

**SIGNATURE DOCUMENT FOR
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS000407000001
ISSUED UNDER
REQUEST FOR QUALIFICATIONS NO. HHS0004070**

I. PURPOSE

The Department of State Health Services (“DSHS” or “System Agency”), an administrative agency within the executive branch of the state of Texas, and **Joanne Nguyen, M.D.** (“Contractor”), a licensed medical doctor, each a “Party” and collectively “the Parties”, enter into the following Professional Services contract for birth defect clinical case review services (the “Contract”) in accordance with Request for Qualifications No. HHS0004070 which is attached hereto and incorporated herein as **Attachment E**.

II. LEGAL AUTHORITY

This Contract is made in accordance with *Texas Government Code* Chapter 2254 and authorized by and in compliance with the provisions of *Texas Health and Safety Code* Chapter 12 and 1001.

III. STATEMENT OF SERVICES TO BE PROVIDED

Contractor shall perform Services in accordance with the Statement of Work, attached hereto and incorporated herein as **Attachment A**.

IV. DURATION

This Contract is effective on the signature date of the latter of the Parties to sign this Contract, and terminates on August 31, 2020, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. System Agency, at its own discretion, may extend this Contract for any period or periods of time no greater than a cumulative total of five years, which five-year period includes the original contract term.

At the sole option of System Agency, the Contract may also be extended beyond all exercised renewal periods as necessary to ensure continuity of service or as otherwise determined by System Agency to serve the best interest of the state.

V. BUDGET

The total amount of this Contract will not exceed **SIXTY THOUSAND DOLLARS (\$60,000.00)**. All expenditures under the Contract will be in accordance with **Section III of Attachment A, Invoice and Payment**.

VI. CONTRACT REPRESENTATIVES

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

DSHS

Sandy Clark, Contract Manager
1100 West 49th Street; MC 1990
Austin, Texas 78756
(512) 776-2264
sandy.clark@dshs.texas.gov

Contractor

Joanne Nguyen, M.D.
10515 Lennox Lane
Dallas, Texas 75229-5415
(858) 352-8392
Joanne.Nguyen@cookchildrens.org

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

VII. LEGAL NOTICES

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

System Agency

Department of State Health Services
Attention: Office of General Counsel
PO Box 149347
Austin, TX 78714-9347

Contractor

Joanne Nguyen, M.D.
10515 Lennox Lane
Dallas, Texas 75229-5415

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

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR
DSHS CONTRACT NO. HHS000407000001**

DEPARTMENT OF STATE HEALTH SERVICES

JOANNE NGUYEN, M.D.

DocuSigned by:
Manda Hall, M.D
By: _____
202CEA5A9C164E2...
Manda Hall, M.D

DocuSigned by:
Joanne Nguyen
By: _____
1A4831585C0F48E...
Joanne Nguyen

Associate Commissioner, Community Health Improvement
November 15, 2019
Date of execution: _____

MD
Date of execution: November 14, 2019

**THE FOLLOWING ATTACHMENTS TO THIS DSHS CONTRACT NO. HHS000407000001 ARE
HEREBY ATTACHED AND INCORPORATED BY REFERENCE:**

- ATTACHMENT A - STATEMENT OF WORK**
- ATTACHMENT B - UNIFORM TERMS AND CONDITIONS**
- ATTACHMENT C - CONTRACT AFFIRMATIONS**
- ATTACHMENT D - DSHS SUPPLEMENTAL & SPECIAL CONDITIONS**
- ATTACHMENT E - SYSTEM AGENCY RFQ No. HHS0004070**
- ATTACHMENT F - CONTRACTOR'S SOLICITATION RESPONSE**
- ATTACHMENT G- DATA USE AGREEMENT**
- ATTACHMENT H - NON-EXCLUSIVE LIST OF APPLICABLE LAWS**
- ATTACHMENT I - FEDERAL ASSURANCES – NON-CONSTRUCTION PROGRAMS**
- ATTACHMENT J - FFATA CERTIFICATION**
- ATTACHMENT K – CONFIDENTIALITY AGREEMENT**

ATTACHMENT A STATEMENT OF WORK

I. CONTRACTOR RESPONSIBILITIES

Contractor will:

- A. Participate in training, as needed, on the coding, database system, and procedures used by DSHS Birth Defects Epidemiology and Surveillance Branch (“BDESB”);
- B. Review selected cases abstracted for the BDESB and provide birth defect diagnoses and coding as requested by the BDESB Manager, Registry Operations Manager, Senior Scientist, or other BDESB staff in accordance with the terms of this Contract and all attachments hereto (the “Professional Services”). Case review will include, but is not limited to:
 1. Reviewing electronic copies of birth defect cases meeting BDESB criteria for clinical review;
 2. Reviewing diagnosis codes of a random subset of birth defect cases for quality assurance purposes; and
 3. Reviewing and providing clinical input for cluster investigations, BDESB studies and special projects.
- C. Comment electronically, as necessary, on case abstractions, including but not limited to:
 1. Documenting needed changes within each case abstraction;
 2. Eliminating a case from the database because it does not meet Birth Defects Registry's case definition; and
 3. Notifying the DSHS regional field personnel of needed changes, to request more information, or to request abstraction, as needed.
- D. Serve as a clinical expert as requested by the BDESB Manager, Registry Operations Manager, Senior Scientist, or other BDESB staff by:
 1. Participating in Birth Defects Registry cluster investigations, periodic BDESB staff meetings, temporary targeted working groups, testing the BDESB web-based system for collecting and editing data on cases of birth defects, and helping in projects requiring clinical input;
 2. Addressing questions from BDESB staff of a clinical nature such as developing/revising the birth defects coding list, case definition, or other clinical issues;
 3. Communicating BDESB issues with physicians who have experience relevant to the diagnosis and treatment of birth defects; and
 4. Conducting oral presentations to lay and professional audiences regarding the Birth Defects Registry.

