

**SIGNATURE DOCUMENT FOR  
TEXAS HEALTH AND HUMAN SERVICES COMMISSION  
CONTRACT NO. HHS000508600056**

The **HEALTH AND HUMAN SERVICES COMMISSION** (“**SYSTEM AGENCY**”), an administrative agency within the executive branch of the state of Texas, and **PJW HEALTH SERVICES** (“**CONTRACTOR**”), having its principal office at **7710 IH 10 WEST FRONTAGE RD SAN ANTONIO, TX** (each a “Party” and collectively the “Parties”), enter into the following agreement (“Contract”) for Staffing Agency Services for State Hospitals and State Supported Living Centers.

**I. LEGAL AUTHORITY**

This Contract is entered into pursuant to Tex. Gov’t Code § 2155.144 and Tex. Admin. Code § 391.205.

**II. DURATION**

The Contract is effective on **OCTOBER 7, 2020** and terminates on **AUGUST 31, 2024**, unless sooner terminated or extended. System Agency, at its sole discretion, may extend the Contract beyond the termination date as necessary to ensure continuity of service, for purposes of transition, or as otherwise determined by System Agency to serve the best interests of the State.

**III. STATEMENT OF WORK**

The **STATEMENT OF WORK** to which Contractor is bound is incorporated into and made a part of this Contract for all purposes and included as **ATTACHMENT A**.

**IV. BUDGET**

By executing this Contract, Contractor agrees to the contracted rates and budget for the Contract term, including the initial term, and all extensions exercised. However, at System Agency’s sole discretion or by mutual agreement of the Parties as authorized under the Contract, the budget or Contract amounts may be amended. All expenditures under the Contract will be in accordance with **ATTACHMENT E, BUDGET (RATES)**.

**V. CONTRACT REPRESENTATIVES**

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

**System Agency Contract Representative**

Contract Manager HSCS  
Health & Human Services Commission  
Winters Bldg., East Tower MC 619  
701 West 51<sup>st</sup> Street  
Austin, TX 78751  
HSCSFacilityContracts@hhsc.state.tx.us

**Contractor Contract Representative**

Name: Paul Dudit  
Company: PJW Health Services  
Address: 7710 IH10 West Frontage Rd  
City: San Antonio State: TX Zip: 78230  
Email: Paul.dudit@brightstar.com

**VI. NOTICE REQUIREMENTS**

- A. All notices given by Contractor shall be in writing, include the Contract number, comply with all terms and conditions of the Contract, and be delivered to the System Agency’s Contract Representative identified above.
- B. Contractor shall send legal notices to System Agency at the address below and provide a copy to the System Agency’s Contract Representative:

Health and Human Services Commission  
Attn: Office of Chief Counsel  
4900 N. Lamar Blvd.  
Austin, Texas 78751

- C. Notices given by System Agency to Contractor may be emailed, mailed or sent by common carrier. Email notices shall be deemed delivered when sent by System Agency. Notices sent by mail shall be deemed delivered when deposited by the System Agency in the United States mail, postage paid, certified, return receipt requested. Notices sent by common carrier shall be deemed delivered when deposited by the System Agency with a common carrier, overnight, signature required.
- D. Notices given by Contractor to System Agency shall be deemed delivered when received by System Agency.
- E. Either Party may change its Contract Representative or Legal Notice contact by providing written notice to the other Party.

**VII. CONTRACTOR’S EMPLOYMENT OF PROFESSIONAL PERSONNEL**

Contractor acknowledges that all professional personnel provided by Contractor to System Agency under the Contract (“Professional Personnel”) are not employees or independent contractors of System Agency. System Agency is not responsible for workers’ compensation insurance or providing fringe benefits to any Professional Personnel. If the Professional Personnel are employees of the Contractor, the Contractor is responsible for all employment taxes and/or other payroll withholding.

**VIII. CONTRACT DOCUMENTS**

The following documents are incorporated by reference and made a part of this Contract for all purposes.

System Agency Contract No. **HHS0005086**00056  
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Unless expressly stated otherwise in this Contract, in the event of conflict, ambiguity or inconsistency between or among any documents listed below, all System Agency documents take precedence over Contractor's documents and the Data Use Agreement takes precedence over all other Contract documents.

**ATTACHMENT A – STATEMENT OF WORK**

**ATTACHMENT B – CONTRACT AFFIRMATIONS (VERSION 1.6)**

**ATTACHMENT C – UNIFORM TERMS AND CONDITIONS (VERSION 3.0)**

**ATTACHMENT D – DATA USE AGREEMENT (VERSION 8.5)**

**ATTACHMENT E – BUDGET (RATES)**

**IX. SIGNATURE AUTHORITY**

Each Party 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.

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000508600056**

**SYSTEM AGENCY**

**Mike Maples**

Digitally signed by Mike Maples  
DN: cn=Mike Maples, o, ou,  
email=mike.maples@hhsc.state.t  
x.us, c=US  
Date: 2020.10.05 18:11:03 -05'00'

Mike Maples

Deputy Executive Commissioner

Date of execution: \_\_\_\_\_

**PJW HEALTH SERVICES**

**Paul Duduit**

Digitally signed by Paul  
Duduit  
Date: 2020.10.05  
10:32:57 -05'00'

Paul Duduit

Staffing Manager

Date of execution: 10/05/20

# ATTACHMENT A

## STATEMENT OF WORK

### I. DEFINITIONS

Refer to **ATTACHMENT C, UNIFORM TERMS AND CONDITIONS (VERSION 3.0)** for additional definitions.

Additionally, as used in this Contract, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below.

