

**SIGNATURE DOCUMENT FOR
HHSC CONTRACT NO. HHS000264400001**

ARTICLE 1. PURPOSE

The Health and Human Service Agency (“System Agency”), an administrative agency within the executive department of the State of Texas and having its principal office at 4900 North Lamar Blvd. Austin, Texas, 78751 and The University of Florida Board of Trustees, on behalf of the Institute for Child Health Policy, an entity organized under the laws of the State of Florida (“Contractor”), having its principal office at 219 Grinter Hall, Gainesville, Florida, 32611 (each a “Party” and collectively “the Parties”) enter into the following contract for External Quality Review Organization services and Quality Vendor services (the “Contract”).

ARTICLE 2. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of 42 C.F.R. §§ 438.310- 438.370.

System Agency is authorized under Section 531.039 of the Texas Gov’t Code to enter this contract.

Contractor certifies that is has sufficient statutory authority to contract for the services to be provided under this Contract.

ARTICLE 3. STATEMENT OF SERVICES TO BE PROVIDED

Contractor shall perform or cause to be performed the External Quality Review Organization services and Quality Vendor Services (together, Services) in accordance with the Statement of Work, Budget, and Exceptions, attached hereto and incorporated herein as **ATTACHMENTS A, B, AND I**, respectively. Contractor’s Proposal and the RFP are incorporated by reference into this Contract for all purposes, including determining the Scope of Work.

ARTICLE 4. DURATION

The Contract is effective on September 1, 2019 and terminates on August 31, 2023, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. System Agency, at its own discretion, may extend this Contract for an additional two (2) years subject to terms and conditions mutually agreeable to the Parties.

ARTICLE 5. BUDGET

The total amount of this Contract will not exceed **\$73,621,154.34**. All expenditures under the Contract will be in accordance with **ATTACHMENT B, BUDGET**.

ARTICLE 6. ORDER OF DOCUMENT PRECEDENCE

Notwithstanding any other provision in the Contract to the contrary, in the event of any conflict or contradiction, these documents will control in the following order of precedence:

- ATTACHMENT A – STATEMENT OF WORK**
- ATTACHMENT I – EXCEPTIONS**
- ATTACHMENT E – SPECIAL CONDITIONS**
- ATTACHMENT C – UNIFORM TERMS AND CONDITIONS**
- ATTACHMENT G – DATA USE AGREEMENT**
- ATTACHMENT F – TEXAS HEALTH AND HUMAN SERVICES INFORMATION AND PRIVACY REQUIREMENTS**

ARTICLE 7. INDEMNIFICATION PROVISIONS

In accordance with the Parties' agreements included in **ATTACHMENT I – EXCEPTIONS**, the following language represents the global contractual language regarding indemnification as between the Parties:

“Regarding the indemnification and hold harmless clauses included throughout the Contract, the following statement modifies any statement or reference, whether or not specifically referenced below, that indicates University of Florida (Contractor) can or will indemnify or hold harmless the State of Texas or any other third party: "Any such obligation of CONTRACTOR to indemnify, defend, or hold harmless the State of Texas or any other third party is limited to the maximum extent permissible under the laws of the State of Florida and that any such statement or reference shall not be construed or interpreted as: (1) denying to CONTRACTOR any remedy or defense available under the laws of the State of Florida; (2) the consent of the CONTRACTOR, the State of Florida, and their agents and agencies to be sued; or (3) a waiver of the sovereign immunity of the CONTRACTOR, the State of Florida, and their agents and agencies beyond the waiver provided by law.”

ARTICLE 8. CONTRACT REPRESENTATIVES

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

System Agency

Name: Kim Woody

Address: 701 W. 51st. Street

System Agency Contract No. HHS000264400001

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City, State, ZIP: Austin, TX 78751
Phone Number: 512-438-3986
Email Address: kim.woody@hhsc.state.tx.us

Contractor

Name: Division of Sponsored Programs
Address: 207 Grinter Hall
City, State, ZIP: Gainesville, FL 32611-5500
Phone Number: (352) 392-9267
Email Address: ufawards@ufl.edu

ARTICLE 9. 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

Dr. Courtney N. Phillips
Executive Commissioner
Health and Human Services Commission
P.O. Box 13247
Austin Texas, 78711-3247

With Required Copy to:

Karen Ray
Chief Counsel
Health and Human Services Commission
P.O. Box 13247
Austin Texas 78711-3247
Fax: 512-424-6586

Contractor

Division of Sponsored Programs at the University of Florida
207 Grinter Hall
P.O. Box 1155500, Gainesville, FL 32611
(352) – 392-9267
ufawards@ufl.edu

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. HHS000264400001

SYSTEM AGENCY

DocuSigned by:
Ruth T. Johnson
217A81A927E04B1...
Ruth T. Johnson

Chief Operating Officer
Date of execution: August 27, 2019

CONTRACTOR

DocuSigned by:
Lisa Stroud
2D71F3763C75450...
Name: Lisa Stroud

Title: Associate Director
Date of execution: August 27, 2019

THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000264400001 ARE HEREBY ATTACHED AND INCORPORATED BY REFERENCE:

- ATTACHMENT A – STATEMENT OF WORK**
- ATTACHMENT B – BUDGET**
- ATTACHMENT C – UNIFORM TERMS AND CONDITIONS**
- ATTACHMENT D – GENERAL AFFIRMATIONS**
- ATTACHMENT E – SPECIAL CONDITIONS**
- ATTACHMENT F – TEXAS HEALTH AND HUMAN SERVICE INFORMATION SECURITY AND PRIVACY REQUIREMENTS**
- ATTACHMENT G – DATA USE AGREEMENT**
- ATTACHMENT H – HUB SUBCONTRACTING PLAN**
- ATTACHMENT I – EXCEPTIONS**
- ATTACHMENT J – FEDERAL ASSURANCES**

THE FOLLOWING DOCUMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000264400001 ARE HEREBY INCORPORATED BY REFERENCE

- A. SYSTEM AGENCY RFP No. HHS0002644**
- B. CONTRACTOR’S FEBRUARY 4, 2019 PROPOSAL**

ATTACHMENTS FOLLOW

ARTICLE I – DEFINITIONS

Refer to **Attachment C, Uniform Terms and Conditions**, and **Attachment E, Special Conditions**, for additional definitions relevant to this Contract.

Unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“Accessible” means compliance with applicable laws and standards including, but not limited to, 29 U.S.C. § 794; 1 Tex. Admin. §§ 206.50 *et seq.*; 1 Tex. Admin. Code §§ 213.10 *et seq.*; and [Texas Health and Human Services Electronic and Information Resources \(EIR\) Accessibility Standards](#).

“Administrative Interview” or **“AI”** means an assessment of MCO and Dental Contractor compliance with federal and state regulations in accordance with 42 C.F.R. § 438.358.

“All Programs” means the Texas Medicaid and CHIP managed care programs including STAR, STAR+PLUS, STAR Health, STAR Kids, Dental, and CHIP.

“Claims Administrator” means the organization responsible for processing claims and encounters submitted by MCOs and Dental Contractors. Currently, the Texas Medicaid & Healthcare Partnership (TMHP) performs this function.

“Dental Contractor” means a dental maintenance organization (DMO) that is under contract with HHSC for the delivery of dental services. Dental Contractors are prepaid ambulatory health plans.

“Dual Demonstration” means the Texas Dual Eligible Integrated Care Demonstration Project.

“External Quality Review” or **“EQR”** has the meaning as defined in 42 C.F.R. § 438.320.

“External Quality Review Organization” or **“EQRO”** has the meaning as defined in 42 C.F.R. § 438.320.

“Managed Care Organization” or **“MCO”** means an organization that delivers and manages managed care health services under a risk-based contract with HHSC.

“Medical Transportation Organization” or **“MTO”** means an organization that is under contract with HHSC for the delivery of non-emergency medical transportation services. MTOs are prepaid ambulatory health plans (PAHPs).

“Medicare-Medicaid Plan” or **“MMP”** means the MCOs participating in the Texas Dual Eligibles Integrated Care Demonstration Project.

“Non-Emergency Medical Transportation” or **“NEMT”** means transportation for eligible Medicaid members to and from medical providers for appointments or services that legitimately needed but do not put the health and life of the member at immediate serious risk.

“Operational Start Date” means the first day on which the Contractor is responsible for providing services under the operations phase of the Contract and occurs after the transition phase is completed.

“Potentially Preventable Events” or “PPEs” has the meaning provided in Texas Government Code Section 536.001.

“Quality” has the meaning as defined in 42 C.F.R. § 438.320.

“Quality of Care” means HHSC-specified measures that are selected on a regular basis.

“Technical Assistance” means providing information, consultation, or expertise via email, phone call, or meeting to HHSC, MCOs, Dental Contractors, or other stakeholders as needed.

“Validation” has the meaning as defined in 42 C.F.R. § 438.320.

ARTICLE II - SCOPE OF WORK

2.1 SCOPE OF WORK

The Sections below comprise the Scope of Work (SOW). HHSC reserves the option to decouple business functions and/or the functionality in the SOW at any time during the Contract. This may include removal of discrete components from the SOW. The Contractor must be willing to commence the transition of any business or technology components at the request of HHSC.

2.1.1 Contractor and Subcontractor Qualifications

Contractor may use Subcontractors. Contractor is accountable for, and must oversee, all Subcontractor functions.

Contractor must, at a minimum, meet the requirements of 42 C.F.R. § 438.354(b) and (c). Contractor must have competent staff and, as applicable, competent Subcontractor staff to perform research, evaluation, and analysis as requested by HHSC. This includes the Contractor staff and Subcontractor staff having appropriate skillsets and experience to compile, analyze, monitor, and evaluate information on Quality of Care, timeliness and access to care, member satisfaction, and the effectiveness and outcomes of the health care services furnished by fee-for-service (FFS) providers, MCOs, Dental Contractors, and providers or their contractors to Medicaid and members under All Programs as well as NEMT, and Dual Demonstration.