- E. Maintain a network of professional specialists and sub-specialists for advice about birth defect delineation and coding. Instruct BDESB staff regarding birth defects diagnosis and coding;
- F. Provide training as requested to BDESB staff in birth defect diagnosis and coding, medical record review, and other topics as requested. Training will include: pre-review questions by email or phone, instructions during the process of abstraction correction, email contact, formal training sessions in person or electronically, and writing of training and/or informational materials;
- G. Assist with training a new clinical reviewer for BDESB, as needed;
- H. Review and refine case review procedures to reduce inter-reviewer variation with DSHS and others, if applicable, upon request by DSHS. Document all changes or additions to reviewed procedures;
- I. Travel to and attend BDESB and selected other meetings and conferences as directed and approved by DSHS;
- J. Submit a six-month progress report on activities accomplished which shall be due at the two BDESB operations and planning meetings each Contract year;
- K. Maintain access to a secure computer that meets the requirements set forth in the **TEXAS HHS SYSTEM DATA USE AGREEMENT (DUA)**, which is attached hereto and incorporated herein as **Attachment G** and uses a Windows operating system and secure internet connection for access to the BDESB web-based system for collecting and editing data on cases of birth defects. Note that the current BDESB system was designed for use with a Personal Computer (“PC”) running the Windows operating system and the browser recommended by the program. The use of other systems is not advised, may cause unexpected results, and cannot be supported by DSHS staff;
- L. Comply with all privacy and security standards set forth in the DUA attached hereto and incorporated herein as **Attachment G**;
- M. Consult with other BDESB clinical reviewers and staff by phone, fax, and/or electronic methods;
- N. Keep current all professional licenses and certifications applicable to these services for the term of this Contract;
- O. Adhere to Texas Health and Safety Code Chapter 87 (<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.87.htm>), and program rules in 25 Texas Administrative Code Chapter 37, Subchapter P

([https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=37&sch=P&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=37&sch=P&rl=Y));

- P. Sign and adhere to the BDESB Confidentiality Agreement set forth in the Confidentiality Agreement attached hereto and incorporated herein as **Attachment K**;
- Q. Commit to spending an average of twenty (20) hours per month within the contract term performing clinical review activities for BDESB; and
- R. Provide other activities related to epidemiology birth defects clinical reviews and training for the same as reasonably requested by BDESB.

II. PERFORMANCE MEASURES

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

III. INVOICE AND PAYMENT

- A. Contractor will request payments using the State of Texas Purchase Voucher (Form B-13) at <http://www.dshs.texas.gov/grants/forms.shtm>. Voucher and any supporting documentation will be mailed or submitted by fax or electronic mail to the address/number below.

Department of State Health Services
Claims Processing Unit, MC 1940
1100 West 49th Street
P.O. Box 149347
Austin, TX 78714-9347
FAX: (512) 776-7442
EMAIL: invoices@dshs.state.tx.us and CMSinvoices@dshs.texas.gov

- B. DSHS shall pay Contractor at an hourly rate of \$90.00 per hour for Professional Services performed by Contractor (the "Hourly Fee"). Contractor shall submit an invoice as described in Subsection A above on a monthly basis, reasonably detailing time expended and a description of the nature of the Professional Services rendered.

Any travel requested by DSHS will be reimbursed separately using the Texas state travel rates. <https://fmx.cpa.texas.gov/fmx/travel/texttravel/rates/current.php>.