“**Facility**” means one of the State Hospitals or State Supported Living Centers identified below:

<u>Facility &amp; Address</u>	<u>Facility &amp; Address</u>
<input type="checkbox"/> Abilene State Supported Living Center 2501 Maple St. Abilene, TX 79602	<input type="checkbox"/> Austin State Supported Living Center 2203 W. 35 <sup>th</sup> Austin, TX 78703
<input type="checkbox"/> Austin State Hospital 4110 Guadalupe Austin, TX 78751	<input type="checkbox"/> Big Spring State Hospital 1901 N. Hwy 87 Big Spring, TX 79720
<input type="checkbox"/> Brenham State Supported Living Center 4001 Hwy 36 South Brenham, TX 77833	<input type="checkbox"/> Corpus Christi State Supported Living Center and Corpus Christi Bond Homes 902 Airport Rd. Corpus Christi, TX 78405
<input type="checkbox"/> Denton State Supported Living Center 3980 State School Road Denton, TX 76210	<input type="checkbox"/> El Paso Psychiatric Center 4615 Alameda Ave. El Paso, TX 79905
<input type="checkbox"/> El Paso State Supported Living Center 6700 Delta Drive El Paso, TX 79905	<input type="checkbox"/> Kerrville State Hospital 721 Thompson Dr. Kerrville, TX 78028

<input type="checkbox"/> Lubbock State Supported Living Center 3401 N. University Ave. Lubbock, TX 79415	<input type="checkbox"/> Lufkin State Supported Living Center 6844 Hwy 69 North Pollok, TX 75969
<input type="checkbox"/> Mexia State Supported Living Center P.O. Box 1132 Mexia, TX 76667	<input type="checkbox"/> North TX State Hospital – Vernon 4730 College Dr. Vernon, TX 76385
<input type="checkbox"/> North TX State Hospital – Wichita Falls 6515 Kemp Blvd Wichita Falls, TX 76308	<input type="checkbox"/> Richmond State Supported Living Center 2100 Preston Richmond, TX 77469
<input type="checkbox"/> Rio Grande State Center 1407 Rangerville Harlingen, TX 78550	<input type="checkbox"/> Rio Grande State Supported Living Center 1407 Rangerville Harlingen, TX 78550
<input type="checkbox"/> Rusk State Hospital 805 N. Dickinson Dr. Rusk, TX 75785	<input type="checkbox"/> San Angelo State Supported Living Center 11640 N US Hwy 87, Box 38 Carlsbad, TX 76934
<input type="checkbox"/> San Antonio State Hospital 6711 S. New Braunfels San Antonio, TX 78223	<input type="checkbox"/> San Antonio State Supported Living Center 6711 S. New Braunfels San Antonio, TX 78223
<input type="checkbox"/> San Antonio State Hospital / Casa Amistad Unit 1500 Pappas St. Laredo, TX 78041	<input type="checkbox"/> Terrell State Hospital 1200 E. Brin Terrell, TX 75160
<input type="checkbox"/> Waco Center for Youth 4730 College Dr. Vernon, TX 76385	

“HSCS” means Health & Specialty Care Services, the division within HHSC that operates the State Supported Living Centers and State Hospitals.

“Professional Personnel” means all health professionals and allied health professionals identified in Section II. of this Statement of Work.



“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.

## **II. PROGRAM PURPOSE**

**A.** Contractor shall provide staffing agency services for the State Supported Living Centers and State Hospital system. The following is a list of health professionals and allied health professionals that HHSC may request from Contractor to serve in temporary, short and long-term positions, both managerial and non-managerial; however it is not an all-inclusive list.

1. Physicians, including primary care physicians and all specialists
2. Physician Assistants
3. Advanced Practice Registered Nurses
4. Registered Nurses
5. Licensed Vocational Nurses
6. Sitters
7. Direct Support Professionals
8. Psychiatric Nursing Assistant
9. Certified Nursing Assistants
10. Pharmacists
11. Pharmacy Technicians
12. Dentists
13. Dental Assistants
14. Dental Hygienists
15. Physical Therapists
16. Physical Therapy Assistants
17. Occupational Therapists
18. Occupational Therapy Assistants
19. Speech Language Pathologists
20. Audiologists
21. Respiratory Therapists
22. Dieticians
23. Psychologists
24. Psychological Associates
25. Board Certified Behavior Analysts
26. Licensed Professional Counselors
27. Licensed Social Workers
28. Licensed Sex Offender Treatment Providers
29. Lab Technicians

- B.** HHSC HSCS may also seek the services of other individuals licensed, certified, registered, or otherwise authorized by the State to practice health or allied health professions. If Contractor can meet the Facility's need, Contractor must respond to any Email request by HHSC HSCS for Professional Personnel within the allotted timeframe specified to be considered for the provision of contracted services.

### **III. CONTRACTOR REQUIREMENTS**

- A.** The Contractor must adopt and implement workplace guidelines similar to the HHSC HSCS guidelines concerning persons with AIDS/HIV infections as required by *Texas Health and Safety Code* Section 85.113.
- B.** Contractor will perform services in accordance with best practices and high professional standards used in well-managed operations that perform services similar to the services described in this Contract. The Contractor shall have available, under its direct employment and supervision, the necessary organization and facilities to properly fulfill services required under the Contract. Only personnel trained in completing the services shall be utilized for this Contract.
- C.** Contractor must provide a 24-hour contact number and name in case of any urgent issue that may arise. Contractor or a representative of the Contractor's company must be available at all times.
- D.** Contractor may be asked to provide Professional Personnel to work any day of the week and during any shift.
- E.** Contractor may be asked to provide physicians, physician assistants, advance practice nurses, and pharmacists or any other Professional Personnel to be on-call.
- F.** Contractor will bill for the hours worked on a designated holiday at 1.5 times the standard hourly rate. The designated holidays are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- G.** Contractor may not bill more than 1.5 times the standard or weekend rate for any hours worked over 40 within one week. However, HHSC does not allow Professional Personnel to work more than 40 hours per week unless it is scheduled and approved on an individual basis by each Facility. A Facility may schedule additional hours with the Contractor in an emergency situation that is not the Contractor's fault. The Contractor must ensure that the scheduling of Professional Personnel prevents unapproved overtime. HHSC will not be responsible for the extra costs associated with unapproved overages.
- H.** For registered nurses, licensed vocational nurses, nursing assistants, and non-licensed professional direct care staff, shifts may be scheduled as much as four weeks in advance or as little as two hours in advance. If a shift is canceled two or more hours before it starts, HHSC does not have to pay for the shift. If a shift is canceled less than two hours before it



starts, HHSC will pay for only two hours of work. If a shift is canceled after it begins, HHSC will pay for the actual hours worked.

