

**SIGNATURE DOCUMENT FOR  
HEALTH AND HUMAN SERVICES COMMISSION  
CONTRACT NO. HHS000313600001**

**I. PURPOSE**

The Health and Human Services Commission, for, and on behalf of the Office of Inspector General (“HHSC OIG”), an administrative agency within the executive department of the state of Texas, and Diana M. Horton (“Contractor”), (each a “Party,” and collectively the “Parties”) enter into the following contract for physician services (the “contract”).

**II. LEGAL AUTHORITY**

This Contract is authorized by and in compliance with the provisions of Texas Government Code §531.102(a).

**III. STATEMENT OF SERVICES TO BE PROVIDED**

Contractor shall perform or cause to be performed physician services in accordance with Attachment A, Statement of Work, and Attachment B, Budget.

**IV. DURATION**

This contract is effective on the signature date of the latter of the Parties to sign this contract and terminates five years from the effective date, unless terminated pursuant to the terms and conditions of the contract. The term of this contract is subject to the availability of appropriated funds.

**V. BUDGET**

The total amount of this contract will not exceed **\$150,000.00** (the “Cap”). Any increase to the Cap during the term of this contract and any subsequent extensions must be in writing and signed by an authorized HHSC representative. All expenditures under the contract will be in accordance with **ATTACHMENT B, BUDGET**.

The Parties expressly agree that no provision of the contract is in any way intended to constitute that Contractor will be guaranteed work. Any and all work assigned shall be at the sole discretion of HHSC OIG.

**VI. CONTRACT REPRESENTATIVES**

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

For: HHSC

Health and Human Services Commission  
Office of Inspector General  
Name: Helen Oh  
Title: Contract Manager  
Mailing Address: 11501 Burnet Road, Mail Code 1300  
City, State, Zip: Austin, TX 78758  
Phone Number: 512.491.2847  
Email Address: Helen.Oh@hhsc.state.tx.us

For: **Contractor**

Name: Diana M. Horton, MD  
Title: Licensed Physician  
Mailing Address: [REDACTED]

**VII. LEGAL NOTICES**

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

For: HHSC  
Health and Human Services Commission  
Office of Inspector General  
11501 Burnet Road  
Austin, TX 78758  
Attention: Anita D'Souza, Chief Counsel

For: Contractor:  
Diana M. Horton, MD  
[REDACTED]

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

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR HHSC CONTRACT NO. HHS00031360001**

**HEALTH AND HUMAN SERVICES COMMISSION**

**CONTRACTOR**

By: \_\_\_\_\_  
Name: Brian Klozik  
Title: Deputy Inspector General - MPI  
Date of signature: March 7, 2019

DocuSigned by:  
*Brian Klozik*  
FE4F6B41A53F48D...

By: \_\_\_\_\_  
Name: Diana Horton  
Title: Licensed Physician  
Date of signature: March 6, 2019

DocuSigned by:  
*Diana Horton*  
B11E38C3A929457...

**THE FOLLOWING ATTACHMENTS TO HHSC CONTRACT NO. \*\*\* ARE HEREBY ATTACHED AND THEIR RESPECTIVE TERMS INCORPORATED BY REFERENCE INTO THE CONTRACT:**

- ATTACHMENT A – STATEMENT OF WORK
- ATTACHMENT B – BUDGET AND TRAVEL
- ATTACHMENT C – HHSC TRAVEL POLICY
- ATTACHMENT D – HHSC UNIFORM TERMS AND CONDITIONS, v. 2.15
- ATTACHMENT E – CONTRACT AFFIRMATIONS
- ATTACHMENT F – HHSC SPECIAL CONDITIONS
- ATTACHMENT G – DATA USE AGREEMENT
- ATTACHMENT H – HHSC’S REQUEST FOR QUALIFICATION (“RFQ”) No. HHS0003136.
- ATTACHMENT I – CONTRACTOR'S RFQ RESPONSE
- ATTACHMENT J – CERTIFICATION REGARDING LOBBYING
- ATTACHMENT K – ASSURANCES-NON-CONSTRUCTION PROGRAMS

**ATTACHMENTS FOLLOW**

**ATTACHMENT A – STATEMENT OF WORK****1. Background.**

The Medicaid Program Integrity (“MPI”) division of the Health and Human Services Commission’s (“HHSC”) Office of Inspector General (“OIG”) investigates and reviews allegations of fraud, waste and abuse committed by Medicaid providers, who may be subject to a range of administrative enforcement actions, including education, prepayment review of claims, penalties, required repayment of Medicaid overpayment, and/or exclusion from the Medicaid program.

The HHSC OIG Medical Services (“HHSC OIG MS”) unit conducts claims and medical record reviews on a variety of health and human services, including acute care utilization, hospital utilization, nursing facility utilization, research and detection, and pharmacy lock-in. The unit also provides clinical consultation to the General Investigations, Audit, and Inspections divisions on dental, medical, nursing, and pharmacy services.

In accordance with chapter 2254(A) of the Texas Government Code (the “Professional Services Procurement Act”), HHSC, on behalf of the OIG, contracts with providers of certain professional services to perform such services to support HHSC OIG activities.

Contractor is a physician or a legal entity that will provide one or more physicians associated with the entity to perform the professional services required under this contract.

HHSC and Contractor therefore agree as follows:

**2. Contractor’s Services.**

**Overview.** This Statement of Work (“SOW”) sets forth the requirements of Contractor’s services under this contract. For purposes of this contract, if the Contractor is a business entity, the SOW requirements apply to the individual physician(s) with whom HHSC OIG is expressly working. Contractor will be responsible for reviewing medical/dental records in a timely manner in his or her area of expertise. Certain cases and review types may necessitate either modifications of, or additions to, one or more of the requirements. A modification or addition must be agreed-upon in writing in order to be enforceable, and to the extent necessary, be captured in a contract amendment.

2.1 Contractor must provide HHSC OIG with the following services that include, but are not limited to, one or more of the following requirements (collectively, the “Services”):

(A) Case review.

- (B) Documentation of case review findings;
- (C) Written professional opinions;
- (D) On-site clinical reviews;
- (E) Testimony in legal proceedings; and
- (F) Continuity of integration and coordination of all services that may extend into future contract periods, which may require Contractor to fully complete the Services regarding all duties referenced in this Contract Agreement until all aspects of the case are resolved including all legal proceedings.

2.2 Contractor will render opinions as to the reasonableness of the services performed or reflected in the medical record and whether or not the treatment in question meets the applicable standard of care. Contractor will be required to reduce his or her opinions to writing in an expert witness report. If needed and upon reasonable notice, Contractor must be available to testify in person or by deposition in all legal proceedings related to the services performed by the Contractor. Contractor must be reasonably available to counsel, and other employees of the OIG to discuss work assignments, findings, opinions and all other matters ancillary to the record review and/or testifying.

### **3. Contract Deliverables - Evaluation, Review Tool, and Expert Report**

3.1 Evaluation. Contractor must:

- (A) Develop a reasonable timeline that will identify the duration for completing the case reviews no later than three business days from the date the case review is assigned.
- (B) Submit the written timeline for completing case reviews to the OIG point of contact who assigned the review.
- (C) Review assigned case(s) according to the scope and methodology defined by HHSC OIG when the work is assigned.
- (D) Identify billing exceptions, quality of care concerns, and any other findings, as applicable.
- (E) Ten business days after the date the timeline is submitted, provide to the OIG point of contact who assigned the review a written status update that demonstrates progression of work in relation to the original timeline provided. Include any findings/exceptions identified in the case reviews completed at the time of the update.
- (F) Provide a complete and satisfactory summary of review findings within 30 calendar days from the date the case review is assigned to the OIG point of contact who assigned the review.

### 3.2 Review Tool.

Contractor must:

- (A) Address and document findings or exceptions, or both, in accordance with the requirements established by the OIG point of contact for a given assignment.
- (B) Determine policy, rule, or law violations and whether or not documentation reviewed supports services billed.
- (C) Document justification for not testing any given attributes of the case review. Attribute tests may vary according to the nature, scope, and standards of the investigation, review, audit, etc.; however, any failure to test an attribute must be appropriately documented.
- (D) HHSC OIG staff may also omit, revise, or append attribute test failure criteria, as standards and circumstances may dictate.

### 3.3 Satisfactory Expert Report.

Contractor must:

- (A) Ensure the Expert Report incorporates all documents required and satisfies all conditions in the "Expert Review Checklist", as applicable.
- (B) Ensure the Expert Report is provided in the format requested by the OIG point of contact, is comprehensive, and is consistent with findings.
- (C) Provide a signed and dated narrative summary of overall observations regarding the case review findings (including provider's documentation, billing patterns, and practice patterns) to the OIG point of contact who assigned the review.

### 3.4 Providing Testimony, if Needed

Contractor must:

- (A) Appear and testify in judicial proceedings, depositions, informal reviews, and administrative hearings relating to a case review, at the request of HHSC OIG.
- (B) Confer with OIG staff and legal counsel for OIG, HHSC, or the Office of Attorney General (OAG) as needed for case review or testimony preparation.

## 4. MISCELLANEOUS.

### 4.1 Notifications

Contractor must

- (A) Maintain at all times at least one active electronic mail (email) address for the receipt of contract-related communications from HHSC OIG. It is the Contractor's responsibility to monitor this email address for contract-related information.
- (B) Notify the HHSC OIG Contract Manager (IG [IG\\_Contracts@hhsc.state.tx.us](mailto:IG_Contracts@hhsc.state.tx.us)) within five business days of any changes to the information provided in the original Request for Qualifications (RFQ) and Statement of Qualifications (SOQ) response. This includes any changes in the status of the Contractor's professional license or board certification, a complaint that has been filed against your license, or an investigation of your license or board certification being initiated.
- (C) Notify the HHSC OIG Contract Manager (IG [IG\\_Contracts@hhsc.state.tx.us](mailto:IG_Contracts@hhsc.state.tx.us)) within one business day (or as soon as practical) of determining that the Contractor's opinion or the substance of the Contractor's anticipated testimony has changed or will change.
- (D) Notify the HHSC OIG Contract Manager (IG [IG\\_Contracts@hhsc.state.tx.us](mailto:IG_Contracts@hhsc.state.tx.us)) within one business day of receiving a request for information pursuant to the Texas Public Information Act.

**4.2 Contractor Cooperation** Contractor hereby agrees to cooperate with all state agencies that may be involved in any matter under review by HHSC OIG.

## Attachment B - Budget

All payments shall be made to Contractor after deducting any known previous overpayment made by HHSC OIG. HHSC OIG is not obligated to pay for unauthorized services or to pay more than is consistent with federal and state regulations.

**1. Fee.** Compensation for any work under this contract will be limited to \$150 per hour. In extraordinary circumstances, HHSC reserves the right to modify this amount if an alternative negotiated rate is agreed upon for a particular assignment by both parties in advance of work performed or should additional state or federal funding become available during the term of this contract, including any extensions.

**2. Payment.** Payment for services provided by Contractor will be on a fee-for-service basis.

- (A) Contractor shall not be entitled to payment in the absence of a signed contract to provide services.
- (B) Contractor shall recover only once for the medical professional services delivered under the contract. Contractor shall not bill for or retain any additional compensation for such services from HHSC or any other entity.
- (C) Contractor must seek payment or adjustments to payments within 30 days after services have been satisfactorily completed and submitted to the HHSC Inspector General's office.
- (D) Contractor will only be paid for services provided upon OIG's receipt and approval of Contractor's itemized invoice for reimbursement.

**3. No Guarantee of Volume, Usage or Compensation.**

- (A) HHSC makes no guarantee of volume, usage, or total compensation to be paid to Contractor under this contract. All awarded Contracts under this procurement are subject to appropriations and the continuing availability of funds.
- (B) HHSC-OIG will assign work to awarded Contractors based on the following guidelines:
  - (1) Skills and experience of an awarded Contractor for a particular assignment.
  - (2) The ability of an awarded Contractor to provide the requested services within the time frame needed.
  - (3) The quality, flexibility and timeliness of the awarded Contractor's performance of prior assignments under the resultant Contract.
  - (4) Any other factors relevant to a particular assignment for which a Contractor's services are needed.

**4. Travel**

- (A) Contractor hereby agrees and understands that all travel expenses must be approved by HHSC-OIG prior to being incurred.



- (B) Travel rates will be \$30.00 per hour calculated from the time of Contractor's departure from home or office to the time of arrival at the location specified by the OIG;
- (C) Travel expenses, including lodging and meals shall not exceed the Federal Domestic Maximum Per Diem Rates;
- (D) HHSC-OIG will reimburse mileage for personal vehicle use at an amount not to exceed the Texas Comptroller's travel and mileage reimbursement rates effective at the time of travel;
- (E) A rental car may be used if the Contractor is traveling over 150 miles. Rental car expenses shall not exceed the "full size" car pricing;
- (F) Airline fares must be considered at the lowest rates. Contractor may not fly on special or first class flights;
- (G) Other approved travel expenses not listed will be reviewed and considered on a case-by-case basis; and
- (H) All receipts for any and all travel shall be submitted by the Contractor in addition to any requested travel forms.

**5. Billing Process**

- (A) Contractor shall submit itemized invoices for reimbursement to the attention of:  
HHSC – Office of Inspector General  
Attn: Contract Manager  
P.O. Box 85200  
Mail Code 1300  
Austin, Texas 78708-5200
- (B) Contractor's itemized invoices shall include the contract number, Contractor's Texas Identification Number (TIN), and the OIG point of contract who assigned the case review.
- (C) HHSC-OIG will review and validate all invoices. Upon final approval, HHSC OIG will authorize payment and process all invoices.

## Attachment C

# **HHS System Travel Policy**

**9/1/2016**

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## Introduction

### Persons Affected

The policies apply to all staff at the participating HHS agencies that travel, proxies for those that travel, as well as the supervisors of travelers that review and approve travel, and the Travel Office supervisors and staff at each of the participating agencies.

