

**INTERAGENCY COOPERATION CONTRACT
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS000443900001**

THE DEPARTMENT OF STATE HEALTH SERVICES (“Receiving Agency” or the “System Agency”) and **TEXAS A&M UNIVERSITY HEALTH SCIENCE CENTER**, State Agency Number 709, (“Performing Agency”), each a “Party” and collectively the “Parties,” enter into the following contract for tobacco cessation services (the “Contract”) pursuant to the provisions of “The Interagency Cooperation Act,” Chapter 771 of the Texas Government Code.

I. CONTRACT REPRESENTATIVES

The following will act as the Representative authorized to act on behalf of their respective Party.

Performing Agency

Name: Texas A&M University Health Science Center
Address: 400 Mitchell Parkway South
City and Zip: College Station, TX 77845
Contact Person: Julie Bishop
Telephone: 979-862-6777
Fax number: 979-862-3250
E-Mail Address: awards@tamu.edu
Agency Number: 709

Receiving Agency

Name: Department of State Health Services
Address: 1100 W. 49th Street, MC 1990
City and Zip: Austin, TX 78756
Contact Person: Kim Ruemke
Telephone: 512-776-3508
Fax number: 512-776-7391
E-Mail Address: Kim.Ruemke@dshs.texas.gov
Agency Number: 537

II. STATEMENT OF SERVICES TO BE PROVIDED

The Parties agree to cooperate to provide necessary and authorized services and resources in accordance with the terms of this Contract as described in **Attachment A -- Statement of Work.**

III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on September 1, 2019 and terminates on August 31, 2020, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. The Parties may extend this Contract subject to mutually agreeable terms and conditions.

IV. AMENDMENT

The Parties to this Contract may modify this contract only through the execution of a written amendment signed by both parties.

V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES

The total amount of this Contract shall not exceed **FIFTY-EIGHT THOUSAND DOLLARS (\$58,000.00)**, as provided for in **ATTACHMENT B, BUDGET**.

VI. LEGAL NOTICES

Legal Notices under this Contract shall be deemed delivered when deposited 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
1100 West 49th Street, MC 1911
Austin, Texas 78756
Attention: General Counsel

Performing Agency

Texas A&M University Health Science Center
Attention: Julie Bishop
400 Mitchell Parkway South, Suite 300
College Station, TX 77845

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

VII. CERTIFICATIONS

The undersigned Parties certify that:

- A. The services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;
- B. Each Party executing this Contract on its behalf has full power and authority to enter into this Contract;
- C. The proposed arrangements serve the interest of efficient and economical administration of state government; and
- D. The services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The Receiving Agency further certifies that it has statutory authority to contract for the services described in this contract under DSHS Contracting Authority, which is Texas Health and Safety Code Chapter 12 and 1001 and Texas Government Code Chapter 531, Subchapter D, to the extent applicable.

The Performing Agency further certifies that it has statutory authority to contract for the services described in this contract under Chapter 85 of the Texas Education Code.

VIII. NOTICE TO PROCEED: The Parties hereto agree and acknowledge that any work contemplated by the SOW, as modified pursuant to this Contract, attached hereto as Attachment A, is subject to approval by DSHS, in its sole discretion. Consequently, Contractor agrees and acknowledges that no work, contemplated by this Contract, may begin or expenditures may occur until DSHS issues a written Notice to Proceed (NTP) to Contractor. Notwithstanding anything herein or, in the Contract to the contrary, should Contractor conduct any work or incur any expenditures prior to the receipt of the NTP, Contractor fully agrees and acknowledges that such work and/or expenditures shall not be eligible for invoicing, payment or reimbursement by DSHS or the State of Texas. Further, this NTP will include any proposed changes recommended by DSHS which will be incorporated into this Contract by a subsequent amendment, if necessary.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000443900001

DEPARTMENT OF STATE HEALTH SERVICES

**TEXAS A&M UNIVERSITY HEALTH
SCIENCE CENTER**

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

DocuSigned by:
Julie Bishop
F9676992A41C4D6...