Req ID	Requirement
01-BG-01	Contractor must meet and maintain the competence requirements of 42 C.F.R. § 438.354 for qualifications of an of external quality review organization. Contractor must have, at a minimum, the following: <ol style="list-style-type: none"> 1. Staff with demonstrated experience and knowledge of:

Req ID	Requirement
	<ul style="list-style-type: none"> a. Medicaid and CHIP members, policies, data systems, and processes; b. FFS and managed care program delivery systems, organizations, and financing; c. Quality assessment and improvement methods; and d. Research design and methodology, including statistical and financial analysis; <ul style="list-style-type: none"> 2. Sufficient physical, technological, and financial resources to conduct EQR and EQR-related activities; and 3. Other clinical and non-clinical skills necessary to carry out the duties of the Contractor and other activities under the scope of this Contract, including the EQR and EQR-related activities and to oversee the work of any Subcontractors.
01-BG-02	Contractor must meet the independence requirement of 42 C.F.R. § 438.354.
01-BG-03	Contractor must have skilled staff or have access to staff with expertise in medical record review, survey implementation and techniques, and statistics and economics to support HHSC quality and performance analysis and rate setting activities.
01-BG-04	<p>Contractor must have the requisite resources and staff to research and analyze the clinical aspects of health care delivery which affect populations of special concern to Medicaid and CHIP as directed by HHSC, including:</p> <ul style="list-style-type: none"> 1. Persons 20 years of age and younger, including those eligible for the Children with Special Health Care Needs (CSHCN) program and the Early, Periodic, Screening, Diagnosis, and Treatment (EPSDT) Comprehensive Care program services, known collectively in Texas as Texas Health Steps (THSteps); 2. Individuals needing long-term services and supports (LTSS), including individuals with physical disabilities, intellectual or developmental disabilities, and the elderly; 3. Persons with the behavioral health conditions of mental illness or substance use disorders; and 4. Pregnant women and newborns.
01-BG-06	<p>Contractor must have staff with a wide variety of clinical skills for both medical and dental disciplines, as well as experience in:</p> <ul style="list-style-type: none"> 1. Statistics; 2. Economics; 3. Encounter data analysis, including the use of the following case-mix adjustment systems: <ul style="list-style-type: none"> a. Chronic Illness and Disability Payment System; b. Adjusted Clinical Groups; c. Diagnostic Cost Groups; d. Clinical Risk Groups; e. Global Risk Assessment Model; and f. All Patients Refined Diagnosis Related Groups (APR DRG) classification system and grouping software; 4. Encounter data validation: data certification and medical record review (MRR)/dental record review (DRR) to ensure that data are sufficiently

Req ID	Requirement
	<p>complete and accurate to support quality management and rate setting premium payments analysis and calculations;</p> <ol style="list-style-type: none"> 5. Health care issues research and writing for publication; and 6. Clinical evaluation competence or direct contract access to such competence in, but not limited to, the following areas: <ol style="list-style-type: none"> a. Pediatrics; b. Long-term services and supports; c. Acute care; d. Behavioral health; e. Chronic illness and disability; f. Complex special health care needs; g. Women's health; and h. Pharmacy.
01-BG-07	<p>Contractor staff must have expertise in data systems, statistics, data analysis, and economics, experienced in using or analyzing data, and performance in the following performance measurement systems and software:</p> <ol style="list-style-type: none"> 1. Healthcare Effectiveness Data Information Set (HEDIS); 2. Chronic Illness and Disability Payment System (CDPS); 3. Consumer Assessment of Healthcare Providers and Systems (CAHPS); 4. Dental Quality Alliance (DQA); 5. National Core Indicators for Aging and Disability (NCI-AD); 6. Centers for Medicare and Medicaid Services Adult and Child Core Measures; 7. 3M PPEs; and 8. Other measures or systems recommended by the Contractor.
01-BG-08	<p>CMS issues protocols that specify how EQROs are to perform their duties. Contractor is required to follow these CMS protocols, available at: https://www.medicaid.gov/medicaid/quality-of-care/medicaid-managed-care/external-quality-review/index.html.</p>
01-BG-09	<p>Neither Contractor nor any delegated survey Subcontractor is required to be certified by the National Committee for Quality Assurance (NCQA) as a NCQA CAHPS vendor. However, HHSC requires both entities to have experience and proficiency in administering surveys to Medicaid and CHIP members and providers in both English and Spanish.</p>

2.1.2 CMS Required Activities Related to External Quality Review

The Centers for Medicare and Medicaid Services (CMS) addresses mandatory and optional EQR-related activities in 42 C.F.R. § 438.358 and provides additional information on its website at <https://www.medicaid.gov/medicaid/quality-of-care/medicaid-managed-care/external-quality-review/index.html> related to federal protocols required under 42 C.F.R. § 438.352. The Contractor is required to perform all activities described below in accordance with the CMS regulations and protocols.

2.1.2.1 Protocol 1 - MCO and Dental Contractor Compliance Review

Consistent with 42 C.F.R. § 438.358(b)(1)(iii), this section discusses the Contractor's obligations to review compliance of MCOs and Dental Contractors standards against (1) federal regulations; (2) state regulations; and (3) the MCOs or Dental Contractors contract with HHSC, including standards regarding access to care, structure and operations, and quality measurement and improvement.

Req ID	Requirement
02-P1-01	Contractor must establish MCO and Dental Contractor compliance thresholds for HHSC approval and perform a preliminary review of MCO and Dental Contractor compliance with 42 C.F.R. Part 438, including, but not limited to: availability of services, continuity and coordination of care, coverage and authorization of services, disease management, establishment of provider networks, enrollee rights, confidentiality, use of practice guidelines, health information systems, mechanisms to detect under and over-utilization of services.
02-P1-02	Contractor must provide annual Quality Assessment and Performance Improvement (QAPI) Reports for All Programs and Dual Demonstration within the formats, timeframes and manner agreed upon by HHSC.
02-P1-03	Contractor must provide an annual Administrative Interview Questionnaire Tool (AI Questionnaire Tool) for physical health, dental health, and behavioral health for each MCO and Dental Contractor for All Programs and Dual Demonstration within the formats, timeframes, and manner agreed upon by HHSC.
02-P1-04	Contractor must conduct an onsite Administrative Interview, every three years, with each MCO and Dental Contractor for All Programs and Dual Demonstration and provide an Administrative Interview Report for the onsite administrative interviews to HHSC within the formats, timeframes, and manner agreed upon by HHSC.
02-P1-05	Contractor must assess MCO and Dental Contractor compliance with HHSC-specified standards for quality operations including validation of required performance improvement activities and associated measures through the Administrative Interview.
02-P1-06	Contractor must provide findings, within the formats, timeframes, and manner agreed upon by HHSC, on the evaluation of MCO and Dental Contractor responses on the AI Questionnaire Tool to assess compliance with state and federal regulations. Contractor must provide tables that summarize MCO and Dental Contractor responses on the AI Questionnaire Tool regarding programs in place that address member's needs.

2.1.2.2 Protocol 2 - Validation of Performance Measures Reported by the MCOs

Consistent with 42 C.F.R. § 438.358(b)(1)(ii), the requirements in this section relate to the validation of performance measures reported by the MCO. Contractor must provide Technical Assistance for HEDIS hybrid reporting.

Req ID	Requirement
03-P2-01	Contractor must assist HHSC with identifying healthcare quality measures critical to the population served in All Programs and must assist in setting performance standards.
03-P2-02	Contractor must evaluate if the MCO followed the requirements of their managed care contracts with HHSC for calculating measures and, at a minimum, must: <ol style="list-style-type: none"> 1. Annually verify that MCO-provided HEDIS hybrid measure rates are certified by a NCQA auditor; and 2. Provide a compilation of annual HEDIS hybrid rates for each MCO, for each program listed below within the formats, timeframes and manner agreed upon by HHSC: <ol style="list-style-type: none"> a. STAR; b. STAR Kids; c. STAR+PLUS; d. CHIP; and e. STAR Health.

2.1.2.3 Protocol 3 - Performance Improvement Project Validation

Consistent with 42 C.F.R. § 438.358(b)(1)(i), the requirements in this section relate to the validation of Performance Improvement Projects (PIPs).

Req ID	Requirement
04-P3-01	Contractor must assist HHSC in developing PIPs topics for each MCO and Dental Contractor for All Programs.
04-P3-02	Contractor must conduct an annual PIPs Workshop for MCOs and Dental Contractors and must provide prompt Technical Assistance to the MCOs and Dental Contractors in the development, evaluation, and revision of PIPs on an ongoing basis as directed by HHSC.
04-P3-03	Contractor must perform annual evaluation of half of the PIPs plans for all MCOs and Dental Contractors for All Programs. Every PIPs plan should be evaluated at least once every two years. Such evaluation must include an assessment of the study methodology within the formats, timeframes and manner agreed upon by HHSC.
04-P3-04	Contractor must provide annual evaluation of PIPs progress reports for all MCOs and Dental Contractors for All Programs within 60 calendar days of Contractor's receipt of PIP progress reports from each MCO or Dental Contractor within the formats, and manner agreed upon by HHSC.
04-P3-05	Contractor must perform annual evaluation of half of the PIPs final reports for all MCOs and Dental Contractors for All Programs. Each PIPs final report must be evaluated at least once every two years. Such evaluation must include a

Req ID	Requirement
	verification of PIPs report findings and an assessment of the overall validity and reliability of the PIPs results within the formats, timeframes and manner agreed upon by HHSC.
04-P3-06	Contractor must provide MCOs with Technical Assistance and evaluations of the 2019 statewide PIPs addressing members with complex needs (“super utilizers”) to assist MCOs in creating impactful interventions that will improve health outcomes and reduce inappropriate utilization of health services. This PIP targets members who, because of their health or social conditions may experience high levels of costly, but preventable service utilization.

2.1.2.4 Protocol 4 - Encounter Data Validation

Consistent with 42 C.F. R. § 438.358(c)(1), the requirements in this section relate to validation of encounter data reported by the MCO and Dental Contractor. Contractor must provide Technical Assistance and support related to the provision of deliverables and related data requests.

Req ID	Requirement
05-P4-01	Contractor must use data available, including the Medicaid Master Provider Filer, for mailing address and other information to generate correspondence and mail outs for purposes of data validation. Contractor must track compliance with requests and accuracy of address information to improve the validation process.
05-P4-02	Contractor must review requirements for collecting and submitting encounter data, review the MCO and Dental Contractor’s capability to produce accurate and complete encounter data, and design and implement a process for annual certification of the quality of encounter data for each MCO and Dental Contractor in All Programs, including CHIP Perinatal. Contractor must provide annual written verification of the quality of the data, including whether the data are sufficient to support setting premium payments. This written verification must be provided in sufficient time to enable premium payment rate setting discussions and activities to progress on a timely basis and must be within the formats, timeframes and manner agreed upon by HHSC.
05-P4-03	Contractor must design and implement biennial encounter data validation medical and dental record reviews. These reviews include validation that electronic data accurately represent care documented by participating providers; verification that the provider of the medical or dental record is the provider of service; verification the medical or dental record is complete in relation to the encounter data submitted; and providing ongoing assessment of potential data quality issues. Contractor must perform the medical or dental record review every other year and review dental records in the years medical record reviews are not performed.
05-P4-04	Contractor must provide monthly data loads and maintenance of Analysis DTP as well as a monthly report on such actions performed within the formats, timeframes and manner agreed upon by HHSC.

05-P4-05	Contractor must perform and submit, no later than May 15 each year, a mid-year analysis of MCO and Dental Contractor encounter data received from the Claims Administrator for All Programs including CHIP Perinatal and Dual Demonstration within the formats, and manner agreed upon by HHSC.
05-P4-06	Contractor must send monthly MCO and Dental Contractor encounter data to the Department of State Health Services (DSHS) ImmTrac for immunization tracking in Texas within the formats and manner agreed upon by HHSC no later than 1 month after receipt of the encounter data.
05-P4-07	Contractor must provide a compliance report (National Institute of Standards and Technology (NIST) 800) that the data infrastructure meets contract standards for claims, encounters, and other data to maintain comprehensive Analysis and Data Transfer Platform (ADTP). The report must be provided annually by August 31.
05-P4-08	Contractor must design and implement a process to certify the integrity and completeness of the annual encounter data submissions, including submission of results for All Programs, CHIP Perinatal, and Dual Demonstration data in accordance with the CMS Encounter Data Toolkit, located on the CMS website and consistent with the requirements of Texas Government Code § 533.0131. The results must include, at a minimum, the percentage of missing encounter data, types of missing data, and overall data quality issues.

2.1.2.5 Protocol 5 - Consumer and Provider Surveys

Consistent with 42 C.F.R. § 438.358(c)(2), the requirements in this section cover the administration or validation of consumer or provider surveys of quality care.