### Underlying Principles

The operation of the agency travel program requires a critical balance between agency responsibility for cost effectiveness and the authorized traveler's need for quality services and support. The traveler shall select the least expensive and most efficient mode of travel while considering meal, lodging, mileage, and transportation costs. State agencies may consider alternate routes taken as a result of employee safety concerns when determining an employee's mileage reimbursement.

The following travel policies explain in detail how to request, document, and reimburse travel so authorized travelers can be assured that:

- Reimbursements will be timely and accurate;
- State-arranged billing and charging is protected for travel required in the future; and
- Travelers and the agencies comply with applicable law and regulation.

The traveler may receive partial reimbursement from other sources (non-state agency sources) for state travel expenses. The traveler may seek reimbursement from the agency for the difference between the partial reimbursement and the actual expenses.

### References

- Chapter 660 of the Texas Government Code;
- State travel laws and regulations contained in the General Appropriations Act, Article IX, Part 5; and
- Policies and procedures developed by the State of Texas Comptroller (Comptroller).

## **Responsibilities**

### **Agency Responsibilities**

HHS agencies shall provide training to travelers regarding travel policy, procedure, and process, and shall keep them informed of all applicable changes. The agencies shall ensure that all travel reimbursements are examined prior to payment to ensure compliance with all applicable regulations and limitations.

State agencies are required by Government Code 660.019 to reimburse employees for reimbursable travel expenses within 45 days from the date the request was submitted if the request for reimbursement is submitted in accordance with:

- State agency policies and procedures, and
- State travel rules.

Government Code 660.019 also requires state agencies to reimburse an employee within 30 days after the resolution of a dispute.

### **Executive Management Responsibilities**

HHS Enterprise and agency executive management shall ensure that employees plan their travel for maximum economy and efficiency, and that expenses are reimbursed only for travel that is official state business.

For the purpose of this policy, executive management includes

- Executive Commissioner;
- Deputy Executive Commissioners;
- Commissioners;
- Associate Commissioners; and
- Other executives who report directly to the HHS Executive Commissioner or Commissioners.

### **Supervisor Responsibilities**

The Traveler's Supervisor shall:

- Ensure authorized travel is economical, efficient, and in compliance with applicable laws, rules, and agency travel guidelines;
- Determine if travel is necessary to achieve an agency goal;



- Help manage the agency in-state and out-of-state travel budgets;
- Ensure required pre-travel information is completed and submitted to the agency Travel Office within established timeframes, including those for airfare, rental car and direct billing;
- Ensure travel reimbursement requests are completed and submitted to the agency Travel Office within established timeframes and reflect the appropriate method of payment for travel expenses (CBA, direct-bill, employee payment); and
- Review and approve travel expenses.

### **Traveler Responsibilities**

The Traveler shall:

- Ensure travel complies with applicable laws and Comptroller rules;
- Avoid seeking reimbursement for travel expenses that are not reimbursable;
- Know and follow agency travel guidelines and procedures;
- Complete the appropriate introductory on-line Computer-based Training (CBT) module prior to accessing the eTravel System.
- Ensure required pre-travel information is completed and submitted to the agency Travel Office within established timeframes, including those for airfare, rental car and direct billing;
- When multiple travel options are available, choose the most economical option;
- Use the state contracted travel vendors, when possible or provide a valid exception (see <http://comptroller.texas.gov/procurement/prog/stmp/exceptions-to-the-use-of-stmp-contracts/>); and
- Complete and submit travel settlement information within established timeframes.

### **Travel Office Responsibilities**

The Travel Office shall:

- Deliver training to travelers, supervisors and other key staff that support agency travel;
- Provide assistance to travelers as requested;

- Reimburse travelers within timeframes established by state statutes and Comptroller guidelines upon receipt of a Travel Claim completed in accordance with state laws and agency policy;
- Review vendor invoices, verify charges are valid and appropriate, and process payment in accordance with the Prompt Payment Act Texas Government Code Section 2251;
- Provide contract management, monitoring, and enforcement for vendor services;
- Reconcile direct-billing vendor invoices for lodging, vehicle rental, and other public transport fare that are billed by the contracted vendor directly to the agency on an itemized invoice; and
- Reconcile central billing invoices for airline, vehicle rental, and hotel charges that are billed to the central bill account with the contracted charge card company.
- Notify travelers of any errors on the Travel Claim.

## Principles

### Comptroller Travel Audits & Exceptions

The Comptroller of Public Accounts (Comptroller) is statutorily required to audit travel vouchers for compliance with TPASS's rules for contract travel services. For exceptions to utilizing contracts negotiated by the State Travel Management Program see Comptroller Travel Audit and Exceptions.

### Cancellations and Changes to Travel Reservations

Charges for changes or cancellation of travel reservations are reimbursed if:

- the travel charge was paid in advance; and
- the travel was cancelled for a
  - Business-related reason, or
  - Natural disaster, or
  - Personal emergency or serious illness.

The traveler shall not be reimbursed for expenses related to a lodging reservation when the traveler fails to cancel the reservation. Late check-out fees are reimbursable only if the late checkout is due to business requirements.

The traveler shall contact, as soon as possible after travel reservations are changed or cancelled, the following:

- Travel Office
- The travel contract vendor (travel agency, airline, hotel, rental car company, etc.)

### Combining State and Personal Business

A traveler may take personal time and return from a state business trip at a later time if the combination is cost neutral or saves the state travel money. The traveler shall list the off-duty and on-duty times on the Travel Claim in the eTravel System and claim reimbursement only for the on-duty times. In addition, the traveler shall detail the savings on the Travel Claim in the Comments field (See the Travel Claim Supporting Documentation section for additional examples.)

Documentation for combined personal and state business shall include:

- Detail on the type and cost of transportation that would have been used if the employee had not been on personal travel.
- Documentation shall clearly show the hours and dates of departure and return on the Travel Claim.
- Lodging and meals shall be documented on the Travel Claim with dates and times the traveler started or returned to state business in the Leave Headquarters section and ended or left state business in the Arrive Headquarters section.
- Record of Transportation and Duties Performed section of the Travel Claim shall indicate:
  - Dates and times that personal business started and ended by stating "Went (off or on) official duty at (date/time);
  - Address left from or returned to;
  - Lesser mileage is claimed for personal mileage; and
  - Scheduled flight departure and arrival time for air travel.

Example: An employee travels from Austin to El Paso on business. The business ends Friday at 11:00 a.m. The employee goes on personal leave at 11:00 a.m. and returns to Austin Sunday, departing at 2:35 p.m. and arriving at 5:25 p.m. The round-trip airfare with a return on Friday costs \$258. The round trip with the return on Sunday costs \$229, which saves \$29.

The traveler states on the Travel Claim, "Went off official duty February 11 at 11:00 a.m. Went on official duty February 13 at 2:35 p.m. Airfare with Friday return would have cost \$258. Airfare with return on Sunday is \$229, which saves \$29."

Traveling to a duty point while traveler is on personal or compensatory leave requires documentation.

Documentation shall include:

- Reason that the agency required the travel to a duty point while the traveler was on personal or compensatory leave.
- Enough detail to ensure the travel expenses do not exceed the lesser of:
  - Actual state-related travel; or
  - The amount of travel that would be incurred for travel from the traveler's designated headquarters to the duty point.

## **Coordination of Travel**

Coordination of travel must occur when two or more travelers from the same designated headquarters travel on the same dates, with the same itinerary, to conduct the same official state business. Mileage reimbursement is allowed for one vehicle for every four (4) travelers. See Texttravel Web page, Texas Comptroller of Public Accounts, <https://fmx.cpa.state.tx.us/fmx/travel/texttravel/trans/fourper.php>

Mileage may be claimed when picking up co-riders from their residence. The meeting point is not limited to the designated headquarters location.

Exceptions to the four-traveler-per car rule require prior approval of the appropriate management authority. Exceptions shall be documented in the Comments field of the Travel Claim.

Examples of business reasons for not coordinating personal or rented vehicle travel include:

- The traveler is required to transport equipment and supplies to the duty point and doesn't have room for passengers.
- The traveler plans to drive to the same conference that a colleague is attending, but has a meeting scheduled at a regional office afterward.
- Any exceptions on file with agency (i.e. BSD Training)

If coordination does not occur as required above, only one of the travelers is reimbursed for mileage. Mileage incurred while coordinating travel (meeting at a location or picking up other travelers) is reimbursed.

## **Direct Billing Reservations**

With the exception of DSHS, HHS agencies do not provide direct billing reservations for airfare, auto rental, and/or lodging. DSHS traveler requests for airfare, auto rental, and lodging direct billing reservations must be received in DSHS Travel Office at least seven calendar days in advance of the travel date.

## **Discounts on Travel Expenses**

Discounts on travel expenses may be available through online travel sites, such as Priceline, Travelocity or Orbitz. The traveler shall ensure that the discount program receipts provide the same level of detail required for a particular travel expense. For example, a discount program receipt for lodging shall provide the hotel name, address, name of the traveler, daily hotel rate, and daily hotel taxes.

The traveler shall scan and submit documentation for reimbursement of discount travel expenses as part of the Travel Claim using the eTravel System.

Documentation shall include:

- An unaltered receipt from the discount vendor;
- Cost comparison to show the discount is less than the travel expense would be if booked through the regular contract vendor or travel agency;
- Sufficient detail to meet Comptroller documentation requirements for the type of travel expense (lodging, airfare, rental car); and
- Detailed description of the discount program.

The traveler shall submit supporting documentation using eTravel System when staying extra day(s) at a duty point to qualify for discount airfare. The documentation shall compare the reference airfare (cost if the traveler had not stayed extra days) to the extra travel expenses incurred. The comparison shall include:

- The sum of additional travel expenses (meals, lodging, car rentals) plus the amount of the discount airfare.
- The cost of the average coach airfare without the discount. The source used for the average coach airfare shall be stated.

Documentation for discounts for companion fares shall include the name of the authorized traveler.

## **Packaged Travel Arrangements**

If the Agency or the traveler purchases a package of at least two (2) travel arrangements (i.e. meals, lodging, transportation, incidental expenses, registration fees), the Travel Office shall reimburse each arrangement type only to the extent it would have been reimbursable had it not been included in the package providing the sum of those items do not exceed the cost of the package. The traveler shall separately state the cost of each type of travel arrangement on the Travel Claim.

The traveler shall attach supporting documentation that includes:

- Cost of each type of travel arrangement included in the package;
- Receipt from the package vendor;
- Other receipts received by the traveler.

Meal or lodging expenses packaged with a registration fee are considered part of the registration fee. The traveler shall not list these meal and/or lodging expenses separately on the Travel Claim. However, the traveler shall list all optional meal and/or lodging expenses as separate expenses.

## **State Travel Service Contracts**

The State Travel Management Program (STMP) administered by the Comptroller allows HHS to offer an array of services to travelers. The program has negotiated annual contracts to reduce costs and keep HHS management informed about travel expenses.

These contracts provide travel services including:

- Multiple options in choosing flight times, lodging, rental cars, billing services, etc.;
- Travel agency services for airfare or airfare and rental car combination. Rental car-only reservations should be made directly with the rental car company; and
- The ability to avoid spending personal funds for state travel by using central billing accounts, state travel cards or direct billing.

The traveler should use state contracted vendors established by the Comptroller. When a contract is not used, or the cost of the travel service exceeds the contracted rate, specific exception conditions must be met for the traveler to be reimbursed for actual expenses.

For exceptions see Comptroller Travel Audit and Exceptions.

## **Credit Cards**

### **State Travel Charge Card**

State travel charge cards provide services to travelers and benefit the state financially. State travel charge card holders are encouraged to use the card for expenses in lieu of direct bill arrangements.

### **Eligibility for State Travel Charge Cards**

To apply for a state travel charge card, the traveler shall:

- Have a job description that lists travel requirements;
- Anticipate three or more trips each fiscal year or accumulate a total of at least \$500 in business-related expenses per fiscal year;
- Not have had a state travel charge card revoked;
- Not have failed to repay overpayments from previous travel advances; and
- Not be indebted to the State of Texas.

### **Travel Card Charges**

State travel charge cards are issued for official state business only.

The traveler:

- Cannot use the card for personal charges;
- May use the card for appropriate travel charges that are not reimbursable including but not limited to such as non-business phone calls, in-room movies, and meal tips, and
- May use the card to obtain contracted airfares.

### **Examples of Appropriate, Reimbursable Use**

Charges that may be charged on the travel card, while the traveler is in travel status are:

- Meal while on out-of-town overnight business,
- Long-distance business call added to the traveler's lodging bill while on out-of-town business,



- Airfare for a traveler to attend an agency meeting, and
- Tip for a bellhop to carry bags as a special accommodation for a person with a disability.

### **Inappropriate Use**

The following are examples of inappropriate charges that may result in cancellation of the state travel card:

- Meals or tips while on business in headquarters or residence city,
- Alcoholic beverages,
- A long-distance personal call from the traveler's headquarters,
- Airfare to go to an amusement park,
- Renting a video for personal viewing unless rented from a hotel and billed as part of the lodging expense, and
- Tips for a bellhop to carry bags.

### **Charge Card Payment Responsibility**

HHS agencies assume no liability for any charges made on any state travel charge card, and use normal voucher procedures to reimburse expenses. To avoid delinquency, the traveler must pay the travel charge card bill upon receipt of the statement and without regard of the travel reimbursement status.

### **Unauthorized Use of State Travel Charge Cards**

Use of a state travel card for personal purchases is prohibited unless the charges are business-related, travel expenses. Several personal purchases made during one month constitute a single violation. Violations may result in cancellation of the state travel charge card, and the matter will be referred to the appropriate management authority.

### **Travel Expense Reimbursement**

The traveler shall request reimbursement for travel expenses by completing the Travel Claim in eTravel. The eTravel System shall be used for all travel claims.

The traveler shall submit paper forms for the following:

- Travel Claims for non-HHS Enterprise Employees

- Supplemental Travel Claims
- Out-of-Country Travel Claims

The information provided by the traveler shall be accurate. Documentation and receipts that fully support the travel expense shall be scanned and submitted as part of the Travel Claim. The reimbursement shall be approved by the traveler's supervisor(s).