Manda Hall, M.D
Printed Name

Julie Bishop
Printed Name

Associate Commissioner, Community Health Improvement
Title

Associate Executive Director
Title

July 31, 2019
Date

July 30, 2019
Date

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000443900001
ARE HEREBY ATTACHED AND INCORPORATED BY REFERENCE:**

- ATTACHMENT A -- STATEMENT OF WORK**
- ATTACHMENT B -- BUDGET**
- ATTACHMENT C -- UNIFORM TERMS AND CONDITIONS**
- ATTACHMENT D -- CONTRACT AFFIRMATIONS**
- ATTACHMENT E -- SUPPLEMENTAL & SPECIAL CONDITIONS**

ATTACHMENT A STATEMENT OF WORK

I. PERFORMING AGENCY RESPONSIBILITIES

Performing Agency will:

- A. Update the Texas Youth Tobacco Awareness Program (“TYTAP”) course materials used in the instructor training workshops (“Training Workshops”), continuing education in-services (“In-Services”), and by the instructors of the TYTAP classes, based upon Performing Agency's research and corresponding recommendations.
- B. Summarize and submit the proposed updates in writing for System Agency approval.
- C. Assist System Agency in disseminating the Training Workshop materials, In-Services course materials, and materials used by instructors of the TYTAP classes (referred to collectively hereafter as "TYTAP Curriculum").
- D. Conduct up to three (3) initial Training Workshops each year during the contract term to train incoming instructors in the TYTAP curriculum and three (3) in-services each year of the Contract term for certified instructors, to be held in locations and on dates approved by System Agency.
- E. Be responsible for all content and facility scheduling associated with the Training Workshops and In-Services.
- F. Apply any fees that it has authority to collect and does collect for Training Workshops and/or In-Services to the cost of performance under this Contract. Performing Agency will not bill System Agency for any costs associated with this Contract that are covered by any such fees.
- G. Identify in writing to System Agency, no later than sixty (60) days after the effective date of this Contract, the proposed location and facility for each date on which Performing Agency has System Agency's approval to conduct a Training Workshop or In-Service during the term of this Contract; obtain approval from System Agency for each proposed site and facility identified; and submit written verification to System Agency that Performing Agency has confirmed availability and arranged for use of the site and/or facility identified for each Training Workshop and In-Service scheduled to be conducted during the Contract term.
- H. Make all arrangements for site/facility under this Contract in compliance with Texas Government Code Section 2113.106.
- I. Will not cancel or reschedule a scheduled Training Workshop or In-Service without System Agency's written approval or instruction.
- J. Assist System Agency, as requested, in the registration process for attendance at the Training Workshops and In-Services.

- K. Provide to System Agency the agenda and other presentation or training materials, including any electronic, paper, or other audio and/or visual material that will be used in a Training Workshop or In-Service to System Agency in electronic format at least seven (7) days prior to the beginning of the applicable Training Workshop or In-Service.
- L. Maintain a list of all instructor applicants and instructors who attend and successfully complete the Training Workshops and In-Services. Performing Agency shall provide this information to System Agency in an electronic format within seven (7) days after the Training Workshop or In-Service and in accordance with a written request from System Agency, which may include, without limitation, a request by electronic mail.
- M. Conduct research, and provide System Agency with written summaries of its research relevant to TYTAP and the TYTAP Curriculum, and concerning youth tobacco use patterns, and related factors and information concerning youth tobacco use, and shall gather information, and analyze information gathered, through legally authorized data collection and sampling protocols established to determine tobacco use patterns as well as other information related to youth tobacco use, including factors that encourage and enable underage tobacco use.
- N. Perform data entry and analysis on instructor and participant variables and provide System Agency with written results of the analysis;
- O. Perform program evaluations of TYTAP, including appropriate assessments of current and previous program instructors, and provide System Agency with a written report of the results of the program evaluations and assessments;
- P. Provide System Agency with copies of the Training Workshop and In-Service evaluations and participant sign-in sheets within seven (7) days after a written request from System Agency, which may include, without limitation, a request by electronic mail; and
- Q. Make written recommendations to System Agency for ongoing TYTAP improvement and TYTAP Curriculum updates, based upon the Performing Agency's research relevant to TYTAP and the TYTAP Curriculum, and based upon the data and information collected and analyzed by Performing Agency under this Contract.
- R. Coordinate activities with System Agency in order to maximize their joint efforts. To facilitate the coordination, Performing Agency shall meet with System Agency upon request, at the offices of either party or at other sites mutually acceptable and agreed upon.
- S. Maintain sufficient staff assigned to perform the requirements under this Contract. Performing Agency shall, within two weeks after any staffing change, provide System Agency with the name(s) and contact information of the new personnel materially involved in the implementation of this Contract.
- T. Upon curriculum modification and release of new edition, conduct at least one (1) survey or focus group that consists of consenting participants from at least two (2) classes, who

have completed the TYTAP, to determine the effects of the class on tobacco use and cessation and to gather suggestions and ideas on what areas of the curriculum most affected the students.