Req ID	Requirement
06-P5-01	Contractor must document a purpose statement and objectives, develop or modify survey instruments, develop sampling strategies, develop a strategy to maximize the response rate, and develop a quality assurance plan, in order to, conduct the member surveys described in this section. Member surveys must include, at a minimum, CAHPS questions and integrate other questions as identified by the Contractor and HHSC pertinent to the target population.
06-P5-02	Contractor must implement HHSC-approved biennial member surveys of STAR (with two separate surveys, one for members age 18 and over and one for members age 17 and younger, including a segment for members carved in from the Adoption Assistance (AA) and Permanency Care Assistance (PCA) programs), STAR+PLUS (including Dual Demonstration and a segment for members carved in from the Medicaid for Breast and Cervical Cancer program), STAR Health (with two separate surveys, one for members age 18 and over, and one for members age 17 and younger), STAR Kids (with two separate surveys, one for members age 18 and over, and one for members age 17 and younger, including a segment for members carved in from the AA and PCA programs), CHIP, CHIP Dental and Children's Medicaid Dental Services, interviewing either adult members or caregivers of child members, as appropriate.
06-P5-03	Contractor must implement a biennial survey of members with behavioral health conditions in STAR (with two separate surveys, one for members age 18 and over,

	and one for members age 17 and younger) and STAR+PLUS within the timeframes and manner agreed upon by HHSC.
06-P5-04	Contractor must implement a biennial, in-person survey of members in STAR+PLUS and the Program of All-inclusive Care for the Elderly (PACE) to measure outcomes in LTSS and community integration within the timeframes and manner agreed upon by HHSC.
06-P5-05	Contractor must implement an HHSC-approved abbreviated annual survey of members in STAR, STAR+PLUS, STAR Kids, and CHIP for use in report cards. The survey must capture a statistically significant portion of members in each service area. The survey must include CAHPS survey items determined to be relevant to the population in each program.
06-P5-06	Contractor must provide detailed survey results to HHSC as the surveys are completed, including preparing and analyzing the data obtained from the survey, documenting the survey process and results, and providing summaries and analyses in the annual summary of activities report as described in 10-TR-01. The results must be provided within the formats, timeframes and manner agreed upon by HHSC.
06-P5-07	Contractor must either develop or modify survey instruments and develop sampling strategies in order to conduct an annual satisfaction survey for the NEMT program. The survey tool or tools must be adequate to gain feedback from transportation providers, medical providers, and members participating in the program. Contractor must provide a detailed, Accessible report of the results within the formats, timeframes and manner agreed upon by HHSC.

2.1.2.6 Protocol 6 - Calculation of Performance Measures

Consistent with 42 C.F.R. § 438.358(c)(3), the requirements in this section relate to the calculation of performance measures for MCOs and Dental Contractors.

Req ID	Requirement
07-P6-01	Contractor must implement and assess managed care performance measures, including evaluating and comparing MCO and Dental Contractor performance to state and national benchmarks, as well as other plans' performance within Texas. These assessments must be within the formats, timeframes and manner agreed upon by HHSC.
07-P6-02	In preparing for, calculating, and reporting the results of performance measures, Contractor must follow the activities described in 42 C.F.R. § 438.358(c)(3).
07-P6-03	Contractor must consult with HHSC to evaluate and periodically propose new performance measures to improve MCO and Dental Contractor oversight or to meet new state mandates and objectives. Contractor must, as needed, provide technical expertise to HHSC in identifying and evaluating potential data analysis tools and software.
07-P6-04	Contractor must perform analysis and develop reports of hospital level State Fiscal Year (SFY) PPRs and PPCs or other PPEs as identified by HHSC. The Contractor must at a minimum provide the following: hospital-level reports, underlying data,

Req ID	Requirement
	technical notes, statewide data files, and state norm files. The analysis and reports must occur on an annual and mid-year SFY cycle, or any other time frame specified by HHSC. Existing PPE reports can be found at https://hhs.texas.gov/about-hhs/process-improvement/medicaid-chip-quality-efficiency-improvement/potentially-preventable-events
07-P6-05	Contractor must provide monthly and annual summary and registry PPE data by MCO with the content, format, timeframe, and manner agreed upon by HHSC.
07-P6-06	Contractor must perform annual core set measure reporting to CMS.
07-P6-07	Contractor must provide preliminary Quality of Care data on an annual basis by each program listed below within the formats, timeframes and manner agreed upon by HHSC: <ol style="list-style-type: none"> 1. STAR 2. STAR Kids 3. STAR+PLUS 4. STAR Health 5. CHIP 6. CHIP Dental Services 7. Children's Medicaid Dental Services
07-P6-08	Contractor must provide annual final Quality of Care data by each program listed below within the formats, timeframes and manner agreed upon by HHSC: <ol style="list-style-type: none"> 1. STAR 2. STAR Kids 3. STAR+PLUS 4. STAR Health 5. CHIP 6. CHIP Dental Services 7. Children's Medicaid Dental Services
07-P6-09	In consultation with and as required by HHSC, the Contractor must propose detailed quality improvement strategies when Quality of Care shortcomings are identified for a particular MCO, Dental Contractor, program, or categorically across programs.
07-P6-10	Contractor must provide periodic analysis reports on topics of special interest to HHSC produced on a timeline agreed upon based on each of HHSC's individual ad hoc request.

2.1.2.7 Protocol 8 - Focused Studies

Consistent with 42 C.F.R. § 438.358(c)(5), the Contractor must conduct studies on quality that focus on a particular aspect of clinical or non-clinical services at a point in time. These focused studies are projects identified and defined by HHSC and are to be conducted with a minimum amount of administrative burden on the Medicaid and CHIP MCOs and Dental Contractors. Focused studies can be clinical, financial, or administrative studies that relate to patterns of care or operational issues that impact Quality of Care, financial performance, or service delivery in managed care.

Req ID	Requirement
08-P8-01	Contractor must design and implement an annual focused study on HHSC-specified topics that follows the procedures described in 42 C.F.R. § 438.358(c)(5) within the formats, timeframes, and manner agreed upon by HHSC.
08-P8-02	Contractor must provide Accessible quarterly topic reports on HHSC-specified topics focused on the quality of health care for child or adult members of Medicaid or CHIP, combining background research with analysis of claims data, survey data, or medical/dental records. These reports must be within the formats, timeframes and manner agreed upon by HHSC.

2.1.3 Non-protocol Requirements

This section contains items that are required federal requirements under 42 C.F.R Part 438 Subpart E; but do not fit within the CMS Mandatory EQR-Related Activity Protocols. CMS doesn't require that states use an EQRO to perform all activities in this section but HHSC has chosen to require Contractor to perform these activities.

2.1.3.1 MCO Quality Rating

Consistent with 42 C.F.R. § 438.358(c)(6), Contractor must develop performance measures and methodology to assist HHSC with the quality rating of MCOs.

Req ID	Requirement
09-QR-01	The Contractor must, in conjunction with HHSC and in compliance with 42 C.F.R. § 438.334, propose and develop methodology, tools, reports, and a final, Accessible deliverable, in print and electronic format, for annual MCO report cards for STAR (with two separate surveys, one for members age 18 and over, and one for members age 17 and younger), CHIP, STAR Kids, and STAR+PLUS, each broken down by service area. Report cards are designed to provide newly enrolled Medicaid and CHIP members and their caregivers, as appropriate, with consumer-oriented quality and member satisfaction information that helps support the selection of a managed care health plan. Report cards must be provided in English and Spanish and must be completed within the formats, timeframes and manner agreed upon by HHSC.
09-QR-02	Contractor must report findings of annual MCO report card surveys using the format, timeframes and manner agreed upon by HHSC.
09-QR-03	Contractor must provide Accessible annual MCO report card consumer product and instruction sheets within the formats, timeframes and manner agreed upon by HHSC.

2.1.3.2 Required Technical Reports

Consistent with 42 C.F.R. § 438.364, the Contractor must produce annual detailed technical reports to HHSC and CMS.

Req ID	Requirement
10-TR-01	<p>Contractor must provide an Annual EQRO Summary of Activities report describing activities performed to meet all CMS requirements on a timeline and in a format approved by HHSC. At a minimum, the report must be Accessible and include:</p> <ol style="list-style-type: none"> 1. A description of the way data from all EQRO-related conducted activities were aggregated and analyzed; and the way in which conclusions were drawn as to the timeliness, quality, and access to the care provided by MCOs and Dental Contractors; 2. For each activity conducted, the objectives, technical methods of data collection and analysis, description of data obtained, and conclusions drawn from the data; 3. An assessment, by MCO, Dental Contractor and program of strengths and weaknesses with respect to quality, timeliness, and access to health and dental care services furnished to Medicaid and CHIP members; 4. Recommendations, by MCO, Dental Contractor and program for improving the quality of health and dental care services; 5. Methodologically appropriate, comparative information about All Programs, Dual Demonstration, NEMT, FFS, and MCOs, MMP, and Dental Contractors; 6. An assessment of the degree to which each MCO or Dental Contractor has addressed effectively the quality improvement recommendations made by the Contractor during the prior year's review; and 7. Detailed information about how each CMS protocol was addressed during the year.
10-TR-02	<p>For areas of concern identified in the Annual EQRO Summary of Activities report, the Contractor must provide additional information to HHSC in Accessible reports called "summary of activities issues briefs" within the formats, timeframes, and manner agreed upon by HHSC.</p>

2.1.3.3 Validation of MCO Network Adequacy

Consistent with 42 C.F.R. § 438.358(b)(1)(iv), the requirements in this section relate to the validation of MCOs' and Dental Contractors' network adequacy.

Req ID	Requirement
11-NA-01	<p>Contractor must annually propose and develop, for HHSC approval, an appointment accessibility study, including the methodology, survey tools, and report for the direct monitoring of the length of time a Medicaid member must wait between scheduling an appointment with a provider and receiving treatment from the provider. The study must evaluate provider compliance with appointment</p>

	availability standards for primary care, behavioral health, vision, and prenatal care providers on a biennial basis, so that half of these types of services are evaluated each year.
11-NA-02	Contractor must perform the appointment accessibility study, which includes sub studies for primary care, behavioral health, vision and prenatal care, within the format, timeframes and manner agreed upon by HHSC.
11-NA-03	Contractor must report appointment accessibility study and sub study results within the format, timeframes and manner agreed upon by HHSC. This report must be Accessible.
11-NA-04	Contractor must propose and develop, for HHSC approval, a PCP Referral Study including a methodology, survey tools, and reporting for an annual study that examines primary care physician (PCP) experiences when making referrals for specialty care for members in Medicaid managed care. At a minimum, the study must identify the key barriers physicians face when making specialty referrals and recommend strategies for improving access to specialty care for Medicaid and CHIP members.
11-NA-05	Contractor must perform the PCP Referral Study within the format, timeframes and manner agreed upon by HHSC.
11-NA-06	Contractor must report the PCP Referral Study results within format, timeframes and manner agreed upon by HHSC. This report must be Accessible.
11-NA-07	Contractor must provide Technical Assistance to HHSC for the activities described in this table.

2.1.4 Additional HHSC Requirements

This section contains additional requirements that are not required by CMS but that HHSC will require the Contractor to perform.

2.1.4.1 Quality Forum

Req ID	Requirement
12-QF-01	In consultation with and subject to the approval of HHSC, the Contractor must organize and execute all aspects of conference planning for HHSC's annual quality forum. The annual quality forum must be held for all MCOs, Dental Contractors, and HHSC staff. Topics must include at a minimum: <ol style="list-style-type: none"> 1. MCO and Dental Contractor best practices; 2. Quality improvement strategies and interventions; and 3. Discussion and development of future directions for performance improvement.
12-QF-02	Contractor must facilitate a planning committee for the quality forum that includes HHSC, MCO, and Dental Contractor staff.

2.1.4.2 Texas Healthcare Learning Collaborative Portal

The Texas Healthcare Learning Collaborative (THLC) portal provides HHSC, contractors, providers, and other stakeholders up-to-date MCO, Dental Contractor, and statewide performance data on key quality of care measures, including PPEs, HEDIS, CAHPS and other quality of care information.