The traveler shall complete and submit the Travel Claim to the Travel Office using eTravel. The traveler shall submit no more than one Travel Claim for each 30-day period or immediately when his or her total accumulated expenses equal or exceed \$200.00. Exceptions may be granted by the Executive Commissioner or his/her designee.

The traveler's Supervisor shall complete the following steps within 14 calendar days of the traveler's submission date on the Travel Claim in eTravel:

- Reviews the Travel Claim for completeness and accuracy. (See the Travel Claim Supporting Documentation section under Travel Reimbursements for more information.)
- If the expenses are approved, notes consent of the Travel Claim in eTravel.
- If the expenses are not approved or required documentation is missing, returns the Travel Claim to the traveler using eTravel.

If the supervisor is not available to approve the claim, the traveler shall request approval by the alternate approver to ensure the claim is reviewed and approved on a timely basis. Claims submitted after 90 days require a two-tier approval process.

### **Reimbursement Payments**

The Agency shall reimburse travel expenses in accordance with state law and Comptroller's guidelines.

The traveler shall receive travel reimbursement by direct deposit to the traveler's payroll direct deposit account, if established. Direct deposits are normally made within three (3) business days after the issue date. When the traveler has not established direct deposit, a reimbursement warrant shall be mailed to the agency-appropriate address as listed in CAPPS.

### **Overpayments**

The traveler shall reimburse the agency for any overpayment of travel expenses whether the error is the fault of the agency or the authorized traveler. An overpayment is defined as an authorized traveler's receipt of a reimbursement that exceeds the limits

established by law, or the amount of allowable travel expenses actually incurred. Subsequent travel claim submitted may be held until the traveler remits the overpaid amount.

### **Supplemental Travel Claims**

The traveler shall submit a supplemental Travel Claim if the reimbursement was processed at a reduced amount because of insufficient information or the original Claim did not include a travel expense.

The traveler:

- Submits the Travel Claim with the correct information in paper form;
- Obtains appropriate approvals;
- Attaches a copy of the Travel Claim that is being amended; and
- Mails the paper travel claim with original signatures to the appropriate address.

### **Travel Claims Supporting Documentation**

The traveler shall submit the required supporting documentation with the Travel Claim.

The Travel Claim shall include the following information:

- Full address for all duty points the authorized traveler visited on the trip;
- Clear description of the nature of the official state business performed at each duty point;
- Document the travel expenses payment method (through direct-bill, credit or debit card, or paid by the employee);
- Hotel receipts (regardless of how paid)  
Note: DSHS does not require hotel receipt if paid by a third party. However, DSHS travelers must include the hotel information in eTravel comments.
- Final rental vehicle receipt (regardless of how paid);
- Final airline itinerary or passenger receipt;
- Itemized gas receipts for a rental car (Pre-pay receipts are not reimbursable.);
- Itemized grocery receipts, each receipt must reflect only groceries purchased and consumed on the same date;
- Itemized meal receipts for travel advances;
- Receipts for attendant care;

- Receipts for personal attendant services (such as interpreters or communication devices);
- Receipts for miscellaneous expenses (such as copies, faxes, supplies, or postage);
  - Receipts for any ward of the state expenses – meals, lodging, entertainment, incidentals, etc. (DFPS staff only);
  - Itemized receipts for parking & tolls;
  - Itemized receipts
- Travel Authorization (TA) for out-of-state travel, public transportation, and direct billed lodging.
- Definition of any abbreviations or acronyms entered by the traveler in Travel Claim section in the eTravel System
- Certification for Training — If an authorized traveler attends any training classes conducted by the agency and travel expenses are incurred, the employee must obtain a copy of a Certificate for Internal Training from the instructor and submit it with the travel claim. Each certification document may only cover one training session. Altered certification documents are not acceptable; and
- A copy of the Office of State-Federal Relations (OSFR form) for travel to Washington D.C. that involves activities to obtain or spend federal funds or that impact federal policies. The form will be supplied by state office Budget to the traveler and must be attached to the travel claim.

All documentation shall be legible.

Travel Claims submitted using the eTravel System shall contain the electronic signatures of the following individuals:

- Authorized traveler claiming reimbursement, and
- Traveler's supervisor.

### **Cancellation Charges**

Travelers shall scan and submit supporting documentation for cancelled travel expenses in the Travel Claim section of the eTravel System. The documentation shall include:

- Reason for the cancellation;
- Intended purpose of the travel;

- Original, unused airline ticket, if applicable; and
- Proof of payment when the charge is being reimbursed to the traveler instead of being paid to the travel contract vendor.

### **Unavailable Attachments**

The traveler shall refer to the Comptroller's rules in the Texttravel documentation requirements when required attachments are lost or otherwise not available. Contact the Travel Office for additional assistance.

### **Non-Reimbursable Travel Expenses**

Travel expenses will not be reimbursed for the following:

- Travel not related to official state business
- Attendance at association meetings and conferences that do not involve training or other official state business
- Personal charges, such as:
  - Video rentals
  - Personal cell phone charges (Guardianship Specialists excepted)
  - Personal phone calls
  - Tips or gratuities
  - Excess baggage charges (non-business related)
  - Over weight baggage charges
  - Laundry and dry cleaning
  - Gasoline and repairs for personal vehicles
  - Attendance at award ceremonies when the traveler is *not* nominated for, receiving, or presenting an award
  - Alcohol
  - Immunization expenses for employees
  - Birth Certificate
  - Driving record expenses
  - Driving and parking citations
  - Late payment toll fee charges

## Lodging

The traveler shall use contracted hotels for lodging, when available. Use of non-contracted hotels must be justified per Texas Administrative Code Title 34 Part 1 Chapter 20 Subchapter F Rule 20.303. For exceptions see Comptroller Travel Audit and Exceptions.

The traveler shall only be reimbursed for his or her actual lodging expense not to exceed the maximum lodging reimbursement rate for that location. The maximum lodging rate is based on the location of the hotel, not the duty point. Lodging expenses incurred at locations specially designated by the Executive Commissioner, or his or her designee, may be reimbursed up to the Enterprise-wide designated higher rate for that specific location. Agencies must use the rates set in the General Appropriations Act (GAA), Article IX, Part 5, Travel Regulations, for both in state and out-of-state travel within the contiguous United States. The GAA directs travelers to use the rates listed on the General Services Administration (GSA) website, with the exception for travel to locations within Texas that are not listed (city or county). When traveling to locations within Texas that are not specifically listed, travelers are limited to \$85 for lodging.

The traveler shall validate that he or she paid for the lodging by scanning and submitting the lodging receipt with the Travel Claim in the eTravel System. If the individual listed on a lodging receipt is different from the authorized traveler named on the Travel Claim, the lodging receipt is acceptable if supporting documentation includes proof that the authorized traveler paid the lodging expenses for which the authorized traveler is claiming reimbursement. The proof may be in the form of a credit card slip, a credit card billing, a canceled check, or a receipt from the individual listed on the lodging receipt. The traveler shall also provide an appropriate notation in the Comments field.

The traveler shall submit lodging receipts issued by the commercial lodging establishment or the travel agency used to reserve the lodging.

The traveler shall submit the lodging receipts in support of the Travel Claim even when the lodging is direct billed or billed using a state credit card. Receipts shall include:

- Name and address of the commercial lodging establishment
- Name of the authorized traveler
- Single room rate
- Itemized daily occupancy or other tax
- Daily itemization of the lodging charges

- Evidence the lodging has been paid if the traveler is requesting reimbursement, the receipt shall show a zero dollar balance.

### **Lodging Reimbursement**

The traveler shall be reimbursed the actual cost of in-state and out-of-state lodging at a commercial establishment not to exceed the GSA's rates <http://www.gsa.gov/portal/content/104877> . If the city is not listed, but the county is listed, use the rate of the county. For in-state locations not specifically listed (city or county), the maximum lodging rate of \$85.00 (taxes excluded) applies. For out-of-state locations not specifically listed (city or county), the lodging rate is limited to the standard federal rates as listed by the GSA for the out-of-state duty point.

### **Reducing Meal Reimbursement Rate to Increase Lodging Rate**

The traveler may claim less than the maximum meal reimbursement rate for a duty point and use the amount of the reduction to increase the maximum lodging reimbursement rate for the duty point for both in-state and out-of-state travel.

### **Lodging and Travel Distance**

Lodging within the traveler's designated headquarters is not reimbursable. Lodging is reimbursed for overnight trips of more than 50 miles from the traveler's designated headquarters and/or 50 miles from residence (both residence and headquarters must be more than 50 miles from duty point). To claim lodging or meals for overnight trips less than 50 miles away, a traveler must attach written executive management approval to the travel claim. This supports the travel budget since the cost for mileage is less than meals and lodging.

### **Emergency Services Lodging**

The traveler who is designated as emergency services personnel and who is deployed to a temporary duty station to conduct emergency or disaster response activities shall be entitled to reimbursement for the actual expense of lodging when there is no room available at the state rate.

### **Shared Lodging**

The state reimburses each person proportionately when two or more employees share the room. Each person must submit a travel claim, indicate on the travel claim that the

room was shared with another employee, and provide the person's name. The state reimburses a single room rate when the room is shared with a nonemployee. The employee must indicate on the travel claim that the room was shared with a nonemployee.

### **Hotel Direct Billing Eligibility (HHSC and DSHS only)**

The direct bill process may be available for use by specific groups who are attending or conducting training, or assisting with pilot office system implementation. The covered activities are:

- Basic Job Skills training,
- Continuing Skills training,
- Automation program training,
- First Line Supervisor training,
- Agency volunteers traveling on behalf of the state, and
- Agency travelers conducting state business.

## **Meals**

### **Eligible Expenses**

Meal expenses are reimbursed if they are incurred on a day that the traveler conducts state business with an overnight stay which is over 50 miles outside of his/her designated headquarters and/or residence. Meals should be within five (5) miles (ten (10) miles round trip) of hotel or duty point. Travelers may opt to purchase groceries instead of restaurant meals and must be consumed and claimed on the same day purchased. Reimbursement for meals may be determined by the time the traveler is in travel status during the first and last days of the travel.

### **Reimbursement**

#### **In-State Travel**

Travelers shall be reimbursed for actual in-state meal expense (restaurant meals and grocery purchases, combined) not to exceed \$46 per day regardless of location (\$27 for the first and last day and \$36 for days in between the first and last day for DFPS travelers). The state travel meal reimbursement rate is not a per diem. The maximum



shall not be claimed unless the actual expenditures equal or exceed the maximum allowable rate. Questionable purchases, including but not limited to the buying of bulk grocery items that cannot be reasonably consumed while on travel status are subject to review and non-reimbursement.

### **Out-of-State Travel – All HHS Agencies**

For out-of-state travel, the maximum meal reimbursement rates will be based on the rates issued by the GSA. The maximum reimbursable rates are based on the location of the hotel, not the duty point.

Applicable maximum meal rates provided by the General Services Administration (GSA) for out-of-state travel within the contiguous United States are available at <http://www.gsa.gov/portal/category/104877>. Travel to Alaska, Hawaii, a U.S. possession or a foreign country shall be reimbursed according to the U.S. Department of State guidelines at [https://aoprals.state.gov/web920/per\\_diem.asp](https://aoprals.state.gov/web920/per_diem.asp).

### **Meal Receipts**

Travelers shall retain copies of itemized meal receipts through the travel claim reimbursement process. Travelers must submit with their travel claim receipts for all meals, beverages, and grocery items purchased when using a travel advance declining balance credit card. Groceries must be consumed and claimed on the same day purchased.

### **Prohibited Meal Reimbursements**

- Meal expenses incurred within a designated headquarters. Meal expenses are not reimbursed if they were incurred within the traveler's designated headquarters and/or residence (or 50 miles surrounding) unless it is mandatory and connected with training, a seminar, or a conference.
- Meal expenses incurred while not conducting state business. Meal expenses are not reimbursed if they are incurred while not conducting state business unless an exception applies. State business does not include the breakdown of a personally-owned vehicle or any occurrence not connected with a traveler's official state duties. See the Comptroller's Website for information on exceptions.
- Gratuities. Tips or gratuities paid in conjunction with meal expenses are not reimbursable.
- Alcoholic beverages. Alcoholic beverages are not reimbursable.

## Mileage

### Documentation of Mileage

The traveler shall document mileage as follows:

- All duty points the authorized traveler visited on the trip, including the full address for each duty point.
- A clear description of the nature of the official state business performed at each duty point.
- Fuel receipts are not required for personal vehicle mileage claims.
- For mileage reimbursement using odometer readings, documentation shall include a point-to-point mileage itemization using fastest travel time per Bing
- Mileage between lodging, restaurant (only applies to overnight stays), and duty point that exceeds ten (10) round trip miles for each occurrence shall be documented. The traveler includes a justification statement as part of the Travel Claim in the Record of Transportation and Duties Performed, such as "Unable to get lodging at state rate within five miles of duty point."
- Documentation for courtesy rides to the airport requires the names of the driver and rider(s), and whether the driver is a state employee or a non-employee.
- Exceptions to coordinating personal vehicle travel (4-in-1 car rule) require prior approval and state business justification in the Record of Transportation section of the Travel Claim (see Coordination of Travel).

### Personal Vehicle Mileage Reimbursement

The traveler shall be reimbursed for personal vehicle mileage incurred to conduct state business. When computing distances for reimbursement, each travel arrangement shall be the most cost effective choice considering all relevant circumstances. While the shortest route between points is generally presumed to be the most cost effective route, consideration is given for reimbursements of a longer route due to the traveler's time savings, resulting increased, as well as safety factors. As a result, reimbursement is for the fastest route between points. The maximum mileage reimbursement rate is established by the Comptroller (unless otherwise instructed by the Executive Commissioner or Commissioner). Texas Government Code Section 660.019.

The Travel Office uses the authorized on-line mapping service as the default Internet mileage tool for travel audit verification.

Mileage above the fastest route according to the mapping services requires justification. Acceptable reasons for increased mileage would be road closures or detours. Additional mileage will not be reimbursed because the traveler receives inadequate directions or gets lost.