- U. As may be scheduled pursuant to item T above, provide a written report summarizing each participant survey or focus group meeting conducted, including both positive and negative feedback. Performing Agency shall schedule and conduct the survey(s) or focus group(s). Performing Agency may choose the means for performing the survey(s)/focus group(s), including, but not limited to, by telephone, in person, by email, or by mail.
- V. No later than September 30 of each contract year or upon request, provide System Agency an interim written summary report of the research, data analysis, program evaluations, updates completed, barriers encountered, all activities performed and/or completed to date, and recommendations.
- W. No later than September 30 of each contract year provide System Agency a final written summary report of the research, data analysis, program evaluations, updates completed, barriers encountered, all activities performed and/or completed to date, and recommendations.

II. PERFORMANCE MEASURES

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

III. INVOICE AND PAYMENT

- A. Performing Agency will request payments using the State of Texas Purchase Voucher (Form B-13) at <https://www.dshs.texas.gov/grants/forms/b13form.doc>. 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) 458-7442
EMAIL: invoices@dshs.texas.gov and cmsinvoices@dshs.texas.gov

**ATTACHMENT B
BUDGET
9/1/19 – 8/31/20**

PERSONNEL	\$42,300.00
FRINGE BENEFITS	\$8,413.00
TRAVEL	\$1,500.00
EQUIPMENT	\$0.00
SUPPLIES	\$514.00
CONTRACTUAL	\$0.00
OTHER	\$0.00
TOTAL DIRECT CHARGES	\$57,727.00
INDIRECT CHARGES	\$5,273.00
TOTAL	\$58,000.00
Match	\$0.00
Total Budget	\$58,000.00

HHSC Uniform Terms and Conditions Version 2.14
Published and Effective: September 1, 2017
Responsible Office: Chief Counsel



Health and Human Services Commission
HHSC Uniform Terms and Conditions -
State Governmental Body
Version 2.14

TABLE OF CONTENTS

ARTICLE I DEFINITIONS AND INTERPRETIVE PROVISIONS 3

 1.01 Definitions 3

 1.02 Interpretive Provisions 4

ARTICLE II CONSIDERATION..... 5

 2.01 Expenses..... 5

 2.02 Funding..... 5

ARTICLE III WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS 6

 3.01 Federal Assurances..... 6

 3.02 Federal Certifications 6

ARTICLE IV INTELLECTUAL PROPERTY 6

 4.01 Intellectual Property 6

ARTICLE V RECORDS, AUDIT, AND DISCLOSURE 6

 5.01 Access to records, books, and documents 6

 5.02 Response/compliance with audit or inspection findings 7

 5.03 SAO Audit..... 7

 5.04 Recapture of Funds..... 7

 5.05 Public Information and Confidentiality..... 7

 5.06 Data Security 8

ARTICLE VI CONTRACT MANAGEMENT AND EARLY TERMINATION 8

 6.01 Contract Management 8

 6.02 Termination for Convenience..... 8

 6.03 Termination for Cause..... 8

 6.04 Equitable Settlement 9

ARTICLE VII MISCELLANEOUS PROVISIONS 9

 7.01 Technical Guidance Letters..... 9

 7.02 Survivability 9

 7.03 No Waiver 9

 7.04 Standard Terms and Conditions 9

ARTICLE I DEFINITIONS AND INTERPRETIVE PROVISIONS

1.01 Definitions

As used in this Contract, unless the context clearly indicates otherwise or defined in the Signature Document, 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 Technical Guidance Letters, as herein defined.

“Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the execution page 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, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.

“Deliverables” means any item, report, data, document, photograph, or other submission required to be delivered under the terms of this Contract, in whatever form.

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

“Federal Assurances” means Standard Form 424B (Rev. 7-97), as prescribed by OMB Circular A-102 (non-construction projects); or Standard Form 424D (Rev. 7-97), as prescribed by OMB Circular A-102 (construction projects).

“Federal Certifications” means U.S. Department of Commerce Form CD-512 (12-04), “Certifications Regarding Lobbying – Lower Tier Covered Transactions.”

“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.

“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.