ATTACHMENT B



TEXAS
Health and Human Services

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

Published and Effective September 1, 2017

Responsible Office: Chief Counsel

TABLE OF CONTENTS

Article I. Definitions and Interpretations 4

 1.1 Definitions 4

 1.2 Interpretive Provisions..... 5

Article II. Consideration..... 6

 2.1 Prompt Payment..... 6

 2.2 Expenses 6

 2.3 Work Orders 6

Article III. State and Federal Funding..... 7

 3.1 Funding..... 7

 3.2 No debt Against the State 7

 3.3 Debt to State 7

 3.4 Recapture of Funds 7

Article IV. Warranty, Affirmations, Assurances and Certifications 8

 4.1 Warranty 8

 4.2 General Affirmations 8

 4.3 Federal Assurances 8

 4.4 Federal Certifications..... 8

Article V. Ownership and Intellectual Property 9

 5.1 Ownership..... 9

 5.2 Intellectual Property..... 9

Article VI. Records, Audit, and Disclosure..... 9

 6.1 Books and Records 9

 6.2 Access to records, books, and documents 9

 6.3 Response/compliance with audit or inspection findings 10

 6.4 SAO Audit 10

 6.5 Confidentiality 10

 6.6 Public Information Act 11

Article VII. Contract Management and Early Termination 11

 7.1 Contract Management..... 11

7.2 Termination for Convenience 11

7.3 Termination for Cause 11

7.4 Contractor responsibility for associated costs. 12

7.5 Equitable Settlement 12

Article VIII. Miscellaneous Provisions 12

8.1 Amendment..... 12

8.2 Insurance..... 12

8.3 Delegation of Authority 12

8.4 Legal Obligations..... 13

8.5 E-Verify 13

8.6 Permitting and Licensure 13

8.7 Indemnity 13

8.8 Assignments..... 14

8.9 Subcontracts..... 14

8.10 HUB/Mentor Protégé..... 15

8.11 Relationship of the Parties 15

8.12 Technical Guidance Letters 16

8.13 Governing Law and Venue..... 16

8.14 Severability 16

8.15 Survivability 16

8.16 Force Majeure..... 16

8.17 Dispute Resolution..... 17

8.18.2017No Waiver of Provisions..... 17

8.19 Publicity..... 17

8.20 Prohibition on Non-compete Restrictions 17

8.21 No Waiver of Sovereign Immunity 17

8.22 Entire Contract and Modification 17

8.23 Counterparts..... 18

8.24 Proper Authority 18

8.25 Civil Rights..... 18

8.26 Enterprise Information Management Standards 19

8.27 Notice of Legal Matter or Litigation 19

ARTICLE I. DEFINITIONS AND INTERPRETATIONS

1.1 DEFINITIONS

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

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

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

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

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

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

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

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

“[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

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

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

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

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

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

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

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

1.2 INTERPRETIVE PROVISIONS

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

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

ARTICLE II. CONSIDERATION

2.1 PROMPT PAYMENT

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

2.2 EXPENSES

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

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

2.3 WORK ORDERS

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

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT TO STATE

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

3.4 RECAPTURE OF FUNDS

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

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

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

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

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

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

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

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY

5.1 OWNERSHIP

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

5.2 INTELLECTUAL PROPERTY

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

ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE

6.1 BOOKS AND RECORDS

Contractor will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor’s Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Contractor will maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

6.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

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

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

6.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

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

6.4 SAO AUDIT

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

6.5 CONFIDENTIALITY

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

6.6 PUBLIC INFORMATION ACT

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

ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION

7.1 CONTRACT MANAGEMENT

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

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

7.2 TERMINATION FOR CONVENIENCE

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

7.3 TERMINATION FOR CAUSE

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Contract, in whole or in part, upon either of the following conditions:

a. **Material Breach**

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

b. **Failure to Maintain Financial Viability**

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

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

7.4 CONTRACTOR RESPONSIBILITY FOR ASSOCIATED COSTS.

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

7.5 EQUITABLE SETTLEMENT

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

ARTICLE VIII. MISCELLANEOUS PROVISIONS

8.1 AMENDMENT

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

8.2 INSURANCE

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

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

8.3 DELEGATION OF AUTHORITY

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

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

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

8.4 LEGAL OBLIGATIONS

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

8.5 E-VERIFY

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

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

8.6 PERMITTING AND LICENSURE

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

8.7 INDEMNITY

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

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

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

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

8.8 ASSIGNMENTS

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

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

8.9 SUBCONTRACTS

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

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

8.10 HUB/MENTOR PROTÉGÉ

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

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

8.11 RELATIONSHIP OF THE PARTIES

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

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

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

8.12 TECHNICAL GUIDANCE LETTERS

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

8.13 GOVERNING LAW AND VENUE

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

8.14 SEVERABILITY

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

8.15 SURVIVABILITY

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

8.16 FORCE MAJEURE

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

8.17 DISPUTE RESOLUTION

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

8.18.2017NO WAIVER OF PROVISIONS

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

8.19 PUBLICITY

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

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

8.20 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

8.21 NO WAIVER OF SOVEREIGN IMMUNITY

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

8.22 ENTIRE CONTRACT AND MODIFICATION

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

8.23 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Contract.

8.24 PROPER AUTHORITY

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

8.25 CIVIL RIGHTS

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

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

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

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

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

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

8.26 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

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

8.27 NOTICE OF LEGAL MATTER OR LITIGATION

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

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

ATTACHMENT C

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 represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
5. Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.
6. 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 as well as terms and conditions advanced by Contractor that differ in any manner from HHSC's terms and conditions, if any, are rejected unless expressly accepted by HHSC in writing.
7. 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.

8. Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of HHSC.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.
15. 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.
16. 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.

17. Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
18. 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.
19. 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.
20. 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).
21. 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.
22. Contractor agrees that upon request of HHSC, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
23. 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.

24. 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.
25. 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.
26. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
27. 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.
28. 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.
29. 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.
30. 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.

31. 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.
32. 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.
33. 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.
34. If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.

35. 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 who 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.

36. If this Contract is for consulting services,
(A). In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, HHSC or another State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

- (1) Name of individual(s) (Respondent or employee(s));
- (2) Status;
- (3) The nature of the previous employment with HHSC or the other State of Texas agency;
- (4) The date the employment was terminated and the reason for the termination; and
- (5) The annual rate of compensation for the employment at the time of its termination.

(B). If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by HHSC or any other State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services.

37. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Respondent refuses to make that certification, Respondent shall state here any facts that make it exempt from the boycott certification:

38. Contractor understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act: (i) performs an abortion procedure that is not reimbursable under the state’s Medicaid program; (ii) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program; or (iii) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the

state's Medicaid program. The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX, Section 6.25.

- 39. Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Contractor refuses to make that certification, Contractor shall state here any facts that make it exempt from the certification:

_____.

- 40. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.
- 41. 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.
- 42. 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.
- 43. 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.
- 44. 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: _____

Signature of Authorized Representative

Date Signed

Printed Name and Title of Authorized Representative

Phone Number

Federal Employer Identification Number

Fax Number

DUNS Number

Email Address

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

ATTACHMENT D
DSHS SUPPLEMENTAL & SPECIAL CONDITIONS

SUPPLEMENTAL CONDITIONS

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

SPECIAL CONDITIONS

SECTION 1.01 NOTICE OF CONTRACT ACTION

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

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

SECTION 1.02 NOTICE OF BANKRUPTCY

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

SECTION 1.03 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

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

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

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

SECTION 1.05 NOTICE OF IRS OR TWC INSOLVENCY

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

SECTION 1.06 NOTICE OF A LICENSE ACTION

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

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

SECTION 1.07 INTERIM EXTENSION AMENDMENT

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

SECTION 1.08 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY AND SECURITY STANDARDS

- a. Applicability:

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

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

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

b. Definitions:

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

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

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

“Product” means information resources technology that is, or is related to EIR.