HHS agencies may consider alternate routes taken as a result of traveler safety concerns when determining a traveler’s mileage reimbursement. An acceptable reason for increased mileage would be rural two lane roads traveled at night.

Examples of non-reimbursable mileage expenses include:

- Mileage for immunizations
- Mileage and per diem for summer enrollment insurance fairs
- Mileage and per diem for retirement seminars

**Courtesy Rides for Air Travel**

Courtesy rides are reimbursable when an authorized traveler receives a courtesy ride to an airport within the headquarters city for state business.

<b>If an authorized traveler receives a courtesy ride from...</b>	<b>Then...</b>	<b>Reimbursable claims are limited to...</b>
Another state employee during working hours and within the traveler’s headquarters, using a personal vehicle	The state employee who drives files the travel claims	Round-trip personal vehicle mileage (fastest route) and airport parking fees.
A non-employee (family member or friend)	The authorized traveler files the travel claims	Mileage and airport parking. The mileage is the fastest route between headquarters and the airport.

Documentation provided in support of the Travel Claim in eTravel shall clearly indicate:

- The names of the driver and the rider(s); and
- Whether the driver is a state employee or a non-employee.

In addition, the traveler shall submit receipts for airport parking with the Travel Claim.

### **Mechanical Failure Repairs**

Mileage reimbursement includes all expenses associated with the traveler's use of his or her vehicle. Mechanical failure of a personal vehicle is not considered state business. The traveler is not reimbursed for lodging, meals, or mileage when mechanical failure of a personal vehicle interrupts his or her state business. Reimbursement for lodging, meals, and mileage claims can be resumed when the vehicle is repaired and the traveler returns to state business.

If the traveler continues state business by other means of transportation, he or she can claim reimbursement for the mode of transportation, lodging, and meals for the period during which the vehicle is being repaired. Justification of the expenses shall be included in the Travel Claim Comments Field and documentation in support of the expenses shall be scanned and submitted with the Travel Claim in the eTravel System.

### **Mileage between Lodging, Restaurant, and Duty Point**

Reimbursement for the following mileage is limited to:

- Between lodging and duty point, and
- Between lodging and restaurants on overnight trips.

Actual mileage is limited to ten (10) round trip miles for each occurrence.

Exceptions are only available for mileage reimbursement between lodging and duty point and require a justification in the Travel Claim. An example of an acceptable justification is "unable to get lodging at state rate within five miles (5) of duty point."

Mileage to and from a restaurant is only reimbursable for overnight trips.

### **Mileage between Residence and Airport**

The reimbursement limits for travel between the traveler's residence and an airport are listed in the following table. The required check-in/arrival time for a flight is the travel start time.

<b>If the travel start time is on a...</b>	<b>Reimbursement is for...</b>
Workday, before or after working hours	Actual mileage (fastest route)
Workday during normal work hours	Actual mileage or mileage from

If the travel start time is on a...	Reimbursement is for...
	headquarters, whichever is faster
Non-workday	Actual mileage (fastest route)

### **Mileage between Residence and Duty Point**

The reimbursement of mileage from the traveler's residence to the duty point is less than or equal to the mileage from the traveler's headquarters to the duty point regardless of the time of day or day of the week. An exception is granted for employees designated as "On Call" and traveling after their normal work hours. Supervisors are responsible for reviewing and certifying the appropriateness of an employee claiming mileage for "On Call" duties.

### **Mileage between Residence and Headquarters**

Reimbursement for mileage between the traveler's residence and headquarters is not allowed unless extraordinary circumstances cause the travel and the travel occurs on a non-working day. Extraordinary circumstances are events that threaten public health or safety, or cause or threaten to cause damage to public property.

### **Daily Returns to Headquarters**

The traveler may return to headquarters daily rather than stay out of town at state expense. The reimbursement for personal mileage or the cost of renting and operating a rental vehicle to return to headquarters cannot exceed the reimbursement for lodging and meals the traveler would have received if remaining at the duty point.

### **Mileage for Returns to Headquarters from Personal Leave**

Transportation back to headquarters can be reimbursed if the traveler is outside of headquarters on personal leave and HHS requests that the traveler return for state business.

### **Weekend Returns to Headquarters**

An authorized traveler may return to Headquarters over the weekend at state expense. However, if the reimbursement for returning to Headquarters (including reimbursement for lodging and meals, mileage, or transportation) exceeds the cost of remaining at the duty point, the traveler will only be reimbursed for the lesser amount unless the agency

determines that it is most beneficial for the employee to return to HQ. If public transportation is used, the traveler claims only the actual cost (including taxi, bus, or limousine fares) up to the estimated cost of remaining at the duty point over the weekend. The travel shall provide a cost comparison and an approved business reason for returning to headquarters.

The following expense uses mileage for comparison, but the example could be used to compare airfare or other transportation, as appropriate.

The traveler is 500 miles from headquarters on a business trip that will continue through the next week. She wants to return to her residence for the weekend. She returns to headquarters at 5:00 p.m. Friday and returns to the duty assignment at 6:00 a.m. Monday at a cost of \$550. Had she stayed at the duty point, her estimated reimbursement for lodging and meals would have been \$325. She can claim only \$325. The following table compares the costs.

Cost to Stay at Duty Point				Cost to Return to Headquarters	
Day	Meals	Lodging	Totals		
Friday	\$10	\$85	\$95	Return to headquarters from duty point (500 x \$.55)*	\$275
Saturday	\$30	\$85	\$115		
Sunday	\$30	\$85	\$115		
Monday				Return to duty point from headquarters (500 x \$.55)*	\$275
<b>Weekend reimbursement for lodging and meals total</b>			\$325	<b>Mileage total</b>	\$550
* The rate of \$.55 per mile is for comparison only.					

### **Remaining at Duty Point over the Weekend**

An authorized traveler may remain at the duty point on the weekend at state expense. However, if the reimbursement for remaining (including reimbursement for lodging and meals, mileage, or transportation) exceeds the cost of returning over the weekend, the traveler will only be reimbursed for the lesser amount unless the agency determines that it is most beneficial for the employee to return to HQ. The travel shall provide a cost comparison and an approved business reason for remaining at the duty point. (See <https://fmx.cpa.state.tx.us/fmx/travel/texttravel/except/weekend.php>)

### **Commercial Transportation**

The traveler shall submit the documentation in support of the following forms of transportation with the Travel Claim:

- Commercial Airfare (an itinerary or a passenger receipt may be used)
- Bus, subway, taxi , shuttle, or limousine
- Railroad, boat, bicycle or other motor vehicle
- Final motor vehicle rental receipt
- Itemized gas receipts for rental or state-owned vehicles (Travelers are required to indicate whether rental vehicle is refueled when returned to the rental-car vendor). Pre-paid receipts are not allowable receipts. Itemized receipts should show the number of gallons purchased and the price per gallon.
- Approved travel authorization form.

Documentation for reimbursement of transportation by private aircraft or rental of an aircraft includes:

- Written approval of the rental or lease; and
- A receipt for the aircraft lease or rental.

### **Airfare**

Travel authorization is required for use of air transportation. The traveler shall be reimbursed for the actual cost of commercial air transportation incurred to conduct state business. (See the Travel Authorization section for more information.)

The state reimburses up to the state-contracted airfare rate from headquarters city to the duty point city. First class is not payable unless it is the only class available.

The Comptroller has contracted with one or more travel vendors to:

- Provide the lowest available airfares to the traveler; and
- Assist the traveler as needed with
  - Airline travel reservations,
  - Airline ticketing, and
  - Hotel and rental car reservations when associated with an airline reservation.

The traveler who is not traveling by airplane shall make hotel and rental car reservations by directly contacting a contracted provider.

(See the Cancellations and Changes to Travel Reservations section for more information about the process for reporting and documenting cancelled transportation charges.)

### **Airline Reservations**

Airline reservations are direct billed using Comptroller approved travel agencies CBA Account. Travelers with individual corporate cards should make their own airline reservations using the contracted travel agency.

### **Airline Requirement for Extra Seat**

If purchasing a second seat is required by the airline to accommodate a traveler who cannot use a single seat without raising the arm rests, the cost of the extra ticket is reimbursable.

If the traveler uses the contracted travel agency, the agent books the flight and the extra seat as one reservation. The itinerary sent to the traveler will state the passenger name and "extra seat." The additional seat charge will be paid by the Agency when the reservation is made with the contract travel vendor.

When booking direct without assistance from the contracted travel agency, the traveler must attach the itemized passenger receipt on the ticket and the extra seat charge to the travel claim. Various airlines may have different policies regarding reimbursement of the additional seat if the flight is not fully booked. The traveler should request documentation of the airline's policy, and include a copy with the travel claim.



## **Chartered and Private Aircraft**

When travelers travel in groups of two or more, they may check with the Department of Transportation Government Flight Services for an available state-owned aircraft.

Travelers are required to compare the cost of a chartered or leased aircraft with the cost of commercial travel to determine the most cost-effective travel mode.

The documentation for reimbursement submitted in support of the Travel Claim in the eTravel System shall include:

- A description of the savings;
- The original or a copy of the Texas Department of Transportation's written approval of the rental or lease; and
- A receipt for the rental or lease of the aircraft.

## **Rental Cars**

Travel Authorization is required for use of rental vehicles. The traveler is reimbursed for the cost of renting a vehicle to conduct state business. The reimbursement includes all applicable taxes, mandatory charges, and a contracted rate for collision damage waiver and a loss damage waiver. A charge for an additional driver may only be reimbursed if incurred for a business reason. Vehicle size shall be appropriate for number of travelers and amount of state equipment. The justification for the additional expense, if any, shall be entered in the Comments field of the Travel Claim.

## **Vehicle Reservations**

Rental vehicle reservations shall be made directly through Comptroller contracted vendors. The rental of a vehicle is normally approved if the rental costs less than a taxi or personal vehicle. Reimbursement is limited to the charges associated with official business. Expenses for rental vehicles are not reimbursed if rented primarily for personal convenience. Review the Comptroller's General Rental Car Contract Information for safety tips, rates, insurance coverage, and other helpful information.

## **Rental Vehicle Expenses**

Reimbursable vehicle expenses include:

- Fuel;
- Toll charges;

- Parking fees;
- Sales tax on rental vehicles;
- Airport concession fees; and
- Insurance for an additional driver, only if needed for business reasons.

The traveler shall refuel the rental vehicle to the level when picked up before returning it to the vendor. Receipts for rental cars and gas used in rental cars shall be submitted with the Travel Claim. Reimbursement requests for toll charges shall include the cost per route and for parking shall include the cost for each event (such as the daily rate to park at an airport or hotel).

### **Other Public Transportation**

The traveler is reimbursed for the cost of public transportation if the cost is provided by a commercial transportation company. The traveler shall determine which is most economical, a personal car or other modes of transportation. When traveling to an airport, the traveler shall compare the costs of driving and parking a personal car to round-trip taxi fares.

Other public transportation includes the following modes of travel:

- Train;
- Bus;
- Subway;
- Mass transit;
- Shuttle;
- Limousine, only if the limousine is the lowest cost alternative; or
- Taxi.

If a taxi or limousine is shared by two or more travelers, then only the traveler who paid for the transportation shall be reimbursed for that expense. The other travelers may be reimbursed only for charges imposed on an individual-by-individual basis.

The traveler, who has paid for public transportation, shall scan and submit receipts in support of the Travel Claim in the eTravel System.

Submission of a receipt for the reimbursement of travel by bus, subway, other mode of mass transit, taxi, or limousine in support of the Travel Claim in the eTravel System is required. In addition, the traveler shall itemize each trip including the date and fare in the Record of Transportation and Duties Performed section in the eTravel System.

## **Miscellaneous Expenses**

Receipts for miscellaneous expenses may include:

- Receipt or other proof of payment for business-related expenses such as copies, faxes, supplies, or postage while on travel status away from Headquarters.
- Certificate of training for travel related to agency-sponsored training.

## **Other Travel Expenses**

### **Incidental Business Expenses**

Incidental expenses are reasonable and necessary business-related expenses. Lodging, meals, mileage, transportation, and personal expenses that the traveler would incur regardless of official state travel, are not included. Incidental expenses include applicable taxes.

The traveler shall itemize Incidental expenses in the Expenses Section of the Travel Claim.

Incidental expenses include, but are not limited to:

- Gas for rented or state-owned vehicles (itemized gas receipt is required)
- Parking fees (Valet parking is not reimbursed unless mandatory)
- Toll charges (Itemized receipts or statements are required.)
- Airport parking while traveling (itemized receipt required)
- Parking
- Tolls
- Child's Meal (DFPS only)
- Other Child's Expense (DFPS only)

Tollway use fees are reimbursable when the traveler, while conducting state business, incurs a toll when driving a vehicle on a toll road, bridge, or tunnel. Tollway administrative convenience fees (in addition to tollway use fees) are also reimbursable while conducting state business. Late fees are not reimbursable.

## **Airline Baggage Fees**

Baggage fees related to state business are reimbursable. It is assumed that the first checked bag is necessary to complete business travel. Charges for a second bag may be reimbursed if the traveler is away from headquarters for an extended time period. Baggage fees for transporting required state equipment or materials are reimbursable only if it is the most cost effective and efficient option. The authorized traveler must document the purpose of the additional baggage fees in the claim and an explanation for why the airline was the most cost effective shipment method. Itemized receipts are required for reimbursement.

## **Award Ceremonies**

Travel to awards ceremonies is reimbursable only if the traveler is nominated for, receives, or presents an award involving official state business, or as approved by appropriate executive management.

## **Conferences and Training Seminar Expenses**

Travel expenses for conferences and seminars are reimbursable only if the travel clearly involves justifiable state business, such as training, which will benefit the agency.

There are special requirements for training seminars sponsored by HHS agencies for their employees. To reduce travel expenditures, the agencies shall use interactive television, video conference technology and telephone conferences to the greatest extent possible. The traveler enters a statement describing the specific business addressed at the conference in the Comments field of the Travel Claim.