- I. Contractor must review the lists of excluded individuals and entities maintained by the Office of Inspector General of the United States Department of Health and Human Services and the Office of Inspector General of the Texas Health and Human Services Commission to ensure that none of the Professional Personnel provided to HHSC under this Contract are excluded from the Medicare or Medicaid programs. This review must occur before the Contractor responds to any request from HHSC and at least once a month while an individual is placed with HHSC.
- J. The Contractor shall maintain a file for each professional for review by the Facilities. Each file must include:
  - 1. Evidence of current licensure or applications for licensure in the State of Texas;
  - 2. Evidence of current certification in cardiopulmonary resuscitation (CPR), which must be renewed annually;
  - 3. Evidence of any specialty certification, if any;
  - 4. Documentation of any special education, training, or certifications;
  - 5. Documentation of the successful completion of Contractor's competency requirements, if any;
  - 6. Documentation of successful completion of HHSC Health & Specialty Care competency requirements, if any;
  - 7. Evidence of employee misconduct registry checks;
  - 8. A minimum of two current work references;
  - 9. All documentation required by the Joint Commission, if applicable;
  - 10. United States Customs and Immigration Services form I-9 and documentation establishing identity and work authorization;
  - 11. Curriculum vitae, resume, or work history of some kind; and
  - 12. Results of current tuberculosis test, which must be done annually.
- K. The Contractor must refer allegations involving the clinical practice of a physician, dentist, or nurse to the Facility's medical, dental, or nursing director, as appropriate to the discipline involved, for review for possible peer review and reporting to disciplinary boards.
- L. Contractor shall respond in writing to any contact by HHSC regarding performance issues of Professional Personnel provided by the Contractor. If the performance issue is not

resolved to the satisfaction of HHSC, HHSC will send to the Contractor a written request to replace the Professional Personnel. The Contractor shall replace the Professional Personnel as quickly as possible but will make every attempt to have the replacement on site within twenty-four (24) hours or less after the request. HHSC must approve any replacement Professional Personnel but will not unreasonably withhold approval. The parties will work together when replacement personnel are required so services are not disrupted to individuals residing at the Facilities. At the Facility's discretion, the Facility may instead choose to seek a replacement from another Contractor.

**M.** The Contractor must correct all other performance issues reported to it within forty-eight business hours. If requested by HHSC, the Contractor shall provide a written report detailing the performance issues and their resolution. The HHSC contract manager will discuss performance deficiencies with the Contractor and seek to achieve resolution of the issues with the Contractor. The HHSC contract manager will report the following compliance issues to HHSC Procurement & Contracting Services (PCS) for resolution:

1. Failure to reach agreement on corrective action;
2. Failure to perform in accordance with corrective action plan;
3. Repeated violations of this Contract;
4. Repeated violations of Contract corrective action plans;

**N.** The Contractor will be responsible for:

1. Damage to HHSC equipment, and
2. The workplace and its contents by its works, its negligence in work, its personnel, and its equipment.

#### **IV. INSURANCE REQUIREMENTS**

The Contractor will:

- A.** Carry director or officer liability insurance coverage in an amount not less than the value of the Contract that is sufficient to protect the interests of the state in the event an actionable act or omission by a director or officer of the Contractor damages the state's interests;
- B.** Carry worker's compensation insurance coverage through a licensed insurance company;
- C.** Ensure that all Professional Personnel other than physicians have professional liability insurance to cover their activities under the Contract;
- D.** Carry comprehensive general liability insurance with minimum bodily injury limits of \$500,000.00 for each occurrence, and property damage limits of \$500,000.00 for each

occurrence to include premises-operations, broad form property damage, personal injury and contractual liability coverage; and

E. Agree to provide proof of insurance upon request by HHSC.

**V. PROFESSIONAL PERSONNEL QUALIFICATIONS**

A. Professional Personnel must maintain licenses they need to practice their professions without any restrictions.

B. Professional Personnel must not be excluded from providing services to persons on Medicare and Medicaid.

C. Professional Personnel must be able to pass criminal history checks, including fingerprint checks, and registry clearance checks. The Facility will conduct these checks before an individual begins working at the Facility. The Facility will not accept any individual who:

1. Has been convicted of or has received deferred adjudication for any of the criminal offenses listed in the Texas Health and Safety Code §250.006(a);
2. Has been convicted of or has received deferred adjudication for any of the criminal offenses listed Texas Health and Safety Code §250.006(b);
3. Has a criminal history record which indicates that the person is not qualified or suitable for work at the Facility;
4. Is listed as revoked in the Nurse Aide Registry;
5. Is listed as unemployable in the Employee Misconduct Registry; or
6. Has a confirmation of abuse or neglect in the Client Abuse and Neglect Reporting System (CANRS).

D. Professional Personnel must have current certification in CPR by a major accrediting organization, e.g., American Heart Association of Red Cross.

E. Professional Personnel must be able to use an electronic medical record.

F. Physicians must have Drug Enforcement Administration (DEA) and Department of Public Safety (DPS) controlled substance registrations.

G. HHSC prefers physicians to have privileges in good-standing with at least one Joint Commission accredited hospital.

H. Advanced Practice Registered Nurses must have graduated from an Advanced Practice Registered Nursing Program, or an educational program approved by the Texas Board of Nursing or accredited by a national accrediting body recognized by the Board.

- I. Doctors must have basic experience and knowledge in evaluating and diagnosing patients with a variety of psychiatric and general medical conditions.
- J. Doctors must have experience commensurate with performing required procedures successfully and knowledge in evaluating, diagnosing, and treating patients with a variety of psychiatric and general medical conditions typical of the persons served by HHSC.
- K. Doctors and nurses must have the ability to provide examinations, evaluations, and consultations and perform specific treatment as necessary.
- L. HHSC prefers Professional Personnel have at least one (1) year experience in their field of expertise.
- M. Professional Personnel must be at least eighteen (18) years of age.