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

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

c. Evaluation, Testing, and Monitoring

1. The System Agency may review, test, evaluate and monitor Contractor’s Products and services, as well as associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing. Neither the review, testing (including acceptance testing), evaluation or monitoring of any Product or service, nor the absence of review, testing, evaluation or monitoring, will result in a waiver of the State’s right to contest the Contractor’s assertion of compliance with the Accessibility Standards.
2. Contractor agrees to cooperate fully and provide the System Agency and its representatives timely access to Products, records, and other items and

information needed to conduct such review, evaluation, testing, and monitoring.

d. Representations and Warranties

1. Contractor represents and warrants that:

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

e. Remedies

1. Under Tex. Gov't Code § 2054.465, neither the Contractor nor any other person has cause of action against the System Agency for a claim of a failure to comply with Tex. Gov't Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of Contractor's representations and warranties, Contractor will be liable for direct, consequential, indirect, special, or liquidated damages and any other remedies to which the System Agency may be entitled under this Contract and other applicable law. This remedy is cumulative of any other remedies to which the System Agency may be entitled under this Contract and other applicable law.

ATTACHMENT E



TEXAS
Health and Human Services

Dr. Courtney N. Phillips, Executive Commissioner

**Request for Qualifications (“RFQ”)
for
Birth Defects Clinical Case Reviews**

RFQ No. HHS0004070

**Date of Release: Wednesday, June 26, 2019
Responses Due: Monday, July 22, 2019 at 2:00 PM CST**

NIGP Class-Item Codes

- 918-78 Medical Consulting**
- 948-74 Professional Medical Services: Physicians, Pharmacists, and All Specialties**
- 948-82 Research and Science Services, Medical**

TABLE OF CONTENTS

ARTICLE 1. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY 4

 1.1 EXECUTIVE SUMMARY 4

 1.2 DEFINITIONS 4

 1.3 AUTHORITY 5

ARTICLE 2. SCOPE OF WORK 6

 2.1 DESCRIPTION OF SERVICES/STATEMENT OF WORK/SPECIFICATIONS 6

 2.2 CONTRACT AWARD, TERM, AND AMOUNT 7

 2.2.1 Contract Award and Execution 7

 2.2.2 Contract Term 8

 2.2.3 Contract Amount 8

 2.3 DATA USE AGREEMENT 8

 2.4 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION 8

ARTICLE 3. ADMINISTRATIVE INFORMATION 9

 3.1 SCHEDULE OF EVENTS 9

 3.2 CHANGES, AMENDMENT OR MODIFICATION TO SOLICITATION 9

 3.3 IRREGULARITIES 9

 3.4 INFORMALITIES 10

 3.5 INQUIRIES 10

 3.5.1 Point of Contact 10

 3.5.2 Prohibited Communication 10

 3.5.3 Questions 10

 3.5.4 Clarification 11

 3.5.5 Responses 11

 3.6 SOLICITATION RESPONSE COMPOSITION 11

 3.6.1 Generally 11

 3.6.2 Submission 11

 3.6.3 Page Limit and Supporting Documentation 12

 3.6.4 Discrepancies 12

 3.6.5 Exceptions 12

 3.6.6 Assumptions 13

 3.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY 13

 3.7.1 Deadline 13

3.7.2 Labeling 13

3.7.3 Delivery..... 13

3.7.4 Alterations, Modifications, and Withdrawals 14

ARTICLE 4. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS 15

4.1 EVALUATION CRITERIA 15

4.1.1 Conformance with State Law..... 15

4.1.2 Minimum Qualifications 15

4.1.3 Specific Criteria 15

4.1.4 Other Information 15

4.2 INITIAL COMPLIANCE SCREENING..... 16

4.3 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE SYSTEM AGENCY 16

ARTICLE 5. STATEMENT OF QUALIFICATIONS..... 17

5.1 EXPERIENCE NARRATIVE 17

5.2 RESPONDENT BACKGROUND AND COMMITMENT QUESTIONNAIRE 17

5.3 CURRICULUM VITAE OR RESUME 17

5.4 CERTIFICATIONS AND LICENSES 17

5.5 REFERENCES..... 17

5.6 MAJOR SUBCONTRACTOR INFORMATION..... 17

5.7 LITIGATION AND CONTRACT HISTORY 17

5.8 CONFLICTS 17

5.9 AFFIRMATIONS AND CERTIFICATIONS 18

5.10 HUB SUBCONTRACTING PLAN..... 18

ARTICLE 6. GENERAL TERMS AND CONDITIONS..... 19

6.1 GENERAL CONDITIONS..... 19

6.1.1 Amendment..... 19

6.1.2 Costs Incurred 19

6.1.3 Contract Responsibility..... 19

6.1.4 Public Information Act 19

6.2 PROTEST..... 19

ARTICLE 7. SUBMISSION CHECKLIST..... 20

ARTICLE 8. List of Exhibits 21

ARTICLE 1. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY

1.1 EXECUTIVE SUMMARY

The State of Texas, by and through the Health and Human Services Commission (“HHSC”) Procurement and Contracting Services (“PCS”), on behalf of the Department of State Health Services (“DSHS”), is soliciting responses from qualified physicians to review and provide birth defect diagnosis and coding for selected cases abstracted for the Birth Defects Epidemiology and Surveillance Branch (“BDESB”) in accordance with the requirements contained in this Request for Qualifications (“RFQ” or “Solicitation”).