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

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

“Performing Agency” means the State Agency providing the goods or services defined in this Contract.

“Project” means the goods and/or Services described in the Signature Document or an Attachment to this Contract.

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

“[Receiving Agency](#)” means the State agency receiving the benefit of the goods or services provided 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.

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

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

“[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.

“[Subcontractor](#)” means an individual or business that performs part or all of the obligations of Performing Agency under this Contract.

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

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

1.02 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 shall 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 shall 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 shall be deemed modified by the phrase "in its sole discretion."
- J. Time is of the essence in this Contract.

ARTICLE II CONSIDERATION

2.01 Expenses

Except as otherwise provided in the Contract, no ancillary expenses incurred by the Performing Agency 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 shall be reimbursed in accordance with the rates set by the State of Texas *Textravel*.

2.02 Funding

- A. This Contract shall not be construed as creating any debt on behalf of the State of Texas or the System Agency in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the System Agency hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- B. Furthermore, any claim by Performing Agency for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Performing Agency, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.
- C. 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 shall not be required to give notice and shall not be liable for any damages or losses caused or associated with such termination or cancellation.

ARTICLE III WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

3.01 Federal Assurances

Performing Agency 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 Performing Agency is in compliance with each of the requirements reflected therein.

3.02 Federal Certifications

Performing Agency 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 Performing Agency is in compliance with each of the requirements reflected therein. In addition, Performing Agency certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.

ARTICLE IV INTELLECTUAL PROPERTY

4.01 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 shall vest in the System Agency upon creation and shall 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 shall 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. Performing Agency 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 Performing Agency for the services authorized under this Contract.

ARTICLE V RECORDS, AUDIT, AND DISCLOSURE

5.01 Access to records, books, and documents

In addition to any right of access arising by operation of law, Performing Agency and any of Performing Agency’s affiliate or subsidiary organizations, or Subcontractors shall 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 shall 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 shall 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, Performing Agency shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Performing Agency shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

5.02 Response/compliance with audit or inspection findings

- A. At Performing Agency's sole expense, Performing Agency must take action to ensure its or a Subcontractor's compliance with a correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services and Deliverables or any other deficiency contained in any audit, review, or inspection conducted under the Contract. Whether Performing Agency's action corrects the noncompliance shall be solely the decision of the System Agency.

- B. As part of the Services, Performing Agency must provide to HHSC upon request a copy of those portions of Performing Agency's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

5.03 SAO Audit

Performing Agency 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. Performing Agency agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Performing Agency will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Performing Agency and the requirement to cooperate is included in any Subcontract it awards.

5.04 Recapture of Funds

The System Agency may withhold all or part of any payments to Performing Agency to offset overpayments made to the Performing Agency. 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. Performing Agency understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Performing Agency further understands and agrees that reimbursement of such disallowed costs shall be paid by Performing Agency from funds which were not provided or otherwise made available to Performing Agency under this Contract.

5.05 Public Information and Confidentiality

Information related to the performance of this Contract may be subject to the Public Information Act and will be withheld from public disclosure or released to the public only in

accordance therewith. Performing Agency shall make any information required under the Public Information Act available to the System Agency in portable document file (".pdf") format or any other format agreed between the Parties.

To the extent permitted by law, Performing Agency and the System Agency agree to keep all information confidential, in whatever form produced, prepared, observed, or received by Performing Agency or the System Agency. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

5.06 Data Security

Each Party and its Subcontractors will maintain reasonable and appropriate administrative, physical, and technical safeguards to ensure the integrity and confidentiality of information exchanged in the performance of services pursuant to this Contract and protect against any reasonably anticipated threats or hazards to the security or integrity of the information and unauthorized use or disclosure of the information in accordance with applicable federal and state laws, rules, and regulations.

Upon notice, either Party will provide, or cause its subcontractors and agents to provide, the other Party or its designee prompt access to any information security records, books, documents, and papers that relate to services provided under this Contract.

ARTICLE VI CONTRACT MANAGEMENT AND EARLY TERMINATION

6.01 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 Performing Agency to take specific corrective actions in order to remain in compliance with term of the Contract;
- C. recouping payments made to the Performing Agency found to be in error;
- D. suspending and/or limiting any services and placing conditions on any such suspensions and/or limitations of services;
- 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, rule.

6.02 Termination for Convenience

The System Agency may terminate the Contract 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.

6.03 Termination for Cause

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 Performing Agency 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 Performing Agency's duties under the Contract.