For agency-sponsored training seminars, the traveler shall obtain written approval from the Executive Commissioner, Commissioner, or designee certifying that the agency:

- Does not possess interactive television or video conference facilities at the designated headquarters of the employees attending the seminar; and
- Cannot purchase or lease those facilities at a cost less than the total travel expenses associated with the seminar; and
- Does not have access to another agency's facilities at the same location.

The traveler submits the approval with the other travel-related receipts when filing the Travel Claim in the eTravel System.

## **Registration Fees**

All payments for registration fees shall follow the normal HHS Enterprise procurement process and are paid directly to the sponsoring organization.

## **Other Travel Documentation**

The traveler shall provide documentation that:

- Authorizes reimbursement for actual expenses.
- Justifies the return to the designated Headquarters while on personal or compensatory leave.
- Includes the approval of the Executive Commissioner or Commissioner where coordination of travel is not feasible for a group of two or more travelers. The documentation shall include the state business reason(s) the group could not meet the coordination requirements.
- Includes the approval of the Executive Commissioner, Commissioner, or his or her designee, for the agency traveler who is traveling with or representing the Executive Commissioner, Commissioner, a legislator, or certain officials. Documentation shall be approved prior to the travel and shall indicate the approximate cost of the travel.

## **Travel Advances**

Travel advances shall equal 100 percent of estimated cost, plus \$50 per day for incidentals.

## **Eligibility**

Travel advance funds shall be available to eligible travelers who are required to travel to perform job duties. Travel advances shall be issued in accordance with each agency's specific policy and procedure.

Travel advances are not available if the traveler:

- Has a current, state-issued travel card;
- Has failed to submit a Travel Advance Settlement claim in eTravel within 14 calendar days following the completion of the trip; or
- Is on hold with the Comptroller's office.

## Requesting a Travel Advance

The traveler:

- Completes the online approvals through the Travel Authorization (TA) process in eTravel and electronically attaches the authorization to the request for any of the following:
  - Car rental;
  - Airline; or
  - Out-of-state travel
- Should initiate the advance request in sufficient time so the request is in “AR Audit Received” status, with all appropriate approvals, at least 14 calendar days before the departure date.
- Follows the regular travel authorization processes;

The Travel Advance Request should be received in the Travel Office no later than 14 calendar days before the departure date.

The traveler’s Supervisor:

Upon the receipt of the system-generated e-mail, reviews and approves the Travel Advance request in the eTravel System.

## Meal Receipts

The Traveler must obtain itemized receipts for all meal purchases when traveling on Travel Advance funds, and submit copies of all itemized meal receipts with the travel claim. Grocery purchases must be for food items purchased and consumed on the same date.

## Excess Travel Advance

The traveler shall send payment for any amount the travel advance exceeds the actual reimbursable expenses. The repayment shall be submitted to the Travel Office with a copy of the summary page of the eTravel System Travel Claim no later than 14 calendar days after written collection notification by the Travel Office. If the payment is not received within 14 calendar days of the initial collection notice, a second notice is sent. At the time this second notice is sent, the Travel Advance Unit:

- Notifies the employee and the supervisor that the employee is indebted to the state.
- Places the employee on Comptroller warrant hold, if appropriate.

## **Reimbursing the Travel Advance Fund**

Once the traveler has completed the Travel Settlement in the eTravel System and has been informed of the amount due, the traveler:

- Prints the Travel summary page in the eTravel System.
- Writes a personal check or money order payable to the agency Travel Advance Fund for the travel advance overpayment amount.
- Attaches the reimbursement check to the printed statement and forwards both to the Travel Office within 14 calendar days of the trip end date.

## **Travel Authorization**

### **Travel Authorization for Official Business**

Travel expenses shall be approved prior to travel by the traveler's supervisor. The purpose of the travel authorization requirement is to:

- Record the itinerary for the trip;
- Document authorization to purchase travel services;
  - Air Travel
  - Car Rental
- Document prior approval for special travel circumstances, such as out-of-state travel; and
- Facilitate reconciliation of vendor invoices.

The traveler should request authorization to travel by completing the Travel Authorization Request in the eTravel System. The Travel Authorization Request should be received in the Travel Office at least 14 calendar days before the departure date.

This process is not required when claiming only in-state:

- Personal vehicle mileage; and/or
- Meals and lodging.

### **Submitting the Request for Travel Authorization**

The traveler shall:

- Complete the Travel Authorization Request Section of the eTravel System before booking an airline flight, and/or renting a vehicle.

The traveler's supervisor shall:

- Upon receipt of the e-mail notification, review and approve the travel authorization request using the eTravel System.

The traveler shall notify the Travel Office and the travel vendor if reservations are cancelled or changed.

## **Out-Of-State Travel**

The Agency pays for business-related travel expenses incurred outside of Texas if the travel is approved in advance.

- The traveler shall follow the regular travel authorization process.
- The traveler is reimbursed for actual out-of-state expenses up to the maximum rates based on federal travel regulations listed on the federal Domestic Maximum Per Diem Rates. This list provides rates by state with specific rates for selected cities/counties.
- The traveler shall not claim the maximum amount unless the actual expenditures equal or exceed the maximum allowable rate.
- The traveler shall print and retain a copy of the federal rate schedule used to calculate the travel expenses.
- The traveler may reduce the maximum meal reimbursement rate for a duty point in order to use the amount of the deduction to increase the maximum lodging reimbursement rate for the duty point. Not applicable to direct billing.
- If the maximum reimbursement rate for a duty point changes in the middle of the traveler's stay at that duty point, the change will only apply to the expenses incurred after the change.
- The Executive Commissioner, the Commissioner or designee may determine that local conditions necessitate a change in the lodging rate for a particular location. This determination shall be documented, submitted with the Travel Claim, and made available upon request during post-payment audit.
- Contact the agency Travel Office for additional guidance on out-of-state travel.



## **Travel to Washington, D.C.**

State agency personnel that travel to **Washington, D.C.** for activities that involve obtaining or spending federal funds or that impact federal policies shall inform the Office of State-Federal Relations (OSFR) about the trip.

- Follow the regular travel authorization process by submitting the required information and scanned documents in the eTravel System.
- Report the timing and purpose of the trip to the Office of State and Federal Relations (OSFR) by completing the online OSFR Form.
- Scan and submit the OSFR Report of State Agency Travel to Washington, D.C. with the other required travel documents and receipts in the eTravel System to support the requested reimbursement rate when filing the Travel Claim.

## **Foreign Travel**

The traveler should submit the paper copy of the Travel Authorization form for out-of-country (foreign) travel at least 14 calendar days before the departure date. The following levels of approval are required:

- Traveler's immediate supervisor,
- Deputy regional director, regional director, or division director, and
- Commissioner or designee.

Travel Claims for out-of-country travel must be submitted on a paper voucher and must include:

- The TA that includes the Executive Commissioner's approval prior to travel for foreign travel with their Travel Claim; and
- Supporting documentation that specifies the exchange rate used for the conversion when travel expenses are converted from a foreign currency.

For purposes of this approval process, travel to any territory of the U.S. is not considered foreign travel. Foreign travel by any HHS agency employee on state business shall be for the benefit of the State of Texas.

The traveler requesting approval of travel to a nation that is subject to a Travel Advisory issued by the U.S. Department of State, constituting a warning against or restriction on travel by U.S. citizens to such nation, shall include with the travel request a separate written and signed statement indicating that the traveler is aware of the Travel Advisory and the potential risks associated with travel to the nation under the advisory.

Approved travel requests shall be re-approved if the departure or return date changes by more than 168 hours, or if the expenses increase by more than ten (10) percent.

Out-of-state travel requirements for lodging and meals should be followed. Receipts for meals are not required.

The traveler shall not be reimbursed for unauthorized lodging or meal expenses.

### **Automobile Insurance for Travel in Mexico**

The State Office of Risk Management (SORM) manages a statewide automobile insurance program. The program includes optional automobile liability insurance for vehicles traveling to Mexico on state business. The program provides coverage for state-owned vehicles, vehicles rented or leased for the conduct of state business, and personal vehicles owned by travelers.

Driving in Mexico creates an unusual exposure for state agencies and travelers. Mexico does not require automobile liability insurance. However, drivers may be criminally and financially responsible for auto accidents they cause. If an accident results in an injury, the Mexican police may detain the traveler until a determination of fault is completed. The traveler will be required to either show proof of insurance recognized by the Mexican government or the financial ability to pay any judgment that may result against them.

The purchase of automobile insurance through an approved Mexican insurer is highly recommended by SORM. The premium is a per-day charge and is based on the number of days the vehicle is in Mexico. For insurance purposes, any time a vehicle crosses the international border it is considered covered for an entire day.

When Mexico travel involves driving a vehicle, the traveler shall contact the HHS risk management office prior to travel.

## **Travelers with a Disability**

### **Eligibility for Accommodation-Related Travel Expenses**

The Agency shall reimburse with supervisor approval the travel expenses associated with a reasonable accommodation for a traveler with disabilities.

For more information about reasonable accommodation, review the [HHS Human Resources Manual](#).

## **Claiming Accommodation Expenses**

The traveler with a disability may claim accommodation expenses.

## **Transportation**

The Travel Office shall authorize a reasonable transportation allowance when the traveler is required to travel within the Headquarters city for business purposes. Reimbursement does not cover travel to and from work.

Transportation costs are limited to the amount for similar travel outside of the headquarters. The allowance is the actual cost of transportation by bus or taxi, or a mileage allowance as designated by the Comptroller's Office for a car driven by an attendant or volunteer driver. Transportation costs shall be broken down on a trip-by-trip basis. Receipts and justification for using short-term parking for mobility impaired travelers are required.

## **Attendants and Personal Attendant Services**

The Travel Office may reimburse expenses for a full-time attendant for attendant care and any other necessary expenses incurred when traveling inside the Headquarters city to conduct supervisor-approved business.

The Travel Office shall reimburse overnight attendant expenses for a trip outside the Headquarters city up to the allowable expenses for the traveler receiving attendant services:

- Attendant fees
- Commercial transportation, and
- Meals and lodging.

Attendant fees in excess of \$80 per day and related exceptions require prior approval of the Executive Commissioner, or his or her designee. The Travel Office shall reimburse the shared lodging expense incurred by the traveler and the attendant for one half of the attendant's expenses and one half for the traveler receiving attendant services when sharing a room. The traveler and the attendant shall indicate that a room was shared with the other in eTravel System Travel Claim, and each shall provide the name of the other in the Comments field.

The Travel Office shall process the reimbursement when:

- The traveler's supervisor has approved the travel.

- The travel is outside the Headquarters city, and
- The travel is overnight.

Attendant fees and related exceptions require prior approval of the Executive Commissioner, or his or her designee.

### **Submitting a Travel Claim for Attendant Care and Personal Attendant Services**

The traveler with a disability shall:

- Scan and submit receipts in support of the Travel Claim for attendant care and personal attendant services such as interpreters or communication devices.
- Itemize the attendant fees and travel expenses, and enter the total in the Travel Claim.
- In the Actual Expense Meals and Lodging section of the Travel Claim, enter "Attendant" on the line provided, and enter the cost of the attendant's meals and lodging; and
- In the Record of Transportation and Duties Performed of the Travel Claim, enter the total attendant expenses for each day.
- Receipts shall be scanned and submitted with the Travel Claim for reimbursement of attendant fees and travel expenses. The receipt should include:
  - An itemized description of services:
    - Dates of service,
    - Name and address of attendant and name of traveler attended,
    - The attendant's fee, and
    - The attendant's signature.

### **Parking**

- Airport parking receipts are required and reimbursable at the long-term rate on the main grounds of the airport.
- Close-in parking/garage parking may be reimbursable for disability with proper documentation; Travelers with a disability may be reimbursed for ADA-accessible parking.
- Parking receipts are required for off-site airport parking

- Parking receipts for meter parking are required if available and documented in the record of transportation and duties.
- Travelers shall select the least expensive and most efficient parking option available that meets the traveler's business needs. A receipt is required for reimbursement of airport parking.

### **Porter Assistance**

Porter or "red cap" assistance is an allowable expense for a traveler with a disability. A receipt for porter services is required. If a receipt is not available:

- Itemize the porter costs in the Other Travel Expense section of the Travel Claim
- Enter the total porter cost for each day in the Record of Transportation and Duties Performed section of the Travel Claim. Also include this statement in the same section, "Assistance with baggage because of physical disability. No receipt available. No tip included."
- Do not include tips. Tips are not allowable.

### **Travel Expenses to Attend a Funeral**

The traveler may be reimbursed for travel expenses incurred while attending the funeral of a state employee, a board member, or a member of the legislature. The expense is reimbursable only to the extent it could have been reimbursed had it incurred while conducting official state business. The travel shall be approved in advance by the regional program director, Associate Commissioner, Deputy Executive Commissioner, or other executive who reports to the Executive Commissioner or Commissioner. The traveler shall submit a copy of the approval document with the Travel Claim in the eTravel System.

### **Travel Expenses for the Executive Commissioner**

An individual who is the chief administrative officer (Executive Commissioner or Commissioner) of the agency is entitled to be reimbursed for actual meal and lodging expenses incurred while performing the duties of the individual's office or employment. Texas Government Code Section 660.203(a). The maximum reimbursable amount for actual meal and lodging expenses is equal to twice the amount that could be

reimbursed to a regular state employee. General Appropriations Act Article IX, Section 5.07.

### **Travel Expenses When Accompanying or Representing the Executive Commissioner**

When representing or accompanying the Executive Commissioner or Commissioner, the traveler may be reimbursed for actual expenses. The maximum reimbursable amount for actual meal and lodging expenses is equal to twice the amount that could be reimbursed to a regular state employee. The designations shall occur on a trip-by-trip basis. A letter signed in advance by the Executive Commissioner or Commissioner authorizing actual meal and lodging expense reimbursement shall be scanned and submitted with the Travel Claim in the eTravel System.