Req ID	Requirement
13-LC-01	<p>Contractor must maintain the THLC portal, including data and visualizations at various levels of specificity for:</p> <ol style="list-style-type: none"> 1. Medical Quality of Care; 2. Dental Quality of Care; 3. PPAs; 4. PPRs; 5. PPVs; 6. PPCs; 7. Performance indicator dashboards; and 8. Super-utilizers. <p>The portal must be Accessible. Contractor must provide at least the level of detail and functionality currently available on the THLC portal, including the ability to download data, accessible at: https://thlcportal.com/home.</p>
13-LC-02	Contractor must provide enhancements to the THLC portal as requested by HHSC.
13-LC-03	Contractor must provide loading and processing for the DSHS all-payer data for use in statewide data collection, analysis and posting on the THLC portal. Analysis may include data summary; ratio of actual to expected rates of potentially preventable complications (PPCs) and readmissions (PPRs); trending; demographic, geographic, provider and reason code segmentation.
13-LC-04	Contractor must update the THLC portal annually with Quality of Care results for FFS, STAR, STAR Kids, STAR+PLUS, CHIP, and STAR Health; and PPE results for STAR, STAR+PLUS, STAR Health, and CHIP, CHIP Dental Services and Children's Medicaid Dental Services.
13-LC-05	Contractor must perform a monthly refresh of MCO level PPE results to the THLC portal for STAR, STAR Kids, STAR+PLUS, STAR Health, and CHIP.
13-LC-06	Contractor must update the THLC portal annually with the hospital quality-based PPR and PPC results, or other hospital-level PPEs as identified by HHSC.
13-LC-07	Contractor must provide training and Technical Assistance to MCOs, Dental Contractors, HHSC staff, and HHSC-requested stakeholders on use of the THLC portal.

2.1.4.3 Additional Technical Assistance

Req ID	Requirement
14-TA-01	Contractor must provide ongoing technical expertise to HHSC to support medical and dental pay-for-quality programs. This expertise may include advising HHSC on appropriate measures and methodological changes or providing other recommendations to improve pay-for-quality programs.

2.1.4.4 Analysis and Data Transfer Platform (ADTP) Requirements

15-ADTP-01	The Contractor must establish and fully operationalize the ADTP no later than 3 months before the Operational Start Date.
15-ADTP-02	<p>In addition to the files created from the Texas Encounter Data Warehouse maintained by the Claims Administrator, the Contractor must receive and store data on the ADTP from the following primary data sources for Medicaid and CHIP:</p> <ol style="list-style-type: none"> 1. Medicaid FFS claims and managed care encounters data from HHSC's Claims Administrator contractor; 2. Eligibility and enrollment data from HHSC's integrated eligibility and enrollment (IEE) broker for Medicaid and CHIP; 3. Medicaid and CHIP provider data; 4. Capitation file from the IEE broker via TMHP; 5. Premiums payable system data from the IEE broker via TMHP; and 6. Drug claim data from HHSC's vendor drug program (VDP) contractor. <p>Contractor's management of the ADTP must include:</p> <ol style="list-style-type: none"> 1. Receiving data; 2. Performing quality assurance checks against the data received; and 3. Loading, warehousing, analysis, and creation of data files for MCOs and Dental Contractors.
15-ADTP-03	<p>The Contractor must submit the following plans for HHSC approval at least 60 calendar days prior to the Operational Start Date and at least 60 calendar days prior to implementing any substantial changes to the plans during the Contract's term:</p> <ol style="list-style-type: none"> 1. Joint Interface Plan (JIP); 2. Disaster Recovery Plan (DRP); 3. Business Continuity Plan (BCP); 4. Risk Management Plan (RMP); and 5. Systems Quality Assurance Plan (SQAP).
15-ADTP-04	Contractor must submit monthly data logs detailing data file, date received, quality, ADTP load date, problems or issues identified by the Contractor, and other notations determined necessary by the Contractor and HHSC for Medicaid FFS, CHIP Perinatal, All Programs, as well as Medicare data required for MMP.
15-ADTP-05	Contractor must conduct secure data transfers to DSHS and HHSC's Pharmacy Claims and Rebate Administration (PCRA) vendor monthly.

2.1.4.5 Business Plan

16-BP-01	Contractor must provide administrative oversight and financial management activities for Contract deliverable schedules and on-going provision of deliverable related budget estimates as requested by HHSC.
16-BP-02	Within 30 calendar days of the beginning of each SFY, the Contractor must create a business plan that identifies a detailed SOW including deliverables, milestones, lead staff, and timelines. Contractor must accomplish this via an HHSC-approved online project management tool.
16-BP-03	Contractor must track the status of the business plan on a weekly basis.
16-BP-04	Contractor must participate in weekly, one-hour phone meetings with HHSC staff to review the status of deliverables and discuss questions and issues relevant to the SOW. The Contractor must provide the meeting agendas and minutes.
16-BP-05	Contractor must participate in monthly, three-hour meetings with HHSC staff to review the status of deliverables and discuss questions and issues relevant to the SOW. At least six of the meetings should be conducted in-person, and the Contractor must provide the meeting agendas and minutes.
16-BP-06	Contractor must participate, as directed by HHSC, in ad-hoc meetings with HHSC to review and discuss milestones, develop work plans, timelines for deliverables, discuss contract audit and audit findings, and develop performance improvement goals. These meetings may include advocates, members, or stakeholders as requested by HHSC.

2.1.4.6 Actuarial Analysis Related Activities

17-AA-01	Contractor must confirm HHSC fiscal year specifications, due dates for risk ratios and encounter data sets for All Programs, Dual Demonstration, and CHIP Perinatal.
17-AA-02	Contractor must provide risk ratio tables plus the weights along with technical specifications developed using CDPS to HHSC for STAR, STAR Kids, STAR+PLUS, CHIP and CHIP Perinatal. The Contractor must provide this information annually by March 15.
17-AA-03	Contractor must review CDPS specifications with HHSC yearly and provide for any changes, such as plan changes and population additions, in compliance with timeframes established by HHSC.
17-AA-04	Contractor must respond to questions submitted by MCOs, HHSC, and other stakeholders about CDPS methodology or specific acuity results; host a CDPS seminar with HHSC, MCOs, and others designated by HHSC; and work on related ad hoc activities as needed or requested by HHS.
17-AA-05	Contractor must provide CDPS risk adjustment model output so that HHSC can validate the MCOs and SA case mix results. Contractor must provide the member

	level data produced by the CDPS risk adjustment model, used to produce the final MCOs case mix scores reports, for STAR, STAR+PLUS, STAR Kids, CHIP and CHIP Perinatal.
17-AA-06	Contractor must submit a report of quality assurance analysis to determine the degree to which encounter data quality is within HHSC-specified standards for accuracy, a summary of amounts paid by services type and month of services, and a comparison of amounts paid in the Contractor's data to financial summary reports provided by each MCO and Dental Contractor for All Programs as well as Dual Demonstration and CHIP Perinatal. HHSC requires one encounter data file per program for actuarial analysis activities.
17-AA-07	Contractor must provide SFY certified encounter data sets for All Programs, Dual Demonstration, and CHIP Perinatal to HHSC annually no later than March 1.

2.1.4.7 1115 Transformation Waiver: Delivery System Reform Incentive Payment (DSRIP) Program

18-TW-01	Contractor must provide a DSRIP hospital level report in a format agreed upon with HHSC annually, to HHSC, by March 31. This report must include all PPEs using Medicaid claims data in the format agreed upon with HHSC for each DSRIP hospital and uncompensated care hospital. HHSC will supply a provider list for use in creating this report.
18-TW-02	Contractor must provide a DSRIP regional healthcare partnership (RHP) level report in a format agreed upon with HHSC annually to HHSC by March 31. This report includes all PPEs, as well as regional prevention quality indicators (PQIs) and pediatric quality indicators (PDIs) using Medicaid claims data in the format agreed upon with HHSC for each RHP. HHSC will provide RHP breakouts for use in creating this report.
18-TW-03	<p>Contractor must provide reports in a format agreed upon with HHSC as outlined below related to the analysis of the Texas Healthcare Transformation Quality Improvement Program Waiver (1115 Waiver) DSRIP program initiatives for alignment with and integration into Medicaid managed care.</p> <ol style="list-style-type: none"> 1. Quality of Care HEDIS measures reports: Quality of Care HEDIS measures reports by RHP for both Medicaid FFS and Medicaid managed care populations. Contractor must provide this report annually to HHSC by March 31. 2. Quarterly HEDIS timeliness of prenatal care rate report: Contractor must provide quarterly reports of HEDIS timeliness of prenatal care rates to HHSC. These quarterly reports will be for selected DSRIP performing providers as requested by HHSC. Reports must include provider-specific data on which cases are included in the rate. 3. Statewide analysis report: Contractor must provide the statewide analysis report stratified by RHP, Medicaid population, uninsured and non-Medicaid population, age, and serious mental illness cohort annually to HHSC by August 31. This report must include the following: <ol style="list-style-type: none"> a. Summary results of outpatient and emergency department visits for Medicaid and CHIP;

	<ul style="list-style-type: none"> b. Summary results of certain PDI and PQI measures specified by HHSC for Medicaid, CHIP, and all-payer data; c. Summary PPA/PPV/PPR results for Medicaid and CHIP; and d. Summary PPR results for all-payer data. <p>4. Texas PPR norm files report: This report must contain PPR norms for all-payer data and PPR norms for Medicaid and CHIP data. Contractor must provide this report annually to HHSC by October 30.</p>
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2.1.4.8 Quality Oversight Related Requirements

19-QO-01	Contractor must use Medicaid FFS claims, and Dental Contractor and MCO encounter data to evaluate value-based payment models identified by HHSC. These evaluations or comparison models may be in relation to cost of care, quality of care, utilization of services, and may include PPEs or other quality metrics as defined by HHSC. Contractor must provide up to three evaluations or comparisons per year. If HHSC does not use these evaluations or comparison, then these three requirements will be added to 19-QO-03, as targeted analyses or data extractions, increasing the total number of target analyses or data extractions to eight.
19-QO-02	Contractor must provide Technical Assistance and support related to requests by HHSC's Quality Oversight to participate in conference calls or to respond to inquiries related to the hospital quality-based PPR and PPC program. The Technical Assistance and support may be related but not limited to the deliverables of this program, webinars, PPE software questions, PPE logic, or data requests and may be done on an ad hoc basis.
19-QO-03	Contractor must provide up to five targeted analyses or data extractions per fiscal year based on HHSC's areas of interest that include, but not limited to: utilization analyses based on clinical conditions, more in depth analysis on PPE utilization by provider, Dental Contractor, MTO, MCO, or utilization analyses by demographic or risk group.
19-QO-04	Contractor must provide up to three targeted analyses or data extractions of Medicaid FFS claims and MCO encounter data to evaluate ways to improve birth outcomes in Medicaid per fiscal year. These studies involve work with Medicaid data linked to Texas vital statistics data, and may include risk adjustment calculations, regional variation analyses, and the incorporation of outcome and other quality measures. HHSC areas of interest include, but are not limited to: neonatal intensive care unit and overall newborn care, neonatal abstinence syndrome, and maternal mortality and morbidity. Components of these studies, including regional disaggregation and maps, must be posted on the THLC public reporting portal. Contractor must provide related underlying data to MCOs and hospitals. Contractor must also provide Technical Assistance related to these targeted analyses.