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

Information regarding DSHS and the BDESB program is available online and can currently be accessed at <http://dshs.texas.gov/birthdefects/default.shtm>.

1.2 DEFINITIONS

Refer to **Exhibit C, HHSC Uniform Terms and Conditions – Vendor, Version 2.15**, and **Exhibit D, DSHS Supplemental and Special Conditions**, for definitions. If any definition contained herein has a meaning entirely contrary to that contained in any other exhibit or attachment, the meaning contained herein shall govern.

Additionally, as used in this Solicitation, 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 Solicitation issued by the System Agency.

“**Appendix**” means additional information and/or forms that is available in the back of this solicitation document.

“**Contract**” means a written document referring to promises or an agreement for which the laws establishes enforceable duties and remedies between a minimum of two parties.

“**Contract Term**” means the period of time during which the contract will be effective from begin to end, or renewal date. The Contract Term may or may not be the same as the budget period.

“**Debarment**” means an exclusion from contracting or subcontracting with State Agencies on the basis of cause set forth in Title 34, Texas Administrative Code, Chapter 20, Subchapter G, and the System for Award Management (SAM).

“**Deliverable**” means goods or services contracted for delivery or performance.

“**Department of State Health Services**” or “**DSHS**” means the administrative agency established under Chapter 12 of the Texas Health and Safety Code.

“**Due Date**” means established deadline for submission of a document or deliverable.

“Effective Date” means the date the Contract Term begins.

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

“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.

“Respondent” means the entity responding to this Solicitation.

“Scope of Work” means a statement that defines specific services to be performed.

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

“SOQ” means Statement of Qualifications.

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

“Statement of Qualifications” means the Respondent's response to this Solicitation and may also be called “Solicitation Response.”

“Subcontractor” means an entity hired by an awarded Contractor to perform a portion of the Scope of Work by the entity contracting with DSHS as a result of this Solicitation. The Contractor remains entirely responsible for performance of all requirements of the Contract through monitoring the Subcontractor’s performance.

“System Agency” means Department of State Health Services (DSHS) its officers, employees or authorized agents.

“Unit Rate” means payment mechanism for services that are paid at a set rate per unit of service; for example, plumbing repair services at a prescribed rate per hour.

“Vendor” means a contractor that provides goods and services that are typically procured through the open market.

“Vendor Identification Number” (Vendor ID No.) means a fourteen-digit number needed for any entity to contract with the State of Texas and which must be set up with the State Comptroller’s Office. It consists of a ten-digit Vendor ID No. (IRS number, state agency number, or social security number) +check digit + 3-digit mail code.

1.3 AUTHORITY

On behalf of the System Agency, HHSC PCS is soliciting the Services listed herein under Chapter 2254, Subchapter A, Professional Services, of the Texas Government Code and Chapter 87, Birth Defects, of the Texas Health and Safety Code.

ARTICLE 2. SCOPE OF WORK

2.1 DESCRIPTION OF SERVICES/STATEMENT OF WORK/SPECIFICATIONS

- A. Participate in training, as needed, on the coding, database system, and procedures used by DSHS BDESB.
- B. Review selected cases abstracted for the BDESB and provide birth defect diagnoses and coding as requested by the BDESB manager, registry operations manager, senior scientist, or other BDESB staff in accordance with the terms of this RFQ and all attachments hereto. Case review will include, but is not limited to:
 - 1. Reviewing electronic copies of birth defect cases meeting BDESB criteria for clinical review;
 - 2. Reviewing diagnosis codes of a random subset of birth defect cases for quality assurance purposes; and
 - 3. Reviewing and providing clinical input for cluster investigations, BDESB studies and special projects.
- C. Comment electronically, as necessary, on case abstractions, including but not limited to:
 - 1. Documenting needed changes within each case abstraction;
 - 2. Eliminating a case from the database because it does not meet birth defects registry's case definition; and
 - 3. Notifying the DSHS regional field personnel of needed changes, to request more information, or to request abstraction, as needed.
- D. Serve as a clinical expert as requested by the BDESB manager, registry operations manager, senior scientist, or other BDESB staff by:
 - 1. Participating in birth defects registry cluster investigations, periodic BDESB staff meetings, temporary targeted working groups, testing the BDESB web-based system for collecting and editing data on cases of birth defects, and helping in projects requiring clinical input;
 - 2. Addressing questions from BDESB staff of a clinical nature such as developing/revising the birth defects coding list, case definition, or other clinical issues;
 - 3. Communicating BDESB issues with physicians who have experience relevant to the diagnosis and treatment of birth defects; and
 - 4. Conducting oral presentations to lay and professional audiences regarding the birth defects registry.
- E. Maintain a network of professional specialists and sub-specialists for advice about birth defect delineation and coding Instruct BDESB staff regarding birth defects diagnosis and coding.
- F. Provide training as requested to BDESB staff in birth defect diagnosis and coding, medical record review, and other topics as requested. Training will include: pre-review questions by email or phone, instructions during the process of abstraction correction,

email contact, formal training sessions in person or electronically, and writing of training and/or informational materials.