### **Reimbursement for Board, Committee, and Advisory Council Members**

Members of HHS boards, committees, and advisory councils are reimbursed for travel expenses when traveling on official HHS business. Reimbursements include:

- Meals and lodging;
  - At the same rate as state employees, or
  - The amount determined by statute that created the board, committee, or advisory council.
  - Lodging is reimbursed for meetings away from member's city of residence.
- Transportation;
- Incidental expenses;
- Attendant services for disabled members, if needed; and

Members, who incur travel expenses for HHS business purposes, follow the HHS travel policies, procedures, and guidelines.

Full-time state employees may not be paid a salary and per diem for serving as a board, committee, or advisory council member.

## APPENDIX A: DEFINITIONS

The following definitions are related to employee travel, many of which are also related to the implementation and use of the eTravel System.

### **Agency**

The individual Texas Health and Human Service agencies – The Texas Department of Aging and Disability Services (DADS), The Department of Assistive and Rehabilitative Services (DARS), The Department of Family and Protective Services (DFPS), The Department of State Health Services (DSHS), and The Health and Human Services Commission (HHSC).

### **Alternate Preparer**

An agency employee authorized by the traveler to complete the travel request and claim processes in the eTravel System on the traveler's behalf; also referred to as the traveler's proxy.

### **Attendant**

The individual charged with the responsibility to care for the agency employee. The attendant is reimbursed for approved expenses.

### **Authorized Traveler**

An individual who may be reimbursed under the agency travel guide, including but not limited to:

- Employees
- Prospective employees
- Board, Committee, and Council members

### **Board**

A board, commission, committee, council, governing body, or similar entity in the executive, legislative, or judicial branch of state government that is composed of two or more members. Texas Government Code Section 660.002(2)

### **Business Day**

Any weekday except a weekday on which a national or state holiday occurs.

### **Business Unit**

A logical element or segment of an agency representing one or more specific business functions.

## **Cancellation Charge**

A fee, charge or payment that a provider of travel services assesses because of the cancellation or change of a travel reservation or other travel plan. For example, a non-refundable purchase of an airline ticket becomes a cancellation charge when the ticket becomes unusable because of changed travel plans. Texas Government Code Section 660.002(3)

## **CBT**

On-line computer-based training. eTravel user training is CBT based. Each eTravel training course includes one or more CBTs.

## **Central Billing**

Central billing occurs when the contracted state charge card company submits an invoice, listing multiple charges made to the agency charge card account, for reconciliation and payment.

## **Commercial Lodging Establishment**

(1) A motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay; or (2) a person or establishment that provides lodging for pay that the Comptroller determines to have a sufficient number of the characteristics of a commercial lodging establishment for the purposes of the Travel Regulations Act. Texas Government Code Section 660.002(5) The term includes lodging provided by: (1) a governmental entity on property controlled by that entity; or (2) a religious organization on property controlled by that organization; or (3) a private educational institution on property controlled by that institution.

## **Commercial Transportation Company**

A company or individual that transports people or goods at a cost. Texas Government Code Section 660.002(6)

## **Comptroller**

The Texas Comptroller of Public Accounts.

## **Contracted Vendor**

Vendor under contract with the State of Texas to perform specific activities.

## **Designated Headquarters (HQ)**

The area within the boundaries of the city in which a state employee's place of employment is located. If an employee's place of employment is located within an unincorporated area, then the area within a five-mile radius of the place of employment is the employee's designated headquarters. If an incorporated municipality or an unincorporated area is completely surrounded by the incorporated



municipality in which an employee's place of employment is located, then the employee's designated headquarters includes the surrounded municipality or area. Texas Government Code Section 660.002(7)

**Disclaimer**

An electronic certification acknowledged by the traveler that certifies that the expenses claimed on the travel claim are true, correct and unpaid. It further authorizes the Travel Department to make any necessary corrections to unallowable expenses.

**Direct Billing**

Direct billing occurs when vendors submit invoices to the agency for payment rather than charging the Traveler.

**Disability**

A physical or mental impairment of an individual that substantially limits one or more major life activities of the individual. Texas Government Code Section 660.002(8)

**Division Travel Policy**

An agency approved internal travel policy implemented at and for a region, division, unit, or program area.

**Driver's Hours**

The actual hours driven by the driver of a visually impaired employee to perform his or her duties.

**Duty Point**

The destination, other than a place of employment, to which a state employee travels to conduct official state business. If the destination is outside the employee's designated headquarters, then the duty point is either the incorporated municipality in which the destination is located or the unincorporated area within a five-mile radius of the destination. Texas Government Code Section 660.002(9)

**eTravel System**

The on-line travel application records all business-related travel advance and reimbursement expenses. It automatically calculates mileage between locations or duty points; enables travelers to document details of duties performed; records lodging, meal and incidental expenses; and associated Wards of the State expenses. Interactive maps and driving directions can be launched and printed for travelers who plan their travel in advance.

**Electronic Signature**

An electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

### **Executive Management**

It includes the Executive Commissioner, the Deputy Executive Commissioners, the Commissioners, the Assistant and Deputy Commissioners, Associate Commissioners, CFOs, COOs, Chiefs of Staff, Internal Audit Directors, General Counsels, and Medical Directors.

### **Force Majeure**

A common clause in contracts which essentially frees both parties from liability or obligation when an extraordinary event or circumstance beyond the control of the parties or an event - described by the legal term "act of God" - prevents one or both parties from fulfilling their obligations under the contract. Texas Administrative Code Section Title 34, Part 1, Subchapter F, Rule §20.302.

### **Foreign Travel**

Travel within a country other than the United States of America

### **Incidental Expense**

An expense incurred while traveling on official state business. The term includes a mandatory insurance or service charge and an applicable tax, except a tax based on the cost of a meal. The term does not include a meal, lodging or transportation expense, a personal expense, an expense that an individual would incur regardless of whether the individual were traveling on official state business, a tip or a gratuity. Texas Government Code Section 660.002(10)

### **Key Official**

A chief administrator of a state agency or an individual holding a position that has been designated as exempt from the position classification plan in accordance with the General Appropriations Act (GAA) or by the governor under the Position Classification Act. Texas Government Code Section 660.002(13). For example, the Health and Human Services Executive Commissioner is the key official for HHSC.

### **Lease**

A contract with a term of at least one month that gives the lessee possession and use of property or equipment while the lessor retains ownership of it. Texas Government Code Section 660.002(14)

### **Lodging Expense**

A charge imposed by a commercial lodging establishment as consideration for providing lodging and associated taxes. The term does not include money paid as a

donation, gratuity or tip to the establishment. Texas Government Code Section 660.113(a)

**May Not**

A prohibition against a specified action. The term does not mean "might not" or its equivalents. Texas Government Code Section 311.016(5)

**Meal Expense**

The cost of a meal plus any tax that is based on the meal's cost. The term does not include a tip, a gratuity or a mandatory service charge paid or imposed in conjunction with a meal. No alcohol allowed.

**Mobile Worker**

A mobile worker is an employee who may deliver services to clients, providers, and/or staff and/or performs other regulatory or inspection functions away from an identified, physical work location for a portion of their scheduled work hours. The position will spend some portion of work hours physically separated from a single base of operations and the majority of work tasks can be conducted independent of an identified, physical work location.

**National or State Holiday**

Holidays listed in Texas Government Code Section 662.003(a)-(b). The term does not include a day that the General Appropriations Act (GAA) prohibits observing as a national or state holiday.

**National Travel System (NTS)**

One of two state-contracted travel agencies for the State of Texas. NTS provides an on-line reservation system.

**Non-Working Hours**

All hours in a calendar day except working hours.

**Overpayment**

An authorized Traveler's receipt of a reimbursement that exceeds the limits established by law, or the amount of travel expenses actually incurred.

**Personal Emergency**

A personal emergency is an unplanned event, which is impossible to anticipate and would reasonably prevent a Traveler from completing business travel. Examples include emergency 9-1-1 situations or family illnesses. Personal emergency does not include matters that would be a personal choice.

**Place of Employment**

The office or other location at which a state employee most frequently conducts official state business. Texas Government Code Section 660.002(15). The traveler's place of employment is also referred to as his or her headquarters. Place of Employment/Headquarters is not the same as Designated Headquarters or Duty Point.

### **Pre-Pay Receipt**

Gasoline receipt issued by the fuel vendor to the traveler prior to the completion of the pumping of fuel.

### **Prospective State Employee**

An individual that a state agency considers for employment with the agency. The term includes an employee of a state agency who is considered for employment by another state agency. Texas Government Code Section 660.002(16).

### **Receipt**

An acknowledgment by the provider that a specified sum of money has been received in exchange for the purchase of allowable goods or service by a state employee. It includes, at the minimum, the name and address of the commercial establishment or conveyance, an itemization of the items purchased and their amounts, and the date of purchase. It does not include money paid as a donation, gratuity, or tip. See Lodging Expense.

### **Rental Car Calculator**

An online tool to assist travelers in determining the most cost efficient travel means by comparing the cost of renting a vehicle to the cost of reimbursing employees for business related mileage.

### **Rented or Public Conveyance**

A motor vehicle, train, aircraft, boat or bicycle that a state employee rents or pays a fare to use for a period of less than one month. Texas Government Code Section 660.002(18).

### **Short's Travel Management**

One of two state contracted travel agencies for the State of Texas. Short's provides an on-line reservation system.

### **State Agency**

A unit of state government that uses appropriated funds to pay or reimburse a travel expense of a state employee. This includes the Teacher Retirement System of Texas and the Employees Retirement System of Texas. Texas Government Code Section 660.002(19).

## **State Employee**

An individual employed by a state agency, including a key official. Texas Government Code Section 660.002(20). The term includes prospective state employees and aircraft pilots.

## **State Travel Charge Card**

A charge card issued to an eligible agency employee by the contracted charge card company for the purpose of paying travel related expenses; also referred to as the “State Corporate Card.” Employee eligibility for a state travel charge card is based upon credit card company policy. The state is not responsible for the payment of charges applied to these accounts. The charge card may only be used for official state travel related business expenses.

## **Supervisor**

The immediate supervisor of a state employee approved to travel in the conduct of official state business.

## **Supplemental Claim**

A new travel claim that may be filed to claim an expense that was omitted or reduced from a previous travel claim.; submitted in paper form only.

## **Telework**

Telework is a work arrangement in which an employee regularly performs officially assigned duties at his or her residence. The employee may telework part-time (for example, two days a week) or full-time, coming into the office only occasionally as needed. Employees may telework only for those jobs that can be performed at a remote site without diminishing the quality of work or disrupting the productivity of the office. Eligibility is determined by the immediate supervisor and approved by the agency head or designee. All applicable travel policies, mileage reimbursement included, remain in force for teleworking employees.

## **Tollway Fees**

Fee assessed when driving on a tollway—road, bridge, or tunnel. (All vehicles are assessed this fee with or without a TxTag or comparable electronic reader.) The additional administrative “convenience” fee assessed when the vehicle is not equipped with a TxTag or similar reader that identifies the vehicle’s owner (rental vehicles included).

## **Traveler**

The state employee approved to travel in the conduct of official state business.

## **Travel Advance**

A travel advance is issued for a minimum of \$100, and requires supervisor approval. Travel advance may include meals, lodging, mileage, ground transportation & attendant care less any direct billed items. Travel advances are not issued for mileage only.

**Travel Advance Settlement Claim**

Settlement of travel advance occurs within 14 calendar days following the trip through submission of the travel claim in the eTravel System. Subsequent travel advances are not permitted when a previous advance remains outstanding.

**Travel Authorization**

Approval to travel granted by the Traveler’s supervisor.

**Travel Expense**

A meal, lodging, transportation or incidental expense. Texas Government Code Section 660.002(21)

**Travel Claim**

The information that the Traveler submits for the purpose of requesting the Comptroller to pay or reimburse a travel expense on the agency’s behalf. The on-line Travel Claim contains all information included on the paper Travel Voucher.

**Travel Office**

The administrative unit within the agency that is responsible for the review, approval, and processing of employee-related travel requests and documents.

**Travel Request**

A request to travel submitted by the Traveler to his or her supervisor.

**Travel Settlement**

Settlement of travel advance occurs within 14 calendar days following the trip through submission of the travel claim in the eTravel System. No future travel advances will be allowed if outstanding advance prevails.

**Travel Status**

Current status of a travel request for travel authorization, advance, settlement, or reimbursement in the eTravel System.

**Travel Voucher Form**

The paper or electronic form adopted or approved by the Comptroller that is completed for the purpose of (1) submitting a travel voucher to the Comptroller on paper, (2) supporting the legality and fiscal responsibility of a travel payment or reimbursement, or (3) for both purposes.

### **Workday**

A day on which a state employee is regularly required to conduct official state business (see *Texas Government Code, Chapter 605, Eight-Hour Workday*).

### **Working Hours**

The hours during which a state employee is regularly scheduled to conduct official state business. (See *HHS Human Resources Manual, Chapter 5, B. Work Time, and Other Activities considered Work Time*).

## **APPENDIX B**

### **eTravel Status Definitions**

The eTravel System allows travelers to track the status and progress of Travel Claims, Settlements, Travel Authorizations, and Travel Advance Requests online. The status changes as it moves through the submission, review, and approval process. Below are the possible statuses in the System.

#### **Claim and Settlement Status Definitions**

**In Process** - Travel Claim is in the initial stage prior to supervisor review while the traveler is creating the new Travel Claim. The Travel Claim can be modified by the traveler at any time during this status.

**Pending Approval** - Travel Claim is waiting for supervisor approval. This status also indicates that the Travel Claim is awaiting multiple approvals as a late claim.

**Approval in Process** - Supervisor is reviewing and/or making comments on the claim. Traveler is unable to modify the claim.

**Approver Denied** - The Travel Claim has been denied by the Approvers before reaching the Travel Office.

**Audit Received** – The Travel Claim has been approved by 1st Level approver or last approver (when multiple supervisor approvals are required) and is now in the Travel Office workload queue.

**Audit in Process** – The Travel Claim is currently being reviewed by an auditor in the Travel Office.

**Return to Traveler** – The Travel Claim has been returned to the traveler by the Travel Office for correction, clarification, and/or additional supporting documentation.