2.1.4.9 Other Requirements

20-O-01	Contractor must, annually, per MCO, calculate the number and percent of timely THSteps medical checkups for new and existing members in STAR, STAR Kids, STAR+PLUS, and STAR Health. MCOs will report this using Uniform Managed Care Manual Chapter 12.4 for the Medicaid Managed Care (MMC) THSteps Report Instructions and Chapter 12.5 for MMC THSteps Annual Report Template. The Contractor must develop and maintain a technical specification document describing the methods used in its calculations. Additionally, the Contractor must provide data and respond to MCO questions regarding the calculations.
20-O-02	Comply with the security controls set forth in <u>Attachment F, Texas Health and Human Services Information Security and Privacy Requirements.</u>
20-O-03	Contractor must hold up to three quality assurance training webinars per year on topics approved by HHSC for MCOs or Dental Contractors.
20-O-04	Contractor must notify HHSC at least 90 calendar days before the effective date of any change in Contractor's ownership, excluding minor stock transactions that have no individual, aggregate, or cumulative impact on the majority ownership. For purposes of this Contract, a change in control means any of the following: (1) a sale of Contractor's stock such that the effective ability to replace the CEO and/or Chairman or a majority of the Board members of the entity changes to another party; (2) a sale of substantially all of Contractor's assets; (3) a change in a majority of Contractor's board members; (4) consummation of a merger or consolidation of Contractor with any other entity; (5) a change in majority ownership through a transaction or series of transactions; or (6) the board (or the stockholders) approves a plan of complete liquidation. In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract. However, HHSC shall retain the right to terminate the Contract in the event of a change in control.

2.1.5 Key Measures and Liquidated Damages

The amounts below represent the liquidated damage that may be assessed for each calendar day the key measure (KM) is late, inaccurate, or incomplete. In instances where an hourly measure is used, the assessment will be for each hour the KM is not met.

ID	Measure	Frequency	Amount
KM-1	Submit hospital-level PPR and PPC reports as described in 07-P6-04 on the timeline approved by HHSC.	Twice Yearly	\$500/day if the submission is late, inaccurate, or incomplete.
KM-2	Provide annual PPE data and reports described in 07-P6-04 by the due date approved by HHSC.	Annual	\$500/day if the submission is late,

			inaccurate, or incomplete.
KM-3	Submit final Quality of Care data described in 07-P6-07 within 62 calendar days of the receipt of complete and accurate data from all MCOs and Dental Contractors.	Annual	\$1,000/day if the submission is late, inaccurate, or incomplete.
KM-4	Provide annual MCO report card consumer product and instruction sheets described in 09-QR-03 by the due date approved by HHSC.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.
KM-5	Submit annual EQRO summary of activities report as described in 10-TR-01 on the timeline approved by HHSC.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.
KM-6	Perform and report on the appointment availability study described in 11-NA-03 by the due date approved by HHSC.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.
KM-7	Maintain 99% uptime, not including scheduled maintenance agreed to in advance by HHSC, for the THLC portal described in 2.1.4.2.	Monthly	\$50/hour if uptime is not maintained at the required 99%.
KM-8	Provide monthly data updates to the THLC portal described in 13-LC-05	Monthly	\$100/day if the data is late, inaccurate, or incomplete.
KM-9	Maintain 99% uptime, not including scheduled maintenance agreed to in advance by HHSC, for the ADTP described in 2.1.4.4.	Monthly	\$50/hour if the system is down in excess of 1% per month.
KM-10	Follow the HHSC-approved plans described in 15-ADTP-03.	Daily	\$1,000/day if the submission is late, inaccurate, or incomplete.
KM-11	Confirm HHSC fiscal year specifications, due dates for risk ratios and encounter data sets as described in 17-AA-01 no later than October 31	Annual	\$100/day if the confirmation is late, inaccurate, or incomplete.
KM-12	Provide the risk ratio tables, weights, technical specifications, and cost estimates as described in 17-AA-02 no later than March 15 each year.	Annual	\$1000/day if the submission is late, inaccurate, or incomplete.
KM-13	Review CDPS specifications and provide for changes as described in 17-AA-03, in the timeframe specified therein.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.

KM-14	Provide fiscal year certified encounter data sets as described in 17-AA-07 by March 1 each year.	Annual	\$1000/day if the submission is late, inaccurate, or incomplete.
KM-15	Provide the hospital level report described in 18-TW-01 no later than March 31 each year.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.
KM-16	Provide the RHP level report described in 18-TW-02 no later than March 31 each year.	Annual	\$500/day if the submission is late, inaccurate, or incomplete.

2.2 FINANCIAL REQUIREMENTS

Payment is strictly conditioned on HHSC approval and acceptance of the Contractor services and deliverables. All expenses (including travel and travel-related expenses) incurred by the Contractor will be the sole responsibility of, and paid by, the Contractor. Such expenses will not be reimbursed by HHSC. Invoices must be submitted to the HHSC Medicaid and CHIP department contract management with a list of specific deliverables completed and approved by HHSC, per the Pricing Proposal (*see* Section 6.1 and **Attachment B, Budget**). Payments will be made according to the per-deliverable prices submitted in **Attachment B, Budget**. There is no reimbursement of incurred costs. HHSC will work with Contractor to develop milestones and corresponding progress payments for certain deliverables, as specified by HHSC; not all deliverables must be completed in full prior to any payment. HHSC Medicaid and CHIP department contract management must approve invoice formats for all services and deliverables.

2.3 FRAUD, WASTE, AND ABUSE

The Contractor is subject to all state and federal laws and regulations relating to fraud, waste, and abuse in health care and the Medicaid and CHIP programs. The Contractor must cooperate and assist the HHSC Office of Inspector General (HHSC OIG) and any state or federal agency charged with the duty of identifying, investigating, sanctioning, or prosecuting suspected fraud, waste, or abuse.

The Contractor and its subcontractors must allow access to all premises and provide originals or copies of all records and information requested free of charge to HHSC, the Centers for Medicare and Medicaid Services (CMS), the United States Department of Health and Human Services (DHHS), Federal Bureau of Investigation, the Office of the Texas Attorney General, the Texas Department of Insurance (TDI), or other units of state government.

1. The Contractor must designate one primary and one secondary contact person for all records requests from HHSC. HHSC will send records requests to the designated contact person(s) in writing by e-mail, fax, or mail, and will provide the specifics of the information being requested.

2. The Contractor must respond within the timeframe designated in the request. If the Contractor is unable to provide all of the requested information within the designated timeframe, the Contractor may request an extension in writing (e-mail) to the requestor no less than two business days prior to the due date.
3. The Contractor's response must include data for all data fields, as available. The data must be provided in the order and format requested. If any data field is left blank, an explanation must accompany the response. The Contractor must not add or delete any additional data fields in its response. All requested information must be accompanied by a notarized business records affidavit unless indicated otherwise in the record request.

2.4 DATA USE AGREEMENT

By entering into a Contract, or purchase order with the System Agency Contractor agrees to be bound by the terms of the Data Use Agreement attached as **Attachment G, Data Use Agreement** and **Attachment 2 to Attachment G, Security and Privacy Inquiry**.



TEXAS

Health and Human Services

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

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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.

“[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.

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

ARTICLE II. CONSIDERATION

2.1 PROMPT PAYMENT

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

2.2 EXPENSES

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

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

2.3 WORK ORDERS

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

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT TO STATE

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

3.4 RECAPTURE OF FUNDS

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

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

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

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

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

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

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

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY

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

limited to the terms of the Contract. Contractor may not reply 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

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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CONTRACT AFFIRMATIONS

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

1. Contractor represents and warrants that these Contract 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 and any related Solicitation.
2. Contractor represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.
3. Contractor understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, if any, are rejected unless expressly accepted by HHSC in writing.
5. Contractor agrees that HHSC has the right to use, produce, and distribute copies of and to disclose to HHSC employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.
6. Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of HHSC.
7. 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 or any related Solicitation, or related Solicitation Response.
8. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this

Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

9. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
10. Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.
11. Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.
12. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
14. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.
15. 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.
16. Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.
17. Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

18. Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
19. Contractor agrees that upon request of HHSC, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
20. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to HHSC that the technology provided to HHSC for purchase (if applicable under this Contract or any related Solicitation) is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
 - providing equivalent access for effective use by both visual and non-visual means;
 - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
 - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

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

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

21. If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
22. If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
23. Contractor represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those will provide services under the Contract, was an employee of an HHS Agency. 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.

24. Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.
25. If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Contractor certifies that it does not employ an individual who was employed by System Agency or another agency at any time during the two years preceding the submission of any related Solicitation Response related to this Contract or, in the alternative, Contractor has disclosed in any related Solicitation Response the following: (i) the nature of the previous employment with System Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation at the time of the employment was terminated.
26. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
27. Contractor understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.
28. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and (c) neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

29. 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 in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response 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 HHSC'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 HHSC 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 HHSC's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.
30. Contractor represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Contractor does not boycott Israel and will not boycott Israel during the term of this Contract.
31. Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:
 - (a) all persons employed by Contractor to perform duties within Texas; and
 - (b) all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.
32. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.
33. 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.
34. 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.
35. Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract

or any related Solicitation is a material breach of contract and may void this Contract. Further, 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.

- 36. Contractor represents and warrants that the individual signing this Contract is authorized to sign on behalf of Contractor and to bind the Contractor.

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

Legal Name of Contractor: university of Florida

DocuSigned by:
Lisa Stroud August 27, 2019
2D71F3763C75450...
Signature of Authorized Representative **Date Signed**

Lisa C Stroud, Associate Director 3523929267
Printed Name and Title of Authorized Representative **Phone Number**

59-6002052
Federal Employer Identification Number **Fax Number**

1sell@ufl.edu
DUNS Number **Email Address**

207 Grinter Hall, 1523 Union Road Gainesville, FL 32611
Physical Street Address **City, State, Zip Code**

Gainesville, FL 32611
Mailing Address, if different **City, State, Zip Code**



TEXAS

Health and Human Services

Health and Human Services Commission

Special Conditions

Version: 1.2

9.1.17

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HHSC SPECIAL CONDITIONS

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

ARTICLE I. SPECIAL DEFINITIONS

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

"Contractor Agents" means Contractor's representatives, employees, officers, Subcontractors, as well as their employees, contractors, officers, and agents.

"Custom Software" means Software developed as a Deliverable or in connection with the Contract.

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

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

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

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

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

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

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

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

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

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

"UTC" means HHSC's Uniform Terms and Conditions- Vendor --Version 2.15

ARTICLE II. GENERAL PROVISIONS

2.01 MOST FAVORED CUSTOMER

Contractor agrees that if during the term of the Contract, Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, Contractor will notify

HHSC within (10) business days from the date Contractor executes any such agreement. Contractor agrees, at HHSC's option, to amend the Contract to accord equivalent advantage to HHSC.

2.02 COOPERATION WITH HHSC VENDORS

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

2.03 RENEGOTIATION AND REPROCUREMENT RIGHTS

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

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

ARTICLE III. CONTRACTORS PERSONNEL AND SUBCONTRACTORS

3.01 QUALIFICATIONS

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

3.02 CONDUCT AND REMOVAL

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

If HHSC determines in good faith that a particular Contractor Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may provide Contractor with notice and documentation regarding its concerns. Upon receipt of such notice, Contractor must promptly investigate the matter and, at HHSC's election, take appropriate action that may include removing the Contractor Agent from performing any Work under the Contract and replacing the Contractor Agent with a similarly qualified individual acceptable to HHSC as soon as reasonably practicable or as otherwise agreed to by HHSC.