- G. Assist with training a new clinical reviewer for BDESB, as needed.
- H. Review and refine case review procedures to reduce inter-reviewer variation with DSHS and others, if applicable, upon request by DSHS. Document all changes or additions to reviewed procedures.
- I. Travel to and attend BDESB and selected other meetings and conferences as directed and approved by DSHS.
- J. Submit a six-month progress report on activities accomplished which shall be due at the two BDESB operations and planning meetings each Contract year.
- K. Maintain access to a secure computer that meets the requirements set forth in **Exhibit E, Data Use Agreement**, and uses a Windows operating system and secure internet connection for access to the BDESB web-based system for collecting and editing data on cases of birth defects. Note that the current BDESB system was designed for use with a personal computer (“PC”) running the Windows operating system and the browser recommended by the program. The use of other systems is not advised, may cause unexpected results, and cannot be supported by DSHS staff.
- L. Comply with all privacy and security standards set forth in **Exhibit E, Data Use Agreement**.
- M. Consult with other BDESB clinical reviewers and staff by phone, fax, and/or electronic methods.
- N. Keep current all professional licenses and certifications applicable to the services requested under this RFQ for the term of the resulting Contract.
- O. Adhere to Texas Health and Safety Code Chapter 87 (<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.87.htm>), and program rules in Title 25 Texas Administrative Code Chapter 37, Subchapter P ([https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=37&sch=P&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=37&sch=P&rl=Y)).
- P. Sign and adhere to the BDESB **Exhibit N, Confidentiality Agreement**.
- Q. Commit to spending an average of twenty (20) hours per month within the Contract Term performing clinical review activities for BDESB.
- R. Provide other activities related to epidemiology birth defects clinical reviews and training for the same as reasonably requested by BDESB.

2.2 CONTRACT AWARD, TERM, AND AMOUNT

2.2.1 Contract Award and Execution

HHSC PCS on behalf of the System Agency intends to award one (1) or more contracts as a result of this Solicitation. Any award is contingent upon approval of the Executive Commissioner or their designee.

If, for any reason, a final Contract cannot be executed with a Respondent selected for award within sixty (60) days of the System Agency's determination to seek to a Contract with that Respondent, the System Agency may negotiate a Contract with the next highest qualified Respondent or may withdraw, modify, or partially award this Solicitation.

2.2.2 Contract Term

The System Agency anticipates that the initial duration of any Contract resulting from this Solicitation shall be for a period of one (1) year. The System Agency, at its sole option, may extend any Contract awarded pursuant to this Solicitation for up to four (4) additional one (1) year periods, subject to the availability of sufficient appropriations.

Following the initial term and any allowable extensions, the System Agency may extend any resulting Contract for completing a new procurement, and/or to transition to a new vendor if necessary to avoid interruption in System Agency services.

2.2.3 Contract Amount

Respondents selected under this Solicitation will be compensated on a negotiated hourly fee basis for birth defect case review, diagnosis and coding. Any travel requested by DSHS will be reimbursed at Texas state travel rates. <https://fmx.cpa.texas.gov/fmx/travel/texttravel/rates/current.php>.

2.3 DATA USE AGREEMENT

By entering into a Contract with the System Agency because of this Solicitation, Respondent agrees to be bound by the terms of the Texas HHS System **Data Use Agreement (DUA)** attached as **Exhibit E**.

Respondents must submit the **Texas HHS System Data Use Agreement - Attachment 2 Security and Privacy Inquiry (SPI)** form with their proposal, attached as **Exhibit E-1**.

2.4 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION

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

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

ARTICLE 3. ADMINISTRATIVE INFORMATION

3.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Release Date	Wednesday, June 26, 2019
Written questions from potential respondent's period	Tuesday, July 2, 2019
Q & A Document Posted to ESD	Wednesday, July 10, 2019
Deadline for submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by HHSC by the deadline.]	Monday, July 22, 2019 at 2:00 PM Central Standard Time
Evaluation Period	Tuesday, July 23, 2019- Tuesday, July 30, 2019
Anticipated Notice of Award	Monday, August 12, 2019
Anticipated Contract Start Date	Tuesday, September 3, 2019

Note: These dates are a tentative schedule of events. HHSC PCS 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 PCS and may occur earlier or later than scheduled without notification on the ESD.

3.2 CHANGES, AMENDMENT OR MODIFICATION TO SOLICITATION

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

3.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Point of Contact listed in Section 3.5.1 as soon as possible so corrective Addenda may be furnished to prospective Respondents.

3.4 INFORMALITIES

HHSC PCS reserves the right to waive minor informalities in a Solicitation Response if it is in the best interest of the System Agency. A "minor informality" is an omission or error that, in 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 Solicitation requirements.

3.5 INQUIRIES

3.5.1 Point of Contact

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

Name: Lisa Freeman, CTCD, CTCM
Title: Purchaser
Address: 1100 W. 49th St. MC 2020 Austin, TX 78756
Phone: 512-406-2567

Email: Lisa.Freeman@hhsc.state.tx.us

3.5.2 Prohibited Communication

On issuance of this Solicitation, except for the written inquiries described in Section 3.5.1 above, the System Agency, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

3.5.3 Questions

The System Agency will allow written questions and requests for clarification of this Solicitation. Questions must be emailed to the Point of Contact listed in section 3.5.1 above. Respondents' names will be removed from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

1. Identifying Solicitation number
2. Section number
3. Paragraph number
4. Page number
5. Text of passage being questioned
6. Question

Note: Questions or other written requests for clarification must be received by the Point of Contact by the deadline set forth in Section 3.1 above. Please provide company name, address, phone number; fax number, e-mail address, and name of contact person when submitting questions.