**Return to Supervisor** – The Travel Claim has been returned to the approver by the Travel Office for clarification, comment, and additional approval.

**Corrected** – The Travel Claim has been corrected and sent back by the travelers and/or approver to the Travel Office for the completion of processing. It will go to the top of the list of the original auditor to work as first priority.

**Reduced/Processed** – The Travel Claim has been reduced and processed for payment. Any part of the claim that is reduced may be eligible for a supplemental Travel Claim.



**Processed** – The Travel Claim has been processed by the Travel Office. At this stage, the audit is complete and the Travel Claim is ready to be entered for payment. No changes and/or additional information were required following the Travel Office review.

**Audit Hold** – The Travel Claim is currently being held by the Travel Office for further review.

**Team Lead Review** – An Auditor requires a Team Lead to review the Travel Claim because of questions or complexity. Auditor can assign the Claim to a Team Lead for review or completion. This status is visible to Travel Office staff only.

### **Travel Authorization Status Definitions**

**TA In Process** - Traveler has created a Travel Authorization Request and is in the progress of completing the request.

**TA Pending Approval** - Travel Authorization Request is waiting for Approver/Supervisor approval. This status could be used also when going through multiple approvals for Out of State Travel requests.

**TA Approval in Process** - Approver/Supervisor is reviewing or making comments on the Request. User is unable to modify the requests. This status could be used also when going through multiple approvals for Out of State Travel requests.

**TA Approver Denied** - The Travel Authorization Request has been denied by the Approver/Supervisor not the Direct Bill Unit.

**TA Completed** - The Approver/Supervisor has completed their Audit and approved the Travel Authorization Request.

### **Travel Advance Request Status**

**AR In Process** - Traveler has created an Advanced Travel Request and is in the progress of completing the request.

**AR Pending Approval** - The Advanced Travel Request is waiting for Approver/Supervisor approval. This status could be used also when going through multiple approvals for Out of State Travel requests.

**AR Approval in Process** - Approver/Supervisor is reviewing or making comments on the Request. User is unable to modify the requests. This status could be used also when going through multiple approvals for Out of State Travel requests.

**AR Approver Denied** - The Advanced Travel Request has been denied by the Approver/Supervisor.

**AR Audit Received** - The Advance Travel Request has been approved by first level approver or last approver and is now on the Travel department's Master Workload.

**AR Audit in Process** - The Advance Travel Request is currently being audited by the Travel Advance Unit.

**AR Returned to Traveler** - This Advanced Travel Request has been audited and returned to the traveler for correction/additional supporting documentation.

**AR Returned to Approver** - The Advance Travel Request was returned to the Approver/Supervisor for additional approval.

**AR Corrected** - The Advanced Travel Request has been corrected and sent back. The Advanced Travel Request will go to the top of the list of the original team member to work as first priority.

**AR Team Lead Review** - This status is used when an Advanced Travel Team (team member) requires a Team Lead to review the request due to questions or complexity. Only the Advanced Travel Team sees this status label.

**AR Audit Hold** - The Advance Travel Request is currently being held by the Travel department for further review.

**AR Request Denied** - The Advance Travel Request has been denied by the Travel department.

**AR Pending Card Assignment** - The Travelers request has been audited and approved/waiting to get near the travel dates to assign the traveler a card.

**AR Card Assigned** - A card has been assigned to the Traveler and awaiting to be distributed/mailed to the Traveler.

**AR Close Card** - A card has been issued to the traveler, and the card needs to be closed with Citibank. Examples of this would include a terminated employee or a trip that is cancelled. The traveler may or may not need to submit a settlement.

**AR Cancel Request** - A request for advance travel was received, but the card has not been issued to the traveler. Examples would include the training site being moved to a traveler's HQ city or a trip is cancelled. The traveler will not need to submit a settlement.



# TEXAS

## Health and Human Services

### **ATTACHMENT D**

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

Published and Effective September 1, 2017

Responsible Office: Chief Counsel

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## ARTICLE I. DEFINITIONS AND INTERPRETATIONS

### 1.1 DEFINITIONS

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

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

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

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

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

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

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

“Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

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

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

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

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

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

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

“[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. 51<sup>st</sup> Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
TTY Toll Free: (877) 432-7232  
Fax: (512) 438-5885.

## **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.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

Attachment E

**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 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.
33. 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.
34. 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.

35. 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: DIANA MILUMAW HORTON

*Diana Milumaw Horton*  
Signature of Authorized Representative

11-16-2018  
Date Signed

DIANA M. HORTON, MD  
Printed Name and Title of Authorized Representative

[REDACTED]  
Phone Number

[REDACTED]  
Federal Employer Identification Number

[REDACTED]  
Fax Number

[REDACTED]  
DUNS Number

[REDACTED]  
Email Address

[REDACTED]  
Physical Street Address

[REDACTED]  
City, State, Zip Code

N/A  
Mailing Address, if different

[REDACTED]  
City, State, Zip Code



# TEXAS

## Health and Human Services

### **ATTACHMENT F**

Health and Human Services Commission  
Special Conditions  
Version 1.2  
9.1.17

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The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions –Vendor- Version 2.15

## **Article I. SPECIAL DEFINITIONS**

**“Contractor Representatives”** means Contractor’s employees and officers

**“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.

**“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.

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

## **Article II. GENERAL PROVISIONS**

### **2.01 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 Conduct and Removal**

While performing the Work under the Contract, Contractor or its representaives, or both, 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 or its representative are 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 its representative from performing any Work under the Contract. HHSC may terminate the Contract.

## **Article IV. PERFORMANCE**

### **4.01 Measurement**

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

- (a) Compliance with Contract requirements, including all representations and warranties;
- (b) Compliance with the Work requested in the Solicitation;
- (c) Results of audits, inspections, or quality checks performed by the HHSC or its designee;
- (d) Timeliness, completeness, and accuracy of Work; and
- (e) Achievement of specific performance measures.

## **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. DISPUTES AND REMEDIES**

### **6.01 Agreement of the Parties**

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

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

### **6.02 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) Accelerated or additional monitoring; and

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.

### **6.03 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.

#### **6.04 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 VII. DAMAGES**

#### **7.01 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.

#### **7.02 Specific Items of Liability**

Contractor will protect HHSC's real and personal property from damage arising from Contractor or Contractor representatives 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's representatives 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 representatives, 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.**

**ATTACHMENT H**



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

**Dr. Courtney Phillips, Executive Commissioner**

**Request for Qualifications (RFQ)  
for  
Physicians**

**RFQ No. HHS0003136**

**Date of Release: Friday, October 26, 2018**

**Responses Due: Tuesday, January 1, 2019 at 2:00pm**

**NIGP Class/Item Code: 948-74 - Professional Medical Services: Physicians, Pharmacists,  
and All Specialties**

**NIGP Class/Item Code: 948-48 - Health Care Services (Not Otherwise Classified)**

## **ARTICLE I. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY**

### **1.1 EXECUTIVE SUMMARY**

The Health and Human Services Commission (“**HHSC**”), on behalf of the Office of Inspector General (“**OIG**”) seeks to procure qualified physicians to evaluate professional actions and decisions made by providers within the programs that Health and Human Services (“**HHS**”) oversees, including Medicaid and the Children’s Health Insurance Program (“**CHIP**”). The contracted professionals assist the OIG by conducting case reviews; providing professional expertise regarding the information reviewed; and providing testimony, if needed, to substantiate review findings. These services are an integral part of the OIG’s ability to promote program integrity and detect/combat fraud, waste, and abuse throughout the HHS service delivery system.

To be considered for award, Respondents must sign and return to HHSC both Exhibit A, Statement of Qualifications (“**SOQ**”) and Exhibit B, Affirmations and Solicitation Acceptance, and provide all other required information and documentation as stated in this RFQ.

Information regarding HHSC and its programs is available online and can be accessed at <https://hhs.texas.gov>.

### **1.2 DEFINITIONS**

Refer to Exhibit C, HHSC Uniform Terms and Conditions, **Vendor** Version 2.15, and Exhibit D, HHSC Special Conditions, Version 1.2, for additional definitions.

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

“**Addendum**” means a written clarification or revision to this RFQ issued by HHSC.

“**Contractor**” means the individual(s) or entity(ies) awarded a contract as a result of this solicitation.

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

“**Health and Human Services**” (“**HHS**”) consists of two state agencies: HHSC and the Department of State Health Services.

“**Health and Human Services Commission**” (“**HHSC**”) means the administrative agency established under Chapter 531, Texas Government Code or its designee, its officers, employees, and authorized agents.

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

“**Physician**” means a person licensed to practice medicine in the State of Texas in accordance with the provisions of Chapter 155, License to Practice Medicine, Texas Occupations Code. The word “physician(s)” includes “surgeon(s).”

“**Respondent**” means the individual or entity responding to this Solicitation.

“**Solicitation**” means this RFQ, including any exhibits and addenda, if any.

“**State**” means the State of Texas and its instrumentalities, including HHSC, and any other state agency, its officers, employees, or authorized agents.

“**Statement of Qualifications**” (“**SOQ**”) means the Respondent’s response to this Solicitation (Exhibit A to this RFQ), and may also be called “**Solicitation Response**.”

### **1.3 AUTHORITY**

HHSC is soliciting the services listed in this RFQ under Title 10, Subtitle F, Chapter 2254 of the Texas Government Code and Title 4, Subtitle I, Chapter 531 of the Texas Government Code.

## **ARTICLE II. SCOPE OF WORK AND RELATED MATTERS**

### **2.1 WORK REQUIREMENTS AND PROFESSIONAL QUALIFICATIONS**

The SOQ, Exhibit A, establishes certain required standards, both professional qualifications and work requirements, which a Respondent must meet to be considered for contract award. An eligible Respondent must answer: (a) “Yes” to both Minimum Qualifications 1.1 through 1.7 in SOQ Section 1 and the Medical Service Requirements in SOQ Section 2; and (b) “No” to Minimum Requirements 1.8 through 1.10. If a Respondent answers “Yes” to any of the questions presented in SOQ Section 3 (Other Information) HHSC, at its sole discretion, may decline to award a contract to that Respondent.

### **2.2 CONFIDENTIALITY AND DATA USE AGREEMENT**

An awarded Contractor must maintain the confidentiality of all information accessed through the resultant Contract. By entering into a Contract, or purchase order with HHSC, Respondent agrees to be bound by the terms of the Data Use Agreement attached to this RFQ as Exhibit G.

## **ARTICLE III. CONTRACT AWARD, TERM AND AMOUNT**

### **3.1 CONTRACT AWARD AND EXECUTION**

HHSC intends to award multiple contracts as a result of this RFQ. Any award is contingent upon approval of the Executive Commissioner or designee.

HHSC is not obligated to process any or all Responses submitted. HHSC reserves the right to cancel, make partial award, or decline to award a contract under this RFQ at any time at its sole discretion.

### **3.2 CONTRACT TERM**

HHSC anticipates that the initial duration of any contract resulting from this RFQ shall be for a period of five years (the “**Initial Term**”). Following the Initial Term, HHSC may extend any resulting Contract for the purpose of completing a new procurement or to complete ongoing service provision to avoid interruption in HHSC services, or both.

### **3.3 FEE, PAYMENT, VOLUME, USAGE AND COMPENSATION**

**3.3.1 Fee.** Compensation for any work under a resultant Contract resulting from this RFQ generally will be limited to \$150 per hour. In extraordinary circumstances, HHSC reserves the right to modify this amount if an alternative negotiated rate is agreed upon for a particular assignment by both parties in advance of work performed or should additional state or federal funding become available during the term of a resultant Contract, including any extensions.

**3.3.2 Payment.** Payment for services provided by an awarded contractor will be on a fee-for -service basis.

- A. A Contractor shall not be entitled to payment in the absence of a signed contract to provide services.
- B. A Contractor shall recover only once for the medical professional services delivered under an awarded contract. A Contractor shall not bill for or retain any additional compensation for such services from HHSC or any other entity.
- C. A Contractor must seek payment or adjustments to payments within 30 days after services have been satisfactorily completed and submitted to the HHSC OIG.
- D. A Contractor will only be paid for services provided upon OIG’s receipt and approval of Contractor’s itemized invoice for reimbursement.

**3.3.3 No Guarantee of Volume, Usage or Compensation.** HHSC makes no guarantee of volume, usage, or total compensation to be paid to any Contractor under any awarded Contract, if any, resulting from this RFQ. All awarded Contracts are subject to appropriations and the continuing availability of funds. OIG will assign work to awarded Contractors based on the following guidelines:

- A. Skills and experience of an awarded Contractor for a particular assignment;
- B. The ability of an awarded Contractor to provide the requested services within the time frame needed;
- C. The quality, flexibility and timeliness of the awarded Contractor's performance of prior assignments under the resultant Contract; and
- D. Any other factors relevant to a particular assignment for which a Contractor's services are needed.

## **ARTICLE IV. ADMINISTRATIVE INFORMATION**

### **4.1 SCHEDULE OF EVENTS**

<b>EVENT</b>	<b>DATE/TIME</b>
Solicitation Release Date	Friday, October 26, 2018
Deadline for Submitting Questions	Friday, November 2, 2018
<b>Deadline for submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by HHSC by the deadline.]</b>	<b>Tuesday, January 1, 2019 AT 2:00 PM Central Time</b>
Anticipated Contract Start Date	Upon execution

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

### **4.2 MODIFICATION TO SOLICITATION**

HHSC reserves the right to modify any provision of this RFQ, or to withdraw this RFQ at any time prior to award, if it is in the best interest of HHSC and will post all modifications on the ESD. It is the responsibility of Respondent to periodically check the ESD to ensure full compliance with the requirements of this Solicitation.

