	 data-use-agreemen t_v.8.4_3.15.18_priva
Exhibit D-1: Data Use Agreement (DUA) – Governmental Entity	 gov-data-use-agree ment_v.8.3_4.1.15.px

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