3.5.4 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 Response at its own risk, and if awarded a Contract: (1) shall have waived any claim of error or ambiguity in the Solicitation and any resulting Contract, (2) shall not contest the interpretation by any System Agency of such provision(s), and (3) shall not be entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

3.5.5 Responses

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

3.6 SOLICITATION RESPONSE COMPOSITION

3.6.1 Generally

Respondent shall submit an original Statement of Qualifications **marked "Original" on paper and one (1) digital copy** of the Statement of Qualifications in searchable portable document format (PDF) on USB flash drives. The Original hard copy must include all required documents. **Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration.** A Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Respondent should focus on the instructions and requirements of the Solicitation.

HHSC PCS, in its discretion, may reject all Solicitation Responses or portions thereof.

3.6.2 Submission

The Solicitation Response must be submitted in separate parts as follows:

1. Statement of Qualifications
2. Certification, Licenses, and Curriculum Vitae or Resume
3. Affirmations and Federal Assurances

The original paper document must be separated by binding or separate packaging. Electronic submissions must be separated by electronic medium used for submission (i.e. flash drive).

The entire Solicitation Response -all separated paper documents and one (1) electronic copy- must then be submitted in one package to HHSC at the address listed in Section 3.7.3.

3.6.3 Page Limit and Supporting Documentation

There is no limit to the number of pages that are to be submitted for this solicitation. All pages should be formatted as follows: 8 1/2" x 11" paper, 12-point font, and printed as a single-sided document. If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the Solicitation Response, with specific reference made to the tab, page, section, and/or paragraph where the supporting information can be found.

3.6.4 Discrepancies

Discrepancies or disparities between the contents of original Solicitation Response and electronic copy will be interpreted in favor of the System Agency.

3.6.5 Exceptions

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

Any exception included in a Solicitation Response may result in a Respondent not being awarded a Contract. If a Respondent includes exceptions in its Solicitation Response, Respondent is required to use the **Exceptions Form** included as **Exhibit F** to this Solicitation and provide all information requested on the form (Solicitation Section Number, Solicitation Section Title, Language to which Exception is Taken, Proposed Language, and Statement as to whether or not, by indicating only "yes" or "no," Respondent still wants to be considered for a contract award if the exception is denied). Any exception that does not provide all required information without qualification in the format set forth in **Exhibit F** may be rejected without consideration.

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

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

3.6.6 Assumptions

No assumptions should be included in a Solicitation Response.

The inclusion of assumptions in a Solicitation Response may result in a Respondent not being awarded a Contract.

3.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY

3.7.1 Deadline

Solicitation Responses must be received at the address in Section 3.7.3 time-stamped by the HHSC PCS no later than the date and time specified in Section 3.1.

3.7.2 Labeling

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

SOLICITATION NO:	HHS0004070
SOLICITATION NAME:	Birth Defects Clinical Case Reviews
SOLICITATION RESPONSE DEADLINE:	Monday, July 22, 2019 at 2:00 pm CST
FOR:	Professional Services
PURCHASER'S NAME	Lisa Freeman, CTCD, CTCM
RESPONDENT'S NAME	_____

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

3.7.3 Delivery

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

To be delivered by U.S. Postal Service, overnight or express mail, or hand delivery to:

HHSC Procurement and Contracting Services (PCS)

Attn: **Bid Room Coordinator**
1100 W. 49th Street, MC 2020
Service Building (Building S)
Austin, Texas 78756

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

3.7.4 Alterations, Modifications, and Withdrawals

Prior to the Solicitation submission deadline, a Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Point of Contact identified in Section 3.5.1; or (2) modify its Solicitation Response by submitting a written amendment to the Point of Contact identified in Section 3.5.1. HHSC PCS may request Solicitation Response Modifications at any time.

Remainder of Page Intentionally Left Blank

ARTICLE 4. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS

4.1 EVALUATION CRITERIA

4.1.1 Conformance with State Law

Solicitation Responses shall be evaluated in accordance with Chapter 2254, Subchapter A of the Texas Government Code. **Solicitation Responses must not include any information regarding Respondent's fees, pricing or other compensation.**

The System Agency will make the selection based on demonstrated competence and qualifications; and to a Respondent that negotiates a fair and reasonable price.

4.1.2 Minimum Qualifications

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

1. Respondent must be a licensed physician in the United States;
2. Respondent must be an American Board of Medical Genetics (“ABMG”) Board Certified/Board Eligible Clinical Geneticist who participates in the ABMG Maintenance of Certification program and/or completes twenty (20) hours of Continuing Medical Education (“CME”) in genetics annually;
3. Respondent must have demonstrated experience in birth defects, embryology, genetic disease, and/or syndrome diagnosis;
4. Respondent must be authorized to do business in the State of Texas; and
5. Respondent will not be allowed to subcontract.

4.1.3 Specific Criteria

Solicitation Responses shall be consistently evaluated and scored in accordance with the following criteria. See also, **Exhibit M, Evaluation Tool**.

1. Qualifications [50%]
2. Experience [50%]

4.1.4 Other Information

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

4.2 INITIAL COMPLIANCE SCREENING

HHSC PCS will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses, and Solicitation Responses that do not meet Section 4.1.2 above and/or do not include all required forms and information may be subject to rejection without further evaluation.

4.3 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE SYSTEM AGENCY

HHSC PCS reserves the right to ask questions or request clarification from any Respondent at any time during the Solicitation process.