**VI. PROFESSIONAL PERSONNEL WORK REQUIREMENTS**

- A. Professional Personnel will provide usual and customary services of a professional in their specialty.
- B. Professional Personnel will provide written or dictated reports on services performed within guidelines established by the Facility utilizing the Facility's client record systems.
- C. Professional Personnel will conduct themselves in accordance with the rules of the licensing entity applicable to their profession.
- D. Professional Personnel will complete the duties assigned by HHSC staff or Contractors above them in the chain of command at the Facility.
- E. Professional Personnel must interact with staff, other Contractors, and consultants of HHSC in a cooperative manner, and will consult with such persons regarding services provided as necessary.
- F. Professional Personnel will complete the training required and provided by the contracting Facility. Contractor will be compensated at the regular hourly contract rate for the hours of training the Professional Personnel attend. The Professional Personnel must demonstrate competence prior to beginning work. The Facility will provide the method of demonstrating competence.
- G. While performing the services, Professional Personnel must comply with applicable state laws, regulations, and Facility requests regarding personal and professional conduct applicable to the service location and otherwise conduct themselves in a businesslike and professional manner.
- H. Professional Personnel must comply with all Facility regulations, policies, and procedures.

- I. Professional Personnel must comply with all HHSC site regulations, including speed limits, parking, security regulations, smoking, and prohibition of carrying firearms and weapons on State property.
- J. Professional Personnel may not use or be under the influence of intoxicants or illegal drugs while on duty and may not bring intoxicants or illegal drugs onto state property.
- K. All services and deliverables under the Contract shall be provided at a quality level and in a manner consistent with industry standards, customs, and practices.
- L. Professional Personnel will be available for scheduled shifts and provide at least five (5)-days-notice for planned absences when at all possible. Actual shifts vary from Facility to Facility and may vary for different professions. However, a standard shift is eight hours.
- M. Professional Personnel will remain on campus during scheduled hours except when specifically assigned to travel off campus for business purposes.
- N. Professional Personnel will document their hours worked in a facility services log and submit it to the Clinical Director on a weekly basis.
- O. Professional Personnel will report abuse, neglect and exploitation pursuant to Texas Statute and Rules.

## **VII. INVOICING**

- A. Contractor invoices will be submitted to the HHSC Facility and must reference the Contract number. Invoices must have a detailed sheet attached showing date and hours worked for each Professional Personnel. All hours worked must be approved and approval will be documented via designated Facility signature.
- B. The Contractor must submit invoices to the address specified by each Facility.
- C. Contractor must submit invoices on a monthly basis or as otherwise indicated by the Facility.
- D. The Contractor must submit separate invoices for each service location.
- E. Failure to submit required information may result in delay of payment or return of invoice.
- F. No payment will be made under the Contract until and unless the HHSC Facility approves the services performed.
- G. Rates shown on the Enrollment Fee Schedule are all inclusive and no other charges are authorized. The Contractor must pay for any expenses incurred. The HHSC Facility will not pay for any per diem, travel, hotel, equipment, phone calls, paper, reproduction

services, office space, or other incidental expenses related to performing the services as advertised.

**VIII. GOALS, OUTPUTS, AND PERFORMANCE MEASURES**

- A. Goals:** HHSC seeks to obtain for their Facilities timely services of qualified Professional Personnel to provide necessary and quality care for the individuals served at the Facilities.
- B. Outputs:** After receiving requests from the Facilities, the Contractors will submit qualified Candidates for Professional Personnel to care for the individuals served at the Facilities.
- C. Performance Measures:** HHSC will monitor the Contractor's performance of the requirements in and compliance with the Contract's terms and conditions. All services under the Contract shall be provided at a quality level and in a manner consistent with industry standards, customs, and practices.



## **Exhibit A. HHSC AFFIRMATIONS AND SOLICITATION ACCEPTANCE**

In this document, the terms Respondent, Contractor, Applicant, and Vendor, when referring to the following affirmations (whether framed as certifications, representations, warranties, or in other terms) refer to Respondent, and the affirmations apply to all Respondents regardless of their business form (e.g., individual, partnership, corporation).

Respondent affirms, without exception, as follows:

1. Respondent represents and warrants that all certifications, representations, warranties, and other provisions in this Affirmations and Solicitation Acceptance apply to Respondent and all of Respondent'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 Solicitation or any contract resulting from this Solicitation.
2. Respondent represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Solicitation Response.
3. Respondent 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 Solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent 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. Respondent 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 Respondent agrees that the contract can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.
5. Respondent acknowledges its obligation to specifically identify information it contends to be confidential or proprietary and, if Respondent designated substantial portions of its Solicitation Response or its entire Solicitation Response as confidential or proprietary, the Solicitation Response is subject to being disqualified.

6. Respondent's Solicitation Response will remain a firm and binding offer for 240 days from the date the Solicitation Response is due.
7. Respondent 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.
8. Respondent accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation. No exceptions, terms, or conditions will be considered if not advanced in the form and manner directed in the Solicitation. Respondent agrees that all exceptions to the Solicitation as well as terms and conditions advanced by Respondent that differ in any manner from HHSC's terms and conditions are rejected unless expressly accepted by HHSC in writing in a fully executed contract.
9. Respondent 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 Respondent's Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.
10. Respondent generally releases from liability and waives all claims against any party providing information about the Respondent at the request of HHSC.
11. Respondent acknowledges all addenda and amendments to the Solicitation.
12. Respondent certifies that if a Texas address is shown as the address of Respondent on this Response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
13. Respondent represents and warrants that it qualifies for all preferences claimed under 34 Texas Administrative Code, Section 20.306 or Chapter 2155, Subchapter H of the Texas Government Code as indicated below (check applicable boxes):
  - Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
  - Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
  - Agricultural products grown in Texas
  - Agricultural products offered by a Texas bidder
  - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
  - Services offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
  - Texas Vegetation Native to the Region
  - USA-produced supplies, materials or equipment
  - Products of persons with mental or physical disabilities



- Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
  - Energy efficient products
  - Rubberized asphalt paving material
  - Recycled motor oil and lubricants
  - Products produced at facilities located on formerly contaminated property
  - Products and services from economically depressed or blighted areas
  - Vendors that meet or exceed air quality standards
  - Recycled or reused computer equipment of other manufacturers
  - Foods of higher nutritional value
  - Commercial production company or advertising agency located in Texas
14. Respondent 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 Solicitation Response, this Solicitation, or any contract resulting from this Solicitation.
  15. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
  16. 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 Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
  17. Under Section 231.006(d) of the Texas Family Code regarding child support, Respondent certifies that the individual or business entity named in this 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. Furthermore, any Respondent subject to Section 231.006 of the Texas Family Code must include in the Response the names and social security numbers (SSNs) of each person with at least 25% ownership of the business entity submitting the Response:

Name: \_\_\_\_\_ Patrick Wong \_\_\_\_\_ SSN: \_\_\_\_\_

Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Name: \_\_\_\_\_ SSN: \_\_\_\_\_

**FEDERAL PRIVACY ACT NOTICE:** This notice is given pursuant to the Federal Privacy Act. Disclosure of requested SSNs is required under Section 231.006(c) and

Section 231.302(c)(2), Texas Family Code. The SSNs will be used to identify persons that may owe child support. The SSNs will be kept confidential to the fullest extent permitted by law.

If submitted by email, Responses containing SSNs must be encrypted. Failure by a Respondent to provide or encrypt the SSNs as required may result in disqualification of the Respondent's Response.

18. Respondent 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 Respondent's subcontracts, if any, if payment in whole or in part is from federal funds.
19. Respondent 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.
20. Respondent 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.
21. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent 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 the 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.
22. Under Section 2155.0061 of the Texas Government Code, the Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
23. Respondent 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.
24. Respondent agrees that any payments due under any contract resulting from this Solicitation shall be applied towards any debt or delinquency that is owed to the State of Texas.
25. Respondent represents and warrants that payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this 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).



26. Respondent 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.
27. Respondent agrees that upon request of HHSC, Respondent shall provide copies of its most recent business continuity and disaster recovery plans.
28. Respondent 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, Respondent represents and warrants to HHSC that the technology provided to HHSC for purchase 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.

29. If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent 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.
30. If Respondent is submitting a Response for the purchase or lease of covered television equipment, then Respondent certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
31. Respondent 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.
32. Respondent 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 Respondent may not accept employment from Respondent before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.

33. Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Solicitation and any resulting contract and that Respondent's provision of the requested goods and/or services under this Solicitation and any resulting contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
34. Respondent 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. Respondent agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.
35. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Response, neither I nor any representative of the Respondent has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Response, neither I nor any representative of the Respondent has violated any federal antitrust law; and (c) neither I nor any representative of the Respondent has directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Respondent.
36. Respondent 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 Respondent or any of the individuals or entities included in numbered paragraph 1 of this Affirmations and Solicitation Acceptance within the five (5) calendar years immediately preceding the submission of this Solicitation response that would or could impair Respondent's performance under any contract resulting from this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. If Respondent is unable to make the preceding representation and warranty, then Respondent 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 Respondent's performance under a contract awarded as a result of this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. In addition, Respondent acknowledges this is a continuing disclosure requirement. Respondent represents and



warrants that, if awarded a contract as a result of this Solicitation, Respondent 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.

37. Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the contract to determine the eligibility of:

- (a) all persons employed by Respondent to perform duties within Texas; and
- (b) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.

38. If this Solicitation is for 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, Respondent represents and warrants that neither Respondent nor any of Respondent'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.

39. If this Solicitation is for consulting services,

(A). In accordance with Section 2254.033 of the Texas Government Code, a Respondent offering to provide consulting services in response to this solicitation 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 Respondent's Solicitation Response must disclose the following information in its Solicitation Response and hereby certifies that this information is true, correct, and complete:

- (1) Name of individual(s) (Respondent or employee(s)): \_\_\_\_\_
- (2) Status (circle one): Respondent Employee
- (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:  
\_\_\_\_\_
- (5) The annual rate of compensation for the employment at the time of its termination: \_\_\_\_\_

If more than one individual is identified in A(1) above, Respondent must provide responses to A(2)-(5) as to each identified individual. To satisfy this requirement, Respondent must attach a separate page or pages, as necessary, and include the information required in Section A, including subsections (1)-(5). Respondent must identify here how many pages, if any, are attached: \_\_\_\_\_. Respondent acknowledges, agrees, and certifies that all information provided is true, correct, and complete on this and all attached pages.



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

40. 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:

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41. Respondent 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. Respondent represents and warrants that it is not ineligible, nor will it be ineligible during the term of the contract resulting from this Solicitation, to receive appropriated funding pursuant to Article IX, Section 6.25.

42. Respondent 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. Respondent certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Respondent refuses to make that certification, Respondent shall state here any facts that make it exempt from the certification:

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43. Respondent understands, acknowledges, and agrees, that solicitation responses and contracts are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request or through posting on the System Agency's website, the LBB's website, or as otherwise required by law. Respondent certifies that it:

- asserts that information provided in its response is exempt from disclosure under the PIA, and Respondent, therefore, has submitted a “Public Information Act Copy” as required under the solicitation; or
  - asserts that there is no information provided in its response that is exempt from disclosure under the PIA, and Respondent, therefore, has not submitted a “Public Information Act Copy.”
44. Respondent understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Respondent is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of any contract resulting from this Solicitation.
  45. Respondent 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 any contract resulting from this Solicitation.
  46. Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.
  47. By submitting this Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of this Response.