ARTICLE IV. PERFORMANCE

4.01 MEASUREMENT

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

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

ARTICLE V. AMENDMENTS AND MODIFICATIONS

5.01 FORMAL PROCEDURE

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

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

5.02 MINOR ADMINISTRATIVE CHANGES

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

ARTICLE VI. PAYMENT

6.01 ENHANCED PAYMENT PROCEDURES

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

ARTICLE VII. CONFIDENTIALITY

7.01 CONSULTANT DISCLOSURE

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

7.02 CONFIDENTIAL SYSTEM INFORMATION

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

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

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

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

ARTICLE VIII. DISPUTES AND REMEDIES

8.01 AGREEMENT OF THE PARTIES

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

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

8.02 OPERATIONAL REMEDIES

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

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

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

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

8.03 EQUITABLE REMEDIES

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

8.04 CONTINUING DUTY TO PERFORM

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

ARTICLE IX. DAMAGES

9.01 AVAILABILITY AND ASSESSMENT

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

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

9.02 SPECIFIC ITEMS OF LIABILITY

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

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

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Contractor WILL BE SOLELY RESPONSIBLE FOR ALL COSTS INCURRED THAT ARE ASSOCIATED WITH INDEMNIFYING THE STATE OF TEXAS OR HHSC WITH RESPECT TO INTELLECTUAL, REAL AND

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

ARTICLE X. TURNOVER

10.01 TURNOVER PLAN

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

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

10.02 TURNOVER ASSISTANCE

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

ARTICLE XI. ADDITIONAL LICENSE AND OWNERSHIP PROVISIONS

11.01 HHSC ADDITIONAL RIGHTS

HHSC will have ownership and unlimited rights to use, disclose, duplicate, or publish all information and data developed, derived, documented, or furnished by Contractor under or resulting from the Contract. Such data will include all results, technical information, and materials developed for or obtained by HHSC from Contractor in the performance of the Work. If applicable, Contractor will reproduce and include HHSC's copyright, proprietary notice, or any product identifications provided by Contractor.

11.02 THIRD PARTY SOFTWARE

Contractor grants HHSC a non-exclusive, perpetual, license for HHSC to use Third Party Software and its associated documentation for its internal business purposes. HHSC will be entitled to use Third Party Software on the equipment or any replacement equipment used by HHSC, and with any replacement Third Party Software chosen by HHSC, without additional expense.

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

Contractor will, during the Contract, maintain any and all Third Party Software at their most current version or no more than one version back from the most current version. However, Contractor will not maintain any Third Party Software versions, including one version back, if notified by HHSC that any such version would prevent HHSC from using any functions, in whole or in part, of HHSC systems or would cause deficiencies in HHSC systems.

11.03 SOFTWARE AND OWNERSHIP RIGHTS

In accordance with 45 C.F.R. Part 95.617, all appropriate federal agencies will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for government purposes all Work, materials, Custom Software and modifications thereof, source code, associated documentation designed, developed, or installed with Federal Financial Participation under the Contract, including but not limited to those materials covered by copyright.

ARTICLE XII. MISCELLANEOUS PROVISIONS

12.01 CONFLICTS OF INTEREST

Contractor warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and further that Contractor or Contractor Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Contractor will, and require Contractor Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal

gain. Contractor and Contractor Agents will operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract.

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

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

12.02 FLOW DOWN PROVISIONS

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

12.03 MANUFACTURER'S WARRANTIES

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

Texas Health and Human Services Information Security and Privacy Requirements

Standards and Regulations:

Contractors are required to comply with HHS Information Security and Privacy requirements in order to maintain a business relationship with Texas HHS. Accordingly, contractors are required to adhere to all applicable Standards and Regulations (and their associated security controls) to include state laws, federal laws, Executive Orders, policies, regulations, standards, and guidance.

Standards and Regulations that Apply to this Contract:

Based on data types that are accessed, created, disclosed, received, transmitted, maintained, or stored within Information System(s) of this contract the following standards and regulations apply:

Texas HHS Requirements:

The contractor is responsible for using the **HHS MODERATE** (NIST SP 800-53R4 MODERATE equivalent) security baseline found in the IS-Controls and IS-RAMP when implementing the latest versions of the following Texas HHS standards and regulations:

- Information Security Controls (IS-Controls)
- Information Security Risk Assessment Monitoring Process (IS-RAMP)
- Security and Privacy Inquiry (SPI)

State and Federal Requirements:

The contractor is responsible for using the **MODERATE** security baseline found in NIST SP 800-53R4 and applicable state and federal standards when implementing the latest versions of the following state and federal standards and regulations:

- Texas Department of Information Resources (DIR) Security Control Standards Catalog
- Center for Medicaid & Medicare Services Minimum Acceptable Risk Security and Privacy Controls for Exchanges (CMS-MARS-E)
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- NIST SP 800-66, An Introductory Resource Guide for Implementing the HIPAA Security Rule
- US Department of Health and Human Services HIPAA Security Rule Crosswalk to NIST Cybersecurity Framework

Contract Monitoring:

Contractors are required to fulfill HHS monitoring requirements for continuing compliance, including:

- Complete and submit a Risk Assessment to Texas HHS annually using the Texas HHS template
- Submit, upon request, a System Security Plan (SSP) using the Texas HHS template within 90 days of notification

See the IS-RAMP for a more detailed explanation of monitoring requirements.

Required Information Security & Privacy Controls that Apply to this Contract:

Table 1 below is a list of required security controls mandated by the applicable state and federal regulations listed above. The contractor is required to implement the following list of Information Security and Privacy controls unless there exists a documented agreement that establishes Texas Health and Human Services as the provider for a specified control(s). Additionally, the contractor is required to implement any additional controls added or modified in subsequent updates to applicable standards and regulations.

If more than one applicable Standard and/or Regulation requires the same Information Security and Privacy control, then the contractor must implement the most restrictive requirements for the specified control.

Table 1: Information Security & Privacy Controls Minimum Baseline that apply to this Contract

Control ID	Control Name
AC-01	ACCESS CONTROL POLICY AND PROCEDURES
AC-02	ACCOUNT MANAGEMENT
AC-02(01)	AUTOMATED SYSTEM ACCOUNT MANAGEMENT
AC-02(02)	REMOVAL OF TEMPORARY / EMERGENCY ACCOUNTS
AC-02(03)	DISABLE INACTIVE ACCOUNTS
AC-02(04)	AUTOMATED AUDIT ACTIONS
AC-02(07)	ROLE-BASED SCHEMES
AC-03	ACCESS ENFORCEMENT
AC-03(09)	CONTROLLED RELEASE
AC-04	INFORMATION FLOW ENFORCEMENT
AC-05	SEPARATION OF DUTIES
AC-06	LEAST PRIVILEGE
AC-06(01)	AUTHORIZE ACCESS TO SECURITY FUNCTIONS
AC-06(02)	NON-PRIVILEGED ACCESS FOR NONSECURITY FUNCTIONS
AC-06(05)	PRIVILEGED ACCOUNTS
AC-06(09)	AUDITING USE OF PRIVILEGED FUNCTIONS
AC-06(10)	PROHIBIT NON-PRIVILEGED USERS FROM EXECUTING PRIVILEGED FUNCTIONS

AC-07	UNSUCCESSFUL LOGON ATTEMPTS
AC-08	SYSTEM USE NOTIFICATION
AC-10	CONCURRENT SESSION CONTROL
AC-11	SESSION LOCK
AC-11(01)	PATTERN-HIDING DISPLAYS
AC-12	SESSION TERMINATION
AC-14	PERMITTED ACTIONS WITHOUT IDENTIFICATION OR AUTHENTICATION
AC-16	SECURITY ATTRIBUTES
AC-17	REMOTE ACCESS
AC-17(01)	AUTOMATED MONITORING / CONTROL
AC-17(02)	PROTECTION OF CONFIDENTIALITY / INTEGRITY USING ENCRYPTION
AC-17(03)	MANAGED ACCESS CONTROL POINTS
AC-17(04)	PRIVILEGED COMMANDS / ACCESS
AC-18	WIRELESS ACCESS
AC-18(01)	AUTHENTICATION AND ENCRYPTION
AC-19	ACCESS CONTROL FOR MOBILE DEVICES
AC-19(05)	FULL DEVICE / CONTAINER-BASED ENCRYPTION
AC-20	USE OF EXTERNAL INFORMATION SYSTEMS
AC-20(01)	LIMITS ON AUTHORIZED USE
AC-20(02)	PORTABLE STORAGE DEVICES
AC-21	INFORMATION SHARING
AC-22	PUBLICLY ACCESSIBLE CONTENT
AT-01	SECURITY AWARENESS AND TRAINING POLICY AND PROCEDURES
AT-02	SECURITY AWARENESS TRAINING
AT-02(02)	INSIDER THREAT
AT-03	ROLE-BASED SECURITY TRAINING
AT-04	SECURITY TRAINING RECORDS
AU-01	AUDIT AND ACCOUNTABILITY POLICY AND PROCEDURES
AU-02	AUDIT EVENTS
AU-02(03)	REVIEWS AND UPDATES
AU-03	CONTENT OF AUDIT RECORDS
AU-03(01)	ADDITIONAL AUDIT INFORMATION
AU-04	AUDIT STORAGE CAPACITY
AU-05	RESPONSE TO AUDIT PROCESSING FAILURES
AU-05(01)	AUDIT STORAGE CAPACITY
AU-06	AUDIT REVIEW, ANALYSIS, AND REPORTING
AU-06(01)	PROCESS INTEGRATION
AU-06(03)	CORRELATE AUDIT REPOSITORIES
AU-07	AUDIT REDUCTION AND REPORT GENERATION
AU-07(01)	AUTOMATIC PROCESSING
AU-08	TIME STAMPS
AU-08(01)	SYNCHRONIZATION WITH AUTHORITATIVE TIME SOURCE
AU-09	PROTECTION OF AUDIT INFORMATION
AU-09(04)	ACCESS BY SUBSET OF PRIVILEGED USERS
AU-10	NON-REPUDIATION
AU-11	AUDIT RECORD RETENTION
AU-12	AUDIT GENERATION
AU-12(01)	SYSTEM-WIDE / TIME-CORRELATED AUDIT TRAIL
AU-13	MONITORING FOR INFORMATION DISCLOSURE
AU-16	CROSS-ORGANIZATIONAL AUDITING