### **4.3 IRREGULARITIES**

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

#### 4.4 INFORMALITIES

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

#### 4.5 INQUIRIES

##### 4.5.1 Point of Contact

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

Name: Andrick Reese, CTPM  
Title: Purchaser  
Address: Procurement and Contracting Services Building  
Health and Human Services Commission  
1100 W 49<sup>th</sup> Street, MC 2020  
Phone: 512-406-2532  
Email: andrick.reese@hhsc.state.tx.us

##### 4.5.2 Prohibited Communication

On issuance of this RFQ, except for the written inquiries described in Section 4.5.1, HHSC, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this RFQ with any potential Respondent or their representative(s). This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this RFQ. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

##### 4.5.3 Questions

HHSC will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by email to the Point of Contact listed in Section 4.5.1. Names of those submitting questions will be removed from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

- A. Identifying Solicitation number;
- B. Section number;
- C. Paragraph number;
- D. Page number;

- E. Text of passage being questioned; and
- F. Question.

**Note: Questions or other written requests for clarification must be received by the Point of Contact by the deadline set forth in Section 4.1 above. However, HHSC, at its sole discretion, may respond to questions or other written requests received after the deadline. Please provide company name, address, phone number, fax number, e-mail address, and name of contact person when submitting questions.**

#### **4.5.4 Clarification**

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

#### **4.5.5 Responses**

Responses to questions or other written requests for clarification may be posted on the ESBD. HHSC reserves the right to amend answers prior to the deadline of Solicitation Responses. Amended answers may be posted on the ESBD. It is Respondent's responsibility to check the ESBD or contact the Point of Contact for updated responses. HHSC also reserves the right to decline to answer any question or questions or to provide a single consolidated response of all questions they choose to answer in any manner at HHSC's sole discretion.

## **4.6 SOLICITATION RESPONSE COMPOSITION**

### **4.6.1 Overview**

Respondent shall fully complete the Statement of Qualifications, Exhibit A, and submit it to HHSC along with the following additional documents:

- A. Résumé with curriculum vitae, if applicable, for each physician that will provide services under a resultant contract;
- B. Proof that you are licensed to practice medicine in the State of Texas, in accordance with the provisions of Chapter 155, License to Practice Medicine, of the Texas Occupations Code;
- C. Documentation regarding number of years' relevant experience with professional and/or case reviews, experience adjudicating proceedings, and providing professional testimony (e.g., a written summary to supplement the résumé and curriculum vitae);
- D. Exhibit B - Affirmations and Solicitation Acceptance;



- E. Exhibit E - Federal Assurances—Non-Construction Programs;
- F. Exhibit F – Certification Regarding Lobbying;
- G. Exhibit G - Data Use Agreement; and
- H. Respondent Profile, if applicable (see Section 6.1.1).

Documentation will be submitted via mail or submitted by email as attachments. Documentation includes all documentation listed in Article VIII: Submission Checklist. Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration.

HHSC, in its discretion, may reject any and all SOQs or portions thereof.

#### **4.6.2 Submission in Separate Parts**

The entire Solicitation response--all separated paper documents or electronic copies--must then be submitted in one package to HHSC at the address listed or all documents email as stated in Section 4.7.3.

#### **4.6.3 Formatting of Supporting Documentation**

Attachments to the SOQ should be formatted as follows: 8 ½" x 11" paper, 12 point font size.

#### **4.6.4 Discrepancies**

Discrepancies or disparities between the contents of original Solicitation Responses and copies will be interpreted in favor of HHSC.

#### **4.6.5 Assumptions**

No assumptions should be included in a Solicitation Response. All issues or questions that might be advanced or addressed by way of assumption should be submitted pursuant to Section 4.5.4. **The inclusion of assumptions in a Solicitation Response may result in a Respondent not being awarded a contract.**

#### **4.6.6. Terms and Conditions Attached to Response**

Any terms and conditions attached to a Response will not be considered unless specifically referred to in the Response.

### **4.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY**

#### **4.7.1 Deadline**

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

#### **4.7.2 Labeling**

Solicitation Responses shall be placed in a sealed box and clearly labeled as follows or emailed as an attachment with the following information in the body of the email:

SOLICITATION NO: HHS0003136  
 SOLICITATION NAME: RFQ for Physicians  
 SOLICITATION RESPONSE DATE: Tuesday, January 1, 2019 at 2:00pm  
 FOR: Professional Services  
 RESPONDENT’S NAME:  
 PURCHASER’S NAME: Andrick Reese

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

**4.7.3 Delivery**

Respondent must deliver Solicitation Responses by one of the methods below. Solicitation Responses submitted by facsimile will NOT be considered.

U.S. Postal Service	Email	Hand Delivery
Procurement and Contracting Services Building Health and Human Services Commission Attn: MC2020-Bid Room 1100 W 49 <sup>th</sup> Street Austin, TX 78756	<a href="mailto:pcsbids@hhsc.state.tx.us">pcsbids@hhsc.state.tx.us</a>	Health and Human Services Commission Procurement and Contracting Services Attn: Response Coordinator Procurement and Contracting Services Building 1100 W 49th St. MC: 2020 Austin, TX 78756

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

**4.7.4 Alterations, Modifications, and Withdrawals**

Prior to the RFQ submission deadline, a Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Point of Contact; or (2) modify its Solicitation Response by submitting a written amendment to the Point of Contact. HHSC may request Solicitation Response modifications at any time.

**ARTICLE V. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS**

**5.1 EVALUATION CRITERIA**

**5.1.1 Conformance with State Law**

Solicitation Responses shall be evaluated in accordance with Chapter 2254 of the Texas Government Code.

HHSC will make the selection on the basis of the Respondent's demonstrated competence and qualifications, and a Respondent's agreement to contract terms that are acceptable to HHSC. Each Response will be evaluated when received and, if an award is made, a contract will be executed shortly thereafter.

### **5.1.2 Other Information**

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

## **5.2 INITIAL COMPLIANCE SCREENING**

HHSC PCS will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses and the failure to include all required forms and information, or both, may be subject to rejection without further evaluation.

## **5.3 ORAL PRESENTATIONS**

HHSC reserves the right to require an oral presentation from any or all Respondents to aid in a determination for award recommendation. If oral presentation occurs, information from those presentations will be used in addition to the criteria outlined in Section 5.1.1. Respondents will be provided with advance notice of any such oral presentation and will include an agenda of the topics requiring elaboration. Failure to participate in the requested presentation may eliminate a Respondent from further consideration. Respondents are responsible for their own presentation equipment. HHSC is not responsible for any costs incurred by the Respondent in preparation for any oral presentation.

## **5.5 QUESTIONS OR REQUESTS FOR CLARIFICATION BY HHSC**

HHSC reserves the right to ask questions or request clarification from any Respondent once responses are received, including during oral presentations, if any.

# **ARTICLE VI. ADDITIONAL INFORMATION**

## **6.1 RESPONDENT INFORMATION**

### **6.1.1 Profile**

In addition to the documentation identified in section 4.6.1, Respondent must include the following information, if applicable, in its Solicitation response:

- A. If applicable, the Respondent company's ownership structure (corporation, partnership, LLC, or sole proprietorship), including any wholly-owned subsidiaries, affiliated companies, or joint ventures. (*Please provide this information in a narrative and as a graphical representation.*) If Respondent is an affiliate of, or has a joint venture or strategic alliance with, another company, Respondent must identify the percentage of ownership and the percentage of the parent's ownership. The entity performing the majority of the work under a contract, throughout the duration of the

contract, must be the primary bidder. Finally, please provide your proposed operating structure for the services requested under this Solicitation and which entities (i.e., parent company, affiliate, joint venture, subcontractor) will be performing them.

- B. If applicable, the year the company was founded and/or incorporated. If incorporated, please indicate the state where the company is incorporated and the date of incorporation.
- C. If applicable, the location of your company headquarters and any field office(s) that may provide services for any resulting contract under this Solicitation.
- D. If applicable, the number of employees in your company, both locally and nationally, and the location(s) from which employees may be assigned.
- E. The name, address, and telephone number of Respondent's point of contact for any resulting contract under this Solicitation.
- F. Indicate whether you or your company has ever been engaged under a contract by any Texas state agency. If "Yes," specify when, for what duties, and for which agency.

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

### **6.1.2 Conflicts**

Respondent must certify that it does not have any personal or business interests that present a conflict of interest with respect to the RFQ and any resulting contract. Additionally, if applicable, the Respondent must disclose all potential conflicts of interest. The Respondent must describe the measures it will take to ensure that there will be no actual conflict of interest and that its fairness, independence and objectivity will be maintained. HHSC will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the contract. Failure to identify actual and potential conflicts of interest may result in disqualification of a Solicitation Response or termination of a contract.

Please include any activities of affiliated or parent organizations and individuals who may be assigned to this contract, if any.

Additionally, pursuant to Section 2252.908 of the Texas Government Code, a successful Respondent awarded a contract greater than \$1 million dollars must file a disclosure of interested parties form with the Texas Ethics Commission and provide a copy of the filed form to HHSC at the time the business entity submits the signed contract. Rules and filing instructions may be found on the Texas Ethics Commission's public website and additional instructions will be given by HHSC to successful Respondents.

### **6.1.3 Historically Underutilized Business (“HUB”) Applicability Subcontracting Plan**

An evaluation of potential subcontracting opportunities was conducted for this RFQ in accordance with Texas Government Code section 2161.252, and it was determined that this RFQ does not contain any probable subcontracting opportunities. Therefore, Respondents are not required to submit a HUB Subcontracting Plan with their SOQs.

## **ARTICLE VII. GENERAL TERMS AND CONDITIONS**

### **7.1 GENERAL CONDITIONS**

#### **7.1.1 Amendment**

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

#### **7.1.2 Costs Incurred**

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

#### **7.1.3 Contract Responsibility**

HHSC will look solely to Respondent for the performance of all contractual obligations that may result from an award based on this RFQ. An awarded Contractor shall not subcontract any of its contractual obligations.

#### **7.1.4 Public Information Act**

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

## 7.2 PROTEST

If a Respondent wishes to file a protest, the Respondent may do so in accordance with the rules published by HHSC in Title 1, Part 15, Chapter 391, Subchapter D of the Texas Administrative Code.

## **ARTICLE VIII. SUBMISSION CHECKLIST**

This checklist is provided for Respondent's convenience only and identifies documents that must be submitted with this Solicitation in order to be considered responsive. Any Solicitation Response received without these requisite documents may be deemed nonresponsive and may not be considered for contract award.

### **Original Solicitation Response Package**

The Response must include the following documents, signed as appropriate:

1. Exhibit A - Statement of Qualifications;
2. Résumé with curriculum vitae;
3. Proof that Respondent is a physician licensed to practice medicine in the State of Texas, in accordance with the provisions of Chapter 155, License to Practice Medicine, of the Texas Occupations Code;
4. Documentation regarding number of years' relevant experience with professional and/or case reviews, experience adjudicating proceedings and providing professional testimony (e.g. a written summary to supplement the résumé and curriculum vitae);
5. Exhibit B - Affirmations and Solicitation Acceptance, signed and dated;
6. Exhibit E - Federal Assurances—Non-Construction Programs;
7. Exhibit F – Certification Regarding Lobbying; and
8. Exhibit G - Data Use Agreement, which includes Security and Privacy Inquiry (SPI).



20. A- Exhibits A, B, E, F and G must be returned. Please see Article VIII, Submission Checklist for more information. The Data Use Agreement attached to this RFQ as Exhibit G, does not have a signature line, as it will be part of the contract. The Security and Privacy Inquiry (SPI) form needs to be completed and returned upon the submission of the Solicitation Response.

21. Q- Does this requirement apply to an individual physician (not in active clinical practice, but in selective consultation & administrative review of medical issues)? This line items seems to be geared towards a practice and/or entity rather than an individual.  
 21. A- Active clinical practice is not a prerequisite. The OIG is attempting to build a pool of qualified physicians in a variety of specialties. This Solicitation applies to individual physicians, as well as entities.

22. Q- In the same vein as Question 1, how does an individual physician (not in active clinical practice, but in selective consultation & administrative review of medical issues), respond to these questions? The SPI seems to be geared towards a practice and/or entity rather than an individual.  
 22. A- The SPI is a standard form for all HHS contracts alike. Please complete the information using the instructions on page 13 of the SPI to the best of your truthful ability.

23. Q- When are we to receive the contract?  
 23. A- Qualified physicians who meet the Statement of Qualifications can generally expect to receive a contract for signature within a month after the OIG has received the application. Please note that this timeframe is approximate and subject to change.

24. Q- I do not have a subcontractor, but there is a question asking for my HHS Contract Number and I don't know what that is.  
 24. A- The subcontractor agreement should be left blank if no subcontractors will be utilized. The DUA itself does not have a signature line, as it will be part of the contract.

**THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL SOLICITATION**

**RETURN ADDENDUM ACKNOWLEDGMENT FORM AS INSTRUCTED, FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OR RESPONSE.**

1. If respondent has submitted response prior to addendum, respondent may email the signed addendum to [pcsbids@hhsc.state.tx.us](mailto:pcsbids@hhsc.state.tx.us) prior to the solicitation due date and time.
2. Acknowledge receipt of this addendum on the face of your response, or
3. Sign and return this addendum to HHSC-PCS with the solicitation response to Procurement and Contracting Services, 1100 W. 49th Street, Austin, TX 78756; or

Diana M. Horton, MD			
Respondent Name		Authorized Signature	
11/18/2018	[REDACTED]	[REDACTED]	
Date (MM/DD/YYYY)	Phone	Email	

## Attachment J

## 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	
Diana M. Horton, MD	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input type="text"/>	* First Name: <input type="text" value="Diana"/> Middle Name: <input type="text" value="Millman"/>
* Last Name: <input type="text" value="Horton"/>	Suffix: <input type="text" value="M.D."/>
* Title: <input type="text" value="Physician"/>	
* SIGNATURE: <input type="text" value="Diana M. Horton"/>	* DATE: <input type="text" value="11-16-2018"/>



**Attachment K**OMB Number: 4040-0007  
Expiration Date: 01/31/2019**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

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

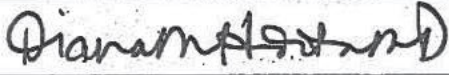
**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

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

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

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 800, 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 108 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 108(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE PHYSICIAN
APPLICANT ORGANIZATION DIANA M. HORTON, MD	DATE SUBMITTED 11-18-2018