**Signature Page Follows**



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

**PJW Health Services**

**Legal Name of Respondent**

**BrightStar Care of San Antonio**

**Assumed Business Name of Respondent, if applicable (d/b/a or 'doing business as')**

**Bexar**

**Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')**

**Attach Assumed Name Certificate(s) filed with the Texas Secretary of State for each Texas County Where Assumed Name Certificate(s) has been filed**



**Signature of Authorized Representative**

**Paul W. Duduit**

**Printed Name of Authorized Representative  
First, Middle Name or Initial, and Last Name**

**7710 Interstate 10 West Frontage Rd.**

**Physical Street Address**

**Mailing Address, if different**

**(210)377-3355**

**Phone Number**

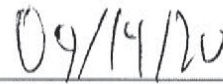
**paul.duduit@brightstarcare.com**

**Email Address**

**462703694**

**Federal Employer Identification Number**

**Texas Franchise Tax Number**



**Date Signed**

**Staffing Manager**

**Title of Authorized Representative**

**San Antonio, TX 78230**

**City, State, Zip Code**

**City, State, Zip Code**

**(210)377-3356**

**Fax Number**

**071770458**

**DUNS Number**

**32050847998**

**Texas Payee ID No. – 11 digits**

**0801774421**

**Texas Secretary of State Filing Number**

# Attachment E - Budget (Rates)

## MEDICAL / ADVANCED NURSING / DENTIST

4/13/2020

	STANDARD HOURLY RATE	WEEKEND HOURLY RATE	HOLIDAY HOURLY RATE (DESIGNATED HOLIDAYS ONLY)	EVENING CALL (FLAT RATE FOR 5PM-8AM)	24 HOUR ON-CALL (FLAT RATE)	HOLIDAY ON-CALL (DESIGNATED HOLIDAYS ONLY)	WEEKEND 24 HOUR ON-CALL (FLAT RATE)	CALL-BACK HOURLY RATE AND PREMIUM HOURLY RATE
Physician, Family Medicine	\$144.00	\$154.00	\$216.00	\$350.00	\$650.00	\$950.00	\$750.00	\$216.00
Physician, Internist	\$156.00	\$166.00	\$234.00	\$350.00	\$650.00	\$950.00	\$750.00	\$234.00
Medical Director (Physician)	\$180.00	\$180.00	\$180.00	\$350.00	\$650.00	\$950.00	\$750.00	*\$270.00
Physician Assistant	\$103.00	\$113.00	\$154.50	\$250.00	\$450.00	\$750.00	\$550.00	\$154.50
Psychiatric Physician Assistant	\$138.00	\$148.00	\$207.00	\$250.00	\$450.00	\$750.00	\$550.00	\$207.00
Psychiatrist	\$196.00	\$206.00	\$294.00	\$325.00	\$730.00	\$1,030.00	\$830.00	\$294.00
Child Psychiatrist	\$204.00	\$214.00	\$306.00	\$325.00	\$730.00	\$1,030.00	\$830.00	\$306.00
Physician Assistant	\$103.00	\$113.00	\$154.50	\$250.00	\$450.00	\$750.00	\$550.00	\$154.50
Nurse Practitioner	\$109.00	\$119.00	\$163.50	\$200.00	\$450.00	\$750.00	\$550.00	\$163.50
Advance Practice RN	\$96.00	\$106.00	\$144.00	\$200.00	\$450.00	\$750.00	\$550.00	\$144.00
Psychiatric APRN	\$116.00	\$126.00	\$189.00	\$250.00	\$450.00	\$750.00	\$550.00	\$189.00
Pharmacist	\$101.00	\$115.00	\$151.50	\$250.00	\$450.00	\$750.00	\$550.00	\$151.50

\*Medical Director call-back and hourly premium rate must be approved in advance by facility superintendent/director; otherwise, the standard hourly rate will apply

### **ON-CALL AND RATE DEFINITIONS**

<b>On-Call</b>	On-Call is defined as being immediately available by phone and can arrive at the facility within as little as 30 minutes of being called in, if needed. No additional hourly rate applies if the person on-call is required to physically report to the facility.
<b>Evening Call</b>	On-call from 5:00 pm until 8:00 a.m. of the following day; Flat rate; Applies to any day of the week including Fri-Sat-Sun if only the evening call is needed.
<b>24 Hour On Call</b>	On-call from 8:00 a.m. until 8:00 a.m. the following day; 24-hour flat rate.
<b>Holiday On-Call</b>	On-call from 8:00 a.m. of Designated Holiday until 8:00 a.m. the following day; For Designated Holidays only; 24-hour flat rate
<b>Weekend 24 hour On-Call</b>	On-call from Saturday 8:00 a.m. thru Sunday 8:00 a.m.; or Sunday 8am thru Monday 8:00 a.m.; Flat rate for a 24-hour period; Friday evening is classified as Evening Call.
<b>Call Back</b>	Is needed back at facility after hours in case of emergency but is not on call; Includes all types of call backs including holidays and weekends; This is an hourly rate.
<b>Premium Rate</b>	Hourly rate of pay for any hours worked over 40. Must be approved in advance by facility.
<b>Designated Holidays</b>	New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.



# NURSING SERVICES

4/13/2020

	Standard Shift (STD 1)	Evening Shift (STD 2)	Overnight Shift (STD 3)	Weekend (STD 1)	Weekend (STD 2)	Weekend (STD 3)
Registered Nurse (RN)	\$58.00	\$58.00	\$58.00	\$60.00	\$60.00	\$60.00
Psychiatric RN	\$67.00	\$67.00	\$67.00	\$69.00	\$69.00	\$69.00
Licensed Vocational Nurse/Licensed Practical Nurse (LVN/LPN)	\$45.00	\$45.00	\$45.00	\$47.00	\$47.00	\$47.00
Certified Nursing Assistant (CNA)	\$27.00	\$27.00	\$27.00	\$29.00	\$29.00	\$29.00
Psychiatric Nursing Assistant	\$27.00	\$27.00	\$27.00	\$29.00	\$29.00	\$29.00
Direct Support Professional (non-licensed direct care)	\$27.00	\$27.00	\$27.00	\$29.00	\$29.00	\$29.00
Mental Health Specialist/Technician	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00
Sitter	\$24.00	\$24.00	\$24.00	\$26.00	\$26.00	\$26.00
Certified Medication Aide	\$15.76	\$15.76	\$15.76	\$17.76	\$17.76	\$17.76

Shift requirements will vary from facility to facility, however a standard (Std) shift is defined as eight (8) hours for day (STD 1), evening (STD 2) and overnight (STD 3) shifts.