CA-01	SECURITY ASSESSMENT AND AUTHORIZATION POLICY AND PROCEDURES
CA-02	SECURITY ASSESSMENTS
CA-02(01)	INDEPENDENT ASSESSORS
CA-03	SYSTEM INTERCONNECTIONS
CA-03(05)	RESTRICTIONS ON EXTERNAL SYSTEM CONNECTIONS
CA-05	PLAN OF ACTION AND MILESTONES
CA-05(01)	AUTOMATION SUPPORT FOR ACCURACY / CURRENCY
CA-06	SECURITY AUTHORIZATION
CA-07	CONTINUOUS MONITORING
CA-07(01)	INDEPENDENT ASSESSMENT
CA-08	PENETRATION TESTING
CA-09	INTERNAL SYSTEM CONNECTIONS
CM-01	CONFIGURATION MANAGEMENT POLICY AND PROCEDURES
CM-02	BASELINE CONFIGURATION
CM-02(01)	REVIEWS AND UPDATES
CM-02(03)	RETENTION OF PREVIOUS CONFIGURATIONS
CM-03	CONFIGURATION CHANGE CONTROL
CM-03(02)	TEST / VALIDATE / DOCUMENT CHANGES
CM-04	SECURITY IMPACT ANALYSIS
CM-04(01)	SEPARATE TEST ENVIRONMENTS
CM-05	ACCESS RESTRICTIONS FOR CHANGE
CM-05(01)	AUTOMATED ACCESS ENFORCEMENT / AUDITING
CM-05(05)	LIMIT PRODUCTION / OPERATIONAL PRIVILEGES
CM-06	CONFIGURATION SETTINGS
CM-06(01)	AUTOMATED CENTRAL MANAGEMENT / APPLICATION / VERIFICATION
CM-07	LEAST FUNCTIONALITY
CM-07(01)	PERIODIC REVIEW
CM-07(02)	PREVENT PROGRAM EXECUTION
CM-07(04)	UNAUTHORIZED SOFTWARE / BLACKLISTING
CM-08	INFORMATION SYSTEM COMPONENT INVENTORY
CM-08(01)	UPDATES DURING INSTALLATIONS / REMOVALS
CM-08(03)	AUTOMATED UNAUTHORIZED COMPONENT DETECTION
CM-08(05)	NO DUPLICATE ACCOUNTING OF COMPONENTS
CM-09	CONFIGURATION MANAGEMENT PLAN
CM-10	SOFTWARE USAGE RESTRICTIONS
CM-10(01)	OPEN SOURCE SOFTWARE
CM-11	USER-INSTALLED SOFTWARE
CP-01	CONTINGENCY PLANNING POLICY AND PROCEDURES
CP-02	CONTINGENCY PLAN
CP-02(01)	COORDINATE WITH RELATED PLANS
CP-02(02)	CAPACITY PLANNING
CP-02(03)	RESUME ESSENTIAL MISSIONS / BUSINESS FUNCTIONS
CP-02(05)	CONTINUE ESSENTIAL MISSIONS / BUSINESS FUNCTIONS
CP-02(08)	IDENTIFY CRITICAL ASSETS
CP-03	CONTINGENCY TRAINING
CP-04	CONTINGENCY PLAN TESTING
CP-04(01)	COORDINATE WITH RELATED PLANS
CP-06	ALTERNATE STORAGE SITE
CP-06(01)	SEPARATION FROM PRIMARY SITE
CP-06(03)	ACCESSIBILITY

CP-07	ALTERNATE PROCESSING SITE
CP-07(01)	SEPARATION FROM PRIMARY SITE
CP-07(02)	ACCESSIBILITY
CP-07(03)	PRIORITY OF SERVICE
CP-08	TELECOMMUNICATIONS SERVICES
CP-08(01)	PRIORITY OF SERVICE PROVISIONS
CP-08(02)	SINGLE POINTS OF FAILURE
CP-09	INFORMATION SYSTEM BACKUP
CP-09(01)	TESTING FOR RELIABILITY / INTEGRITY
CP-10	INFORMATION SYSTEM RECOVERY AND RECONSTITUTION
CP-10(02)	TRANSACTION RECOVERY
CP-11	ALTERNATE COMMUNICATIONS PROTOCOLS
IA-01	IDENTIFICATION AND AUTHENTICATION POLICY AND PROCEDURES
IA-02	IDENTIFICATION AND AUTHENTICATION (ORGANIZATIONAL USERS)
IA-02(01)	NETWORK ACCESS TO PRIVILEGED ACCOUNTS
IA-02(02)	NETWORK ACCESS TO NON-PRIVILEGED ACCOUNTS
IA-02(03)	LOCAL ACCESS TO PRIVILEGED ACCOUNTS
IA-02(08)	NETWORK ACCESS TO PRIVILEGED ACCOUNTS - REPLAY RESISTANT
IA-02(11)	REMOTE ACCESS - SEPARATE DEVICE
IA-03	DEVICE IDENTIFICATION AND AUTHENTICATION
IA-04	IDENTIFIER MANAGEMENT
IA-05	AUTHENTICATOR MANAGEMENT
IA-05(01)	PASSWORD-BASED AUTHENTICATION
IA-05(02)	PKI-BASED AUTHENTICATION
IA-05(03)	IN-PERSON OR TRUSTED THIRD-PARTY REGISTRATION
IA-05(07)	NO EMBEDDED UNENCRYPTED STATIC AUTHENTICATORS
IA-05(11)	HARDWARE TOKEN-BASED AUTHENTICATION
IA-06	AUTHENTICATOR FEEDBACK
IA-07	CRYPTOGRAPHIC MODULE AUTHENTICATION
IA-08	IDENTIFICATION AND AUTHENTICATION (NON-ORGANIZATIONAL USERS)
IR-01	INCIDENT RESPONSE POLICY AND PROCEDURES
IR-02	INCIDENT RESPONSE TRAINING
IR-03	INCIDENT RESPONSE TESTING
IR-03(02)	COORDINATION WITH RELATED PLANS
IR-04	INCIDENT HANDLING
IR-04(01)	AUTOMATED INCIDENT HANDLING PROCESSES
IR-05	INCIDENT MONITORING
IR-06	INCIDENT REPORTING
IR-06(01)	AUTOMATED REPORTING
IR-07	INCIDENT RESPONSE ASSISTANCE
IR-07(01)	AUTOMATION SUPPORT FOR AVAILABILITY OF INFORMATION / SUPPORT
IR-08	INCIDENT RESPONSE PLAN
IR-09	INFORMATION SPILLAGE RESPONSE
MA-01	SYSTEM MAINTENANCE POLICY AND PROCEDURES
MA-02	CONTROLLED MAINTENANCE
MA-03	MAINTENANCE TOOLS
MA-03(01)	INSPECT TOOLS
MA-03(02)	INSPECT MEDIA
MA-03(03)	PREVENT UNAUTHORIZED REMOVAL

MA-04	NONLOCAL MAINTENANCE
MA-04(01)	AUDITING AND REVIEW
MA-04(02)	DOCUMENT NONLOCAL MAINTENANCE
MA-04(03)	COMPARABLE SECURITY / SANITIZATION
MA-05	MAINTENANCE PERSONNEL
MA-06	TIMELY MAINTENANCE
MP-01	MEDIA PROTECTION POLICY AND PROCEDURES
MP-02	MEDIA ACCESS
MP-03	MEDIA MARKING
MP-04	MEDIA STORAGE
MP-05	MEDIA TRANSPORT
MP-05(04)	CRYPTOGRAPHIC PROTECTION
MP-06	MEDIA SANITIZATION
MP-06(01)	REVIEW / APPROVE / TRACK / DOCUMENT / VERIFY
MP-06(02)	EQUIPMENT TESTING
MP-07	MEDIA USE
MP-07(01)	PROHIBIT USE WITHOUT OWNER
MP-CMS-01	MEDIA RELATED RECORDS
PE-01	PHYSICAL AND ENVIRONMENTAL PROTECTION POLICY AND PROCEDURES
PE-02	PHYSICAL ACCESS AUTHORIZATIONS
PE-02(01)	ACCESS BY POSITION / ROLE
PE-03	PHYSICAL ACCESS CONTROL
PE-04	ACCESS CONTROL FOR TRANSMISSION MEDIUM
PE-05	ACCESS CONTROL FOR OUTPUT DEVICES
PE-06	MONITORING PHYSICAL ACCESS
PE-06(01)	INTRUSION ALARMS / SURVEILLANCE EQUIPMENT
PE-08	VISITOR ACCESS RECORDS
PE-09	POWER EQUIPMENT AND CABLING
PE-10	EMERGENCY SHUTOFF
PE-11	EMERGENCY POWER
PE-12	EMERGENCY LIGHTING
PE-13	FIRE PROTECTION
PE-13(01)	DETECTION DEVICES / SYSTEMS
PE-13(02)	SUPPRESSION DEVICES / SYSTEMS
PE-13(03)	AUTOMATIC FIRE SUPPRESSION
PE-14	TEMPERATURE AND HUMIDITY CONTROLS
PE-15	WATER DAMAGE PROTECTION
PE-16	DELIVERY AND REMOVAL
PE-17	ALTERNATE WORK SITE
PE-18	LOCATION OF INFORMATION SYSTEM COMPONENTS
PE-19	INFORMATION LEAKAGE
PE-20	ASSET MONITORING AND TRACKING
PL-01	SECURITY PLANNING POLICY AND PROCEDURES
PL-02	SYSTEM SECURITY PLAN
PL-02(03)	PLAN / COORDINATE WITH OTHER ORGANIZATIONAL ENTITIES
PL-04	RULES OF BEHAVIOR
PL-04(01)	SOCIAL MEDIA AND NETWORKING RESTRICTIONS
PL-08	INFORMATION SECURITY ARCHITECTURE
PS-01	PERSONNEL SECURITY POLICY AND PROCEDURES
PS-02	POSITION RISK DESIGNATION

PS-03	PERSONNEL SCREENING
PS-04	PERSONNEL TERMINATION
PS-05	PERSONNEL TRANSFER
PS-06	ACCESS AGREEMENTS
PS-07	THIRD-PARTY PERSONNEL SECURITY
PS-08	PERSONNEL SANCTIONS
RA-01	RISK ASSESSMENT POLICY AND PROCEDURES
RA-02	SECURITY CATEGORIZATION
RA-03	RISK ASSESSMENT
RA-05	VULNERABILITY SCANNING
RA-05(01)	UPDATE TOOL CAPABILITY
RA-05(02)	UPDATE BY FREQUENCY / PRIOR TO NEW SCAN / WHEN IDENTIFIED
RA-05(03)	BREADTH / DEPTH OF COVERAGE
RA-05(05)	PRIVILEGED ACCESS
SA-01	SYSTEM AND SERVICES ACQUISITION POLICY AND PROCEDURES
SA-02	ALLOCATION OF RESOURCES
SA-03	SYSTEM DEVELOPMENT LIFE CYCLE
SA-04	ACQUISITION PROCESS
SA-04(01)	FUNCTIONAL PROPERTIES OF SECURITY CONTROLS
SA-04(02)	DESIGN / IMPLEMENTATION INFORMATION FOR SECURITY CONTROLS
SA-04(09)	FUNCTIONS / PORTS / PROTOCOLS / SERVICES IN USE
SA-05	INFORMATION SYSTEM DOCUMENTATION
SA-08	SECURITY ENGINEERING PRINCIPLES
SA-09	EXTERNAL INFORMATION SYSTEM SERVICES
SA-09(01)	RISK ASSESSMENTS / ORGANIZATIONAL APPROVALS
SA-09(02)	IDENTIFICATION OF FUNCTIONS / PORTS / PROTOCOLS / SERVICES
SA-09(05)	PROCESSING, STORAGE, AND SERVICE LOCATION
SA-10	DEVELOPER CONFIGURATION MANAGEMENT
SA-11	DEVELOPER SECURITY TESTING AND EVALUATION
SA-11(01)	STATIC CODE ANALYSIS
SA-11(02)	THREAT AND VULNERABILITY ANALYSES
SA-11(05)	PENETRATION TESTING
SA-11(08)	DYNAMIC CODE ANALYSIS
SA-12	SUPPLY CHAIN PROTECTION
SA-14	CRITICALITY ANALYSIS
SA-15	DEVELOPMENT PROCESS, STANDARDS, AND TOOLS
SA-17	DEVELOPER SECURITY ARCHITECTURE AND DESIGN
SA-22	UNSUPPORTED SYSTEM COMPONENTS
SC-01	SYSTEM AND COMMUNICATIONS PROTECTION POLICY AND PROCEDURES
SC-02	APPLICATION PARTITIONING
SC-04	INFORMATION IN SHARED RESOURCES
SC-05	DENIAL OF SERVICE PROTECTION
SC-06	RESOURCE AVAILABILITY
SC-07	BOUNDARY PROTECTION
SC-07(03)	ACCESS POINTS
SC-07(04)	EXTERNAL TELECOMMUNICATIONS SERVICES
SC-07(05)	DENY BY DEFAULT / ALLOW BY EXCEPTION
SC-07(07)	PREVENT SPLIT TUNNELING FOR REMOTE DEVICES
SC-07(08)	ROUTE TRAFFIC TO AUTHENTICATED PROXY SERVERS
SC-07(12)	HOST-BASED PROTECTION