6.04 Equitable Settlement

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

ARTICLE VII MISCELLANEOUS PROVISIONS

7.01 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 shall be incorporated into the Contract by reference herein for all purposes when it is issued.

7.02 Survivability

All obligations and duties of the Performing Agency not fully performed as of the expiration or termination of this Contract will survive the expiration or termination of the Contract.

7.03 No Waiver

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

7.04 Standard Terms and Conditions

- A. In the performance of this Contract, each Party shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Each Party shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract. Each Party will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.
- B. All records relevant to this Contract shall be retained for a minimum of seven (7) years. The period of retention begins at the date of final payment by the System Agency, or from the date of termination of the Contract, whichever is later. The period of retention shall be extended for a period reasonably necessary to complete an audit or to complete any administrative proceeding or litigation that may ensue.
- C. The System Agency shall own, and Performing Agency hereby assigns to the System Agency, all right, title, and interest in all tangible Work.
- D. Performing Agency shall 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/or 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.

- E. This Contract and the rights and obligations of the Parties hereto shall 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 shall be in a court of competent jurisdiction in Travis County, Texas. Performing Agency 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. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE SYSTEM AGENCY.**
- F. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
- G. 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 shall be suspended, and the affected Party shall not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure shall promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The Party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the System Agency may terminate this Contract immediately upon written notification to Performing Agency.
- H. This Contract, its integrated Attachment(s), and any purchase order issued in conjunction with this Contract constitute the entire agreement of the Parties and are 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 such Attachment(s) and/or purchase order shall be harmonized with this Contract to the extent possible. Unless such integrated Attachment or purchase order specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract.
- I. Neither party shall assign or subcontract the whole nor any part of the contract, including any right or duty required under it, without the other party's prior written consent. Any assignment made contrary to this shall be void.

- J. This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract. If the Contract is not executed by the System Agency within thirty (30) days of execution by the other Party, this Contract shall be null and void.
- K. Pursuant to Chapter 2259 of the Texas Government Code entitled, "Self-Insurance by Governmental Units," Each Party is self-insured and, therefore, is not required to purchase insurance.

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ATTACHMENT D CONTRACT AFFIRMATIONS

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

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

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

9. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
10. Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.
11. Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.
12. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. Contractor represents that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
14. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.
15. Contractor represents that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
16. Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.
17. Contractor represents that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

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

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

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

21. If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
22. If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
23. Contractor represents, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those will provide services under the Contract, was an employee of an HHS Agency. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the System Agency to perform services under this Contract during the twelve (12) month period immediately following the employee’s last date of employment at the System Agency.

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

of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.

30. Contractor represents that, pursuant to Section 2270.002 of the Texas Government Code, Contractor does not boycott Israel and will not boycott Israel during the term of this Contract.
31. Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:
 - (a) all persons employed by Contractor to perform duties within Texas; and
 - (b) all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.
32. Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
33. Contractor represents that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.
34. Contractor represents that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
35. Contractor represents 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: Texas A&M University Health Science Center

DocuSigned by:
Julie Bishop
F9876992A41C4D6...
Authorized Representative

July 30, 2019
Date Signed

Julie A. Bishop
Printed Name and Title of Authorized Representative

9798458600
Phone Number

74-2907553
Federal Employer Identification Number

Fax Number

DUNS Number

jbishop@tamu.edu
Email Address

400 Harvey Mitchell Pkwy, Suite 300
Physical Street Address

College Station, TX 77845
City, State, Zip Code

Mailing Address, if different

College Station, TX 77845
City, State, Zip Code

**ATTACHMENT E
TEXAS A&M
SUPPLEMENTAL & SPECIAL CONDITIONS**

Supplemental Conditions

The following Supplemental Conditions for this Contract apply to this Contract and modify this Contract's HHS Uniform Terms and Conditions.

The Uniform Terms and Conditions, State Governmental Body, Version 2.14, Attachment C of this Contract, are revised as follows:

- A. The last sentence of Section 2.02(B), Funding, is revised to read as follows:

Nothing in this provision shall be construed as a waiver of sovereign immunity by either Party.

- B. The fourth sentence of Section 2.02(C), Funding, is revised to read as follows:

Performing Agency 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.