Shift example: 7:00 AM - 3:00 PM (STD 1), 3:00 PM - 11:00 PM (STD 2), 11:00 PM - 7:00 AM (STD 3)

## **RATE MULTIPLIER FOR HOURS WORKED OVER 40 IN ONE WEEK:**

Facilities do not allow staffing agency staff to work more than 40 hours in one week unless scheduled and approved on an individual basis. Contractor may not bill more than 1.5 times the standard or weekend rate in these instances.

## **Holiday rates will be 1.5 x standard hourly rate**

Designated Holidays are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. For hourly rate of pay on holidays, holiday time begins at 12:00 a.m. on day of Holiday until 11:59 p.m. on day of Holiday.

# OTHER THERAPY / ANCILLARY / OTHER

4/13/2020

	STANDARD HOURLY RATE	WEEKEND HOURLY RATE	EVENING CALL RATE (FLAT RATE FOR 5PM-8AM)	24 HOUR ON-CALL (FLAT RATE) CALL	HOLIDAY ON-CALL (DESIGNATED HOLIDAYS ONLY)	WEEKEND 24 HOUR ON-CALL (FLAT RATE)	CALL-BACK HOURLY RATE
Psychologist	\$101.00	\$115.00	\$250.00	\$450.00	\$750.00	\$550.00	\$151.50
Psychology Associate	\$47.00	\$52.00	n/a	n/a	n/a	n/a	\$70.50
Dentist	\$125.00	\$130.00	\$250.00	\$450.00	\$750.00	\$550.00	\$187.50
Audiologist	\$81.00	\$83.00	n/a	n/a	n/a	n/a	\$121.50
Occupational Therapist	\$72.00	\$74.00	n/a	n/a	n/a	n/a	\$108.00
Occupational Therapist Assistant	\$55.00	\$57.00	n/a	n/a	n/a	n/a	\$82.50
Physical Therapist	\$72.00	\$74.00	n/a	n/a	n/a	n/a	\$108.00
Physical Therapist Assistant	\$54.00	\$56.00	n/a	n/a	n/a	n/a	\$81.00
Speech Pathologist	\$72.00	\$74.00	n/a	n/a	n/a	n/a	\$108.00
Speech Language Assistant	\$57.00	\$59.00	n/a	n/a	n/a	n/a	\$85.50
Respiratory Therapist	\$60.00	\$62.00	n/a	n/a	n/a	n/a	\$90.00



	STANDARD HOURLY RATE	WEEKEND HOURLY RATE	EVENING CALL (FLAT RATE FOR 5PM-8AM)	24 HOUR ON-CALL (FLAT RATE) CALL	HOLIDAY ON-CALL (DESIGNATED HOLIDAYS ONLY)	WEEKEND 24 HOUR ON-CALL (FLAT RATE)	CALL-BACK HOURLY RATE
Licensed Social Worker	\$53.00	\$55.00	\$150.00	\$350.00	\$550.00	\$450.00	\$79.50
Licensed Master Social Worker	\$65.00	\$67.00	\$150.00	\$350.00	\$550.00	\$450.00	\$97.50
Licensed Professional Counselor	\$52.00	\$54.00	\$150.00	\$350.00	\$550.00	\$450.00	\$78.00
Board Certified Behavior Analyst	\$97.00	\$107.00	\$250.00	\$450.00	\$750.00	\$550.00	\$145.50
Lab Technician	\$46.00	\$48.00	n/a	n/a	n/a	n/a	\$69.00
Registered Dietician	\$59.00	\$61.00	n/a	n/a	n/a	n/a	\$88.50
Pharmacy Technician	\$32.00	\$34.00	n/a	n/a	n/a	n/a	\$48.00
Dental Assistant	\$33.00	\$35.00	n/a	n/a	n/a	n/a	\$49.50
Case Manager	\$59.00	\$61.00	\$150.00	\$350.00	\$550.00	\$450.00	\$88.50
Board Certified Behavior Analyst	\$97.00	\$99.00	\$250.00	\$450.00	\$750.00	\$550.00	\$145.50

**RATE MULTIPLIER FOR HOURS WORKED OVER 40 IN ONE WEEK: 1.5**

Facilities do not allow staffing agency staff to work more than 40 hours in one week unless scheduled and approved on an individual basis. Contractor may not bill more than 1.5 times the standard or weekend rate in these instances.

**Holiday rates will be 1.5 x standard hourly rate**

Designated Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

For hourly rate of pay on holidays, holiday time begins at 12:00 a.m. on day of Holiday until 11:59 p.m. following day.

**ON-CALL AND RATE DEFINITIONS**

<b>On-Call</b>	On-Call is defined as being immediately available by phone and can arrive at the facility within as little as 30 minutes of being called in, if needed. No additional hourly rate applies if the person on-call is required to physically report to the facility.
<b>Evening Call</b>	On-call from 5:00 pm until 8:00 a.m. of the following day; Flat rate; Applies to any day of the week including Fri-Sat-Sun if only the evening call is needed.
<b>24 Hour On Call</b>	On-call from 8:00 a.m. until 8:00 a.m. the following day; 24-hour flat rate
<b>Holiday On-Call</b>	On-call from 8:00 a.m. of Designated Holiday until 8:00 a.m. the following day; For Designated Holidays only; 24-hour flat rate
<b>Weekend 24 hour On-Call</b>	On-call from Saturday 8:00 a.m. thru Sunday 8:00 a.m.; or Sunday 8am thru Monday 8:00 a.m.; Flat rate for a 24-hour period; Friday evening is classified as Evening Call.
<b>Call Back</b>	Is needed back at facility after hours in case of emergency but is not on call; Includes all types of call backs including holidays and weekends; This is an hourly rate.
<b>Premium Rate</b>	Hourly rate of pay for any hours worked over 40. Must be approved in advance by facility.



# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**

**Uniform Terms and Conditions - Vendor**

**Version 3.0**

Published and Effective - November 7, 2019

Responsible Office: Chief Counsel

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## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 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, which documents changes to the Contract other than those permitted by Work Orders.

“Attachment” means documents, terms, conditions, or information added to this Contract following the Signature Document or included by reference and made a part of this Contract.

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

“Contractor” means the Party selected to provide the goods or Services to the State under this Contract.

“Deliverable” means a Work Product(s), including all reports and project documentation, 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.

“Goods” means supplies, materials, or equipment.

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

“Health and Human Services” or “HHS” includes the Department of State Health Services (DSHS), in addition to the Health and Human Services Commission.

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

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such rights may be evidenced by or embodied in:

- i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;

- ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
- iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
- iv. domain name registrations; and
- v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

“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.

“Scope of Work” means the description of Services and Deliverables specified in the Contract and 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 (including any published addenda, exhibits, and Attachments) under which the goods or Services provided under the Contract were initially requested, which is incorporated by reference for all purposes in its entirety.

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

“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 the State Travel Management Program through the Texas Comptroller of Public Accounts website and 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, authorized representatives, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“Third Party IP” means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not a Subcontractor.

“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.

“Work Product” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the Deliverables, that are developed, produced, generated, or provided by Contractor in connection with Contractor’s performance of its duties under the Contract or through use of any funding provided under this Contract.

## 1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- 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, 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, 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. PAYMENT PROVISIONS**

### **2.1 PROMPT PAYMENT**

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

### **2.2 ANCILLARY AND TRAVEL EXPENSES**

- A. 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.
- B. 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 *Travel* available at the Texas Comptroller of Public Accounts State Travel Management Program website.

### **2.3 NO QUANTITY GUARANTEES**

The System Agency makes no guarantee of volume or usage of work under this Contract. All Work requested may be on an irregular and as needed basis throughout the Contract term.

### **2.4 TAXES**

Purchases made for State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from the Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. System Agency shall not be liable for any taxes resulting from the contract.

## **ARTICLE III. STATE AND FEDERAL FUNDING**

### **3.1 EXCESS OBLIGATIONS PROHIBITED**

The Contract is subject to termination or cancellation, without penalty to the System Agency, either in whole or in part, subject to the availability of state funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Contractor's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Contractor for any damages that are caused or associated with such termination, or cancellation, and System Agency will not be required to give prior notice.

### **3.2 NO DEBT AGAINST THE STATE**

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

### **3.3 DEBT AND DELINQUENCIES**

Contractor agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

### **3.4 REFUNDS AND OVERPAYMENTS**

- A. At its sole discretion, the System Agency may:
- i. withhold all or part of any payments to Contractor to offset overpayments, unallowable or ineligible costs made to the Contractor, or if any required financial status report(s) is not submitted by the due date(s); or,
  - ii. require Contractor to promptly refund or credit - within thirty (30) calendar days of written notice - any funds erroneously paid by System Agency which are not expressly authorized under the Contract.
- B. "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 shall 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 shall be completed in a manner consistent with standards under the terms of this Contract, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Contract; and all Deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Contractor has failed 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:

- i. Repair or replace all defective or damaged Work;
- ii. Refund any payment Contractor received from System Agency for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and,
- iii. Take necessary action to ensure that Contractor's future performance and Work conform to the Contract requirements.

### **4.2 GENERAL AFFIRMATIONS**

Contractor certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the Contractor has reviewed the General Affirmations and that Contractor is in compliance with all requirements.

### **4.3 FEDERAL ASSURANCES**

Contractor certifies that, to the extent federal assurances are incorporated into the Contract under the Signature Document, the Contractor has reviewed the federal assurances and that Contractor is in compliance with all requirements.

### **4.4 FEDERAL CERTIFICATIONS**

Contractor certifies that, to the extent federal certifications are incorporated into the Contract under the Signature Document, the Contractor has reviewed the federal certifications and that Contractor is in compliance with all requirements. In addition, Contractor certifies that it is and shall remain in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Contract.

## **ARTICLE V. INTELLECTUAL PROPERTY**

### **5.1 OWNERSHIP OF WORK PRODUCT**

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Contractor and Contractor's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Contractor hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Contractor agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
- D. In the event that Contractor has any rights in and to the Work Product that cannot be assigned to System Agency, Contractor hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Contractor. Contractor shall provide System Agency access during normal business hours to all Vendor materials, premises, and computer files containing the Work Product.

### **5.2 CONTRACTOR'S PRE-EXISTING WORKS**

- A. To the extent that Contractor incorporates into the Work Product any works of Contractor that were created by Contractor or that Contractor acquired rights in prior to the Effective



Date of this Contract (“**Incorporated Pre-existing Works**”), Contractor retains ownership of such Incorporated Pre-existing Works.

- B. Contractor hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Contractor represents, warrants, and covenants to System Agency that Contractor has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

### **5.3 THIRD PARTY IP**

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Contractor, Contractor hereby grants to System Agency, or shall obtain from the applicable third party for System Agency’s benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency’s internal business purposes only,
  - i. to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and
  - ii. to authorize others to do any or all of the foregoing.
- B. Contractor shall obtain System Agency’s advance written approval prior to incorporating any Third Party IP into the Work Product, and Contractor shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Contractor shall provide System Agency all supporting documentation demonstrating Contractor’s compliance with this **Section 5.3**, including without limitation documentation indicating a third party’s written approval for Contractor to use any Third Party IP that may be incorporated in the Work Product.

### **5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS**

Contractor shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Contractor’s compliance with Contractor’s obligations under this **Article V**.

### **5.5 DELIVERY UPON TERMINATION OR EXPIRATION**

No later than the first calendar day after the termination or expiration of the Contract or upon System Agency’s request, Contractor shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Contractor’s failure to timely deliver such Work Product is a material breach of the Contract. Contractor will not retain any copies of the Work Product or any documentation or other products or results of Contractor’s activities under the Contract without the prior