Remainder of Page Intentionally Left Blank

ARTICLE 5. STATEMENT OF QUALIFICATIONS

5.1 EXPERIENCE NARRATIVE

Using **Exhibit G, Experience Narrative**, Respondent must provide a detailed narrative explaining why Respondent is qualified to provide the services enumerated in Article 2, focusing on Respondent’s experience, expertise, and qualifications.

5.2 RESPONDENT BACKGROUND AND COMMITMENT QUESTIONNAIRE

Respondents must complete **Exhibit H, Respondent’s Background and Commitment Questionnaire**.

5.3 CURRICULUM VITAE OR RESUME

Respondent must provide an updated curriculum vitae or resume.

5.4 CERTIFICATIONS AND LICENSES

Respondent must provide copies of current certifications and licenses required to perform the services herein and/or as requested by the System Agency.

5.5 REFERENCES

Respondent must include a list of at least three (3) references. System Agency reserves the right to contact references provided in response to this Solicitation at any time, or solicit information from any available source, including the Comptroller's Vendor Performance Tracking System.

5.6 MAJOR SUBCONTRACTOR INFORMATION

Respondent is being engaged to perform professional services within his or her areas of professional expertise and shall not delegate or subcontract any portion of the services to be performed under the resulting Contract.

5.7 LITIGATION AND CONTRACT HISTORY

Using **Exhibit I, Litigation and Contract History**, Respondent must include in its Solicitation Response a complete disclosure of any alleged or significant contractual failures. In addition, Respondent must disclose any civil or criminal litigation or investigation pending over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable. Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

5.8 CONFLICTS

Using **Exhibit J, Conflicts**, Respondent must certify that it does not have any personal or business interests that present a conflict of interest with respect to this 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. The System Agency will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the Contract. Failure to identify actual and potential conflicts of interest may result in disqualification of a Solicitation Response or termination of a Contract.

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

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 for acknowledgement at the time the business entity submits the signed contract. Rules and filing instructions may be found on the Texas Ethics Commission's website and additional instructions will be provided by HHSC to successful Respondents.

5.9 AFFIRMATIONS AND CERTIFICATIONS

Respondents must complete and return all the following listed exhibits concerning affirmations and certifications:

1. **Exhibit A, Affirmations and Solicitation Acceptance**
2. **Exhibit B, Federal Assurances – Non-Construction Programs**
3. **Exhibit L, Certification Regarding Lobbying**

5.10 HUB SUBCONTRACTING PLAN

Respondents are not required to submit a HUB subcontracting plan.

Remainder of Page Intentionally Left Blank

ARTICLE 6. GENERAL TERMS AND CONDITIONS

6.1 GENERAL CONDITIONS

6.1.1 Amendment

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

6.1.2 Costs Incurred

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

6.1.3 Contract Responsibility

The System Agency will look solely to Respondent for the performance of all contractual obligations that may result from an award based on this Solicitation.

6.1.4 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 the Solicitation will be withheld or released only in accordance with the PIA.

6.1.5 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. *See also* Sections 3.6.5, Exceptions, and 3.6.6, Assumptions, above.

6.2 PROTEST

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

ARTICLE 7. 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 Solicitation Package must include the "Original" Solicitation Response in hard-copy consisting of three parts described in detail below, each under separate cover but packaged together and clearly labeled "Original" on each.

1. Statement of Qualifications

- a. Experience Narrative (**Exhibit G**) _____
- b. Respondent’s Background and Commitment Questionnaire (**Exhibit H**) _____
- c. References _____
- d. Litigation and Contract History (**Exhibit I**) _____
- e. Conflicts (**Exhibit J**) _____
- f. Face Page (**Exhibit K**) _____

2. Copies of Certifications, Licenses and Curriculum Vitae or Resume _____

3. Affirmations, Certifications, and Other Required Exhibits

- a. Exhibit A - Affirmations and Solicitation Agreement _____
- b. Exhibit B - Federal Assurances – Non-Construction Programs _____
- c. Exhibit F - Exceptions Form _____
- d. Exhibit L - Certification Regarding Lobbying _____
- e. Exhibit N – Confidentiality Agreement _____

Copies to be provided (all clearly labeled as "copy")

The Solicitation Package must also include a copy of the Solicitation Response in electronic format consisting of the three parts described in Section 3.6.2, 1 Electronic copy of **Statement of Qualifications** in searchable PDF on individual USB Drive.

ARTICLE 8. List of Exhibits

The Contract awarded is a result of this RFQ and all exhibits listed below.

- Exhibit A Affirmations and Solicitation Acceptance
- Exhibit B Federal Assurances - Non-Construction Programs
- Exhibit C HHSC Uniform Terms and Conditions – Vendor, Version 2.15
- Exhibit D DSHS Supplemental and Special Conditions
- Exhibit E Texas HHS System Data Use Agreement (DUA) – Subcontractor Agreement Form
- Exhibit E-1 Security and Privacy Inquiry (SPI)
- Exhibit F Exceptions Form
- Exhibit G Experience Narrative
- Exhibit H Respondent’s Background and Commitment Questionnaire
- Exhibit I Litigation and Contract History
- Exhibit J Conflicts
- Exhibit K Face Page
- Exhibit L Certification Regarding Lobbying
- Exhibit M Evaluation Tool
- Exhibit N Confidentiality Agreement

ATTACHMENT I

View Burden Statement

OMB Number: 4040-0007
Expiration Date: 01/31/2019

ASSURANCES - NON-CONSTRUCTION PROGRAMS

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

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

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

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

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

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

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
APPLICANT ORGANIZATION <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	DATE SUBMITTED <div style="border: 1px solid black; height: 20px; width: 100%;"></div>