- C. Section 4.01, Intellectual Property, is deleted in its entirety and replaced with the following:

4.01 Intellectual Property

A. To the extent any Work results in the creation of Intellectual Property, all rights, title, and interest in and to such Intellectual Property shall vest in the Party that creates such Intellectual Property, notwithstanding System Agency's rights under Texas Health and Safety Code Section 12.20.

B. Performing Agency agrees to grant to the System Agency and the State of Texas a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable, non-commercial license to use all Deliverables and any Intellectual Property invented or created by Performing Agency, Performing Agency's contractor, or a subcontractor in the performance of the Project. Performing Agency will require its contractors to grant such a license in any subcontracts under this Contract.

C. The System Agency shall have the right to review and provide comment to any written report, publication or other literature including copyrightable Intellectual Property invented or created in the performance of this Contract, prior to the publication of such literature. Performing Agency agrees to provide the System Agency with an advance copy of any such report, publication, or literature at least thirty (30) days prior to publication. Performing Agency agrees to insert the following statement into any such report, publication or literature: "The views expressed in this publication are those of the authors and do not necessarily reflect the official policies, positions, or views of the State of Texas or the Health and Human Services Commission.

- D. Section 5.01, Access to records, books, and documents, is deleted in its entirety and replaced with the following:

In addition to any right of access arising by operation of law, Performing Agency and any of Performing Agency's affiliate or subsidiary organizations, or Subcontractors shall permit, during reasonable business hours, 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 shall 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 shall have a right of access at reasonable business hours upon reasonable notice 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, Performing Agency shall produce original documents (to the extent original documents are archived by the Performing Agency in accordance with federal or state law) related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Performing Agency shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

- E. Section 5.05, Public Information and Confidentiality, is deleted in its entirety and replaced with the following:

Information related to the performance of this Contract may be subject to the Public Information Act and will be withheld from public disclosure or released to the public only in accordance therewith. Performing Agency shall make any information required under the Public Information Act available to the System Agency in portable document file (".pdf") format or any other format agreed between the Parties.

To the extent allowed by law, the provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

Should the work under this Contract require the exchange of any confidential information, the parties agree to execute a separate nondisclosure or data use agreement to control the handling and protection of such information.

- F. Section 7.04(C), Standard Terms and Conditions, is deleted in its entirety and replaced with the following:

C. The System Agency shall own, and Performing Agency hereby assigns to the System Agency, all right, title, and interest in all tangible Work. The foregoing sentence does not apply to the allocation of intellectual property rights as described in paragraph C, above.

G. Section 7.04(E), Standard Terms and Conditions, is deleted in its entirety and replaced with the following:

This Contract and the rights and obligations of the Parties hereto shall 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 shall be in a court of competent jurisdiction. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE SYSTEM AGENCY OR THE PERFORMING AGENCY.**

H. Section 7.04(G) is deleted in its entirety and replaced with Section 1.05, Force Majeure below.

SPECIAL CONDITIONS

SECTION 1.01 NOTICE OF CONTRACT ACTION

Performing Agency shall notify their assigned contract manager if Performing Agency 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 CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

- a. Performing Agency shall immediately report in writing to their contract manager when Performing Agency 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, contractor 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. Performing Agency 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 1.03 PERFORMING AGENCY'S NOTIFICATION OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL

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

SECTION 1.04 PERFORMING AGENCY'S CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS.

Performing Agency certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

- a. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
- b. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Contract are taking place, as well as Performing Agency owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
- c. Applying to all employees and visitors in this designated area; and
- d. Providing for or referring its employees to tobacco use cessation services.
If Performing Agency cannot meet these minimum standards, it must obtain a waiver from the System Agency.

SECTION 1.05 FORCE MAJEURE

- A. To the extent either Party experiences a circumstance, beyond its reasonable control, such as loss of key personnel, essential equipment, necessary research facilities, cost-share funding, or other essential resources that impedes its continued performance of obligations under this Contract, the Parties agree to negotiate in good faith to amend the Contract, up to and including termination of the Contract, as may be in the best interests of the Parties. In the event the Parties are unable to agree, the Parties shall treat such circumstance or event as a Force Majeure event. If Performing Agency terminates the Contract pursuant to this Section, System Agency shall have a full right of access to all materials related to Contract performance maintained by Performing Agency.
- B. 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, other than Termination for Convenience under Section 6.02 or Termination for Cause under Section 6.03, 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. To the extent the Force Majeure event is triggered by Section 8.01 (A), above, equitable settlement under Section 6.04 will apply. 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.