SC-07(13)	ISOLATION OF SECURITY TOOLS / MECHANISMS / SUPPORT COMPONENTS
SC-07(18)	FAIL SECURE
SC-08	TRANSMISSION CONFIDENTIALITY AND INTEGRITY
SC-08(01)	CRYPTOGRAPHIC OR ALTERNATE PHYSICAL PROTECTION
SC-08(02)	PRE / POST TRANSMISSION HANDLING
SC-10	NETWORK DISCONNECT
SC-12	CRYPTOGRAPHIC KEY ESTABLISHMENT AND MANAGEMENT
SC-12(02)	SYMMETRIC KEYS
SC-13	CRYPTOGRAPHIC PROTECTION
SC-15	COLLABORATIVE COMPUTING DEVICES
SC-17	PUBLIC KEY INFRASTRUCTURE CERTIFICATES
SC-18	MOBILE CODE
SC-19	VOICE OVER INTERNET PROTOCOL
SC-20	SECURE NAME / ADDRESS RESOLUTION SERVICE (AUTHORITATIVE SOURCE)
SC-21	SECURE NAME / ADDRESS RESOLUTION SERVICE (RECURSIVE OR CACHING RESOLVER)
SC-22	ARCHITECTURE AND PROVISIONING FOR NAME / ADDRESS RESOLUTION SERVICE
SC-23	SESSION AUTHENTICITY
SC-28	PROTECTION OF INFORMATION AT REST
SC-28(01)	CRYPTOGRAPHIC PROTECTION
SC-31	COVERT CHANNEL ANALYSIS
SC-32	INFORMATION SYSTEM PARTITIONING
SC-39	PROCESS ISOLATION
SC-44	DETONATION CHAMBERS
SC-ACA-01	ELECTRONIC MAIL
SC-ACA-02	FAX USAGE
SI-01	SYSTEM AND INFORMATION INTEGRITY POLICY AND PROCEDURES
SI-02	FLAW REMEDIATION
SI-02(01)	CENTRAL MANAGEMENT
SI-02(02)	AUTOMATED FLAW REMEDIATION STATUS
SI-03	MALICIOUS CODE PROTECTION
SI-03(01)	CENTRAL MANAGEMENT
SI-03(02)	AUTOMATIC UPDATES
SI-04	INFORMATION SYSTEM MONITORING
SI-04(01)	SYSTEM-WIDE INTRUSION DETECTION SYSTEM
SI-04(02)	AUTOMATED TOOLS FOR REAL-TIME ANALYSIS
SI-04(04)	INBOUND AND OUTBOUND COMMUNICATIONS TRAFFIC
SI-04(05)	SYSTEM-GENERATED ALERTS
SI-04(14)	WIRELESS INTRUSION DETECTION
SI-05	SECURITY ALERTS, ADVISORIES, AND DIRECTIVES
SI-06	SECURITY FUNCTION VERIFICATION
SI-07	SOFTWARE, FIRMWARE, AND INFORMATION INTEGRITY
SI-07(01)	INTEGRITY CHECKS
SI-07(07)	INTEGRATION OF DETECTION AND RESPONSE
SI-08	SPAM PROTECTION
SI-08(01)	CENTRAL MANAGEMENT
SI-08(02)	AUTOMATIC UPDATES
SI-10	INFORMATION INPUT VALIDATION

SI-11	ERROR HANDLING
SI-12	INFORMATION HANDLING AND RETENTION
SI-16	MEMORY PROTECTION
PM-01	INFORMATION SECURITY PROGRAM PLAN
PM-02	SENIOR INFORMATION SECURITY OFFICER
PM-03	INFORMATION SECURITY RESOURCES
PM-04	PLAN OF ACTION AND MILESTONES PROCESS
PM-05	INFORMATION SYSTEM INVENTORY
PM-06	INFORMATION SECURITY MEASURES OF PERFORMANCE
PM-07	ENTERPRISE ARCHITECTURE
PM-08	CRITICAL INFRASTRUCTURE PLAN
PM-09	RISK MANAGEMENT STRATEGY
PM-10	SECURITY AUTHORIZATION PROCESS
PM-11	MISSION/BUSINESS PROCESS DEFINITION
PM-12	INSIDER THREAT PROGRAM
PM-13	INFORMATION SECURITY WORKFORCE
PM-14	TESTING, TRAINING, AND MONITORING
PM-15	CONTACTS WITH SECURITY GROUPS AND ASSOCIATIONS
PM-16	THREAT AWARENESS PROGRAM
AP-01	Authority to Collect
AP-02	Purpose Specification
AR-01	Governance and Privacy Program
AR-02	Privacy Impact and Risk Assessment
AR-03	Privacy Requirements for Contractors and Service Providers
AR-04	Privacy Monitoring and Auditing
AR-05	Privacy Awareness and Training
AR-06	Privacy Reporting
AR-07	Privacy-Enhanced System Design and Development
AR-08	Accounting of Disclosures
DI-01	Data Quality
DI-01(01)	Validate PII
DI-02	Data Integrity and Data Integrity Board
DI-02(01)	PUBLISH AGREEMENTS ON WEBSITES
DM-01	Minimization of Personally Identifiable Information
DM-01(01)	MINIMIZATION OF PERSONALLY IDENTIFIABLE INFORMATION
DM-02	Data Retention and Disposal
DM-02(01)	System Configuration
DM-03	Minimization of PII Used in Testing, Training, and Research
DM-03(01)	Risk Minimization Techniques
IP-01	Consent
IP-01(01)	Mechanisms Supporting Itemized or Tiered Consent
IP-02	Individual Access
IP-03	Redress
IP-04	Complaint Management
IP-04(01)	Response Times
SE-01	Inventory of Personally Identifiable Information
SE-02	Privacy Incident Response
TR-01	Privacy Notice
TR-01(01)	Real-Time or Layered Notice
TR-02	System of Records Notices and Privacy Act Statements
TR-02(01)	Public Website Publication

TR-03	Dissemination of Privacy Program Information
UL-01	Internal Use
UL-02	Information Sharing with Third Parties

ATTACHMENT I – EXCEPTIONS

The Parties agree that the following exceptions shall replace the described portion of each section of the documents listed below:

1) RFP Attachment A – Affirmations and Solicitations

No. 28 is replaced in its entirety with the following:

“Should Respondent be awarded a contract resulting from this solicitation, Respondent represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of the contract, none of its employees who will provide services under the contract, were employees of an HHS Agency.”

2) Contract Attachment C - Uniform Terms and Conditions Section 3.1 Funding

Section 3.1 – The last sentence of the paragraph is replaced with the following:

“In the event of cancellation or termination under this Section, the System Agency shall make best efforts to provide reasonable written advanced notice to CONTRACTOR upon learning that funding for this Agreement may be discontinued.”

3) Contract Attachment C – Uniform Terms and Conditions Section 6.5 Confidentiality

Section 6.5 – The following language is added to the end of the paragraph:

“Both parties acknowledge that upon legitimate request for public information, Contractor is required by section 1004.22 of the Florida Statutes to make available the title and description of an externally funded project, the name of the Contractor project director, the name of the entity sponsoring the work, and the amount of funding, and will notify System Agency of all requests.”

4) Contract Attachment C – Uniform Terms and Conditions Section 8.7 Indemnity

Section 8.7 – The following language is added to the Signature Document to the Contract for all indemnification provisions in the Contract:

“Regarding the indemnification and hold harmless clauses included throughout the Contract, the following statement modifies any statement or reference, whether or not specifically referenced below, that indicates University of Florida (Contractor) can or will indemnify or hold harmless the State of Texas or any other third party: "Any such obligation to indemnify, defend, or hold harmless is limited to maximum extent permissible under the laws of the State of Florida and that any such statement or reference shall not be construed or interpreted as: (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the CONTRACTOR, the State of Florida, and their agents and agencies to be sued; or (3) a waiver of the sovereign immunity of the CONTRACTOR, the State of Florida, and their agents and agencies beyond the waiver provided by law.”

5) Contract Attachment C – Uniform Terms and Conditions Section 8.19 Publicity

Section 8.19 – The second paragraph of this section is replaced in its entirety with the following language:

“Contractor may publish, at its sole expense, results of Contractor performance under the Contract.”

6) Contract Attachment C – Uniform Terms and Conditions Section 8.21 Waiver of Sovereign Immunity

Section 8.21 is replaced in its entirety with the following language:

“To the extent permissible under law, nothing in the Contract will be construed as a waiver of sovereign immunity by the System Agency or by the Contractor.”

7) Contract Attachment E – Special Conditions Section 2.03 Renegotiation and Reprocurement Rights.

Section 2.03 – The second paragraph of this section is replaced in its entirety with the following language:

“HHSC may at any time issue solicitation instruments to other potential contractors for performance of any portion of the Work covered by the Contract, including services similar or comparable to the Work, performed by Contractor under the Contract. If HHSC elects to procure the Work, or any portion thereof, from another vendor in accordance with this section, HHSC agrees to provide 90 days written notice to the Contractor prior to issuing a solicitation to other potential contractors for performance of any portion of the Work covered by the Contract and will have the termination rights set forth in the UTC.”

8) Contract Attachment E – Special Conditions Section 7.02 Confidential System Information

The last paragraph in bold caps of Section 7.02 falls with the global indemnification language purview and as such the language included in Section VII of the Signature document is applicable to this paragraph.

9) Contract Attachment E – Special Conditions Section 9.02 Specific Items of Liability

The second paragraph and the last paragraph in bold caps of Section 9.02 fall with the global indemnification language purview and as such the language included in Section VII of the Signature document is applicable to these two paragraphs.

10) Contract Attachment E – Special Conditions Section 10.02 Turnover Assistance

Section 10.02 is replaced in its entirety with the following language:

“Contractor agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Contract and remains in effect for the term of the approved turnover plan.”

11) Contract Attachment G – Data Use Agreement – Section 5.06 Indemnification

Section 5.06 is replaced in its entirety with the following language:

“To the extent permitted by applicable laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR will defend and hold harmless HHS and its Workforce against all actual and direct losses suffered by HHS and its Workforce arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by CONTRACTOR or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce, including, but not limited to, the costs of required notices and mitigation of a breach and any fines or penalties imposed on HHS by any regulatory authority.”

12) Contract Attachment G – Data Use Agreement – Section 5.07 Insurance

Section 5.07 is replaced in its entirety with the following language:

“(A) As a governmental entity, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. HHS reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.”

ASSURANCES - NON-CONSTRUCTION PROGRAMS

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

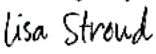
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

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

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

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

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

<p>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>DocuSigned by:  2D71F3763C75450...</p>	<p>TITLE</p> <p>Associate Director</p>
<p>APPLICANT ORGANIZATION</p> <p>University of Florida</p>	<p>DATE SUBMITTED</p> <p>August 27, 2019</p>

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**

University of Florida

*** PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE**Prefix: * First Name: Lisa Middle Name: * Last Name: Stroud Suffix:

* Title: Associate Director

*** SIGNATURE:**A digital signature of Lisa Stroud, showing the name "Lisa Stroud" in a stylized font with a blue ink effect. Below the name is a small, illegible timestamp or ID number.

* DATE: August 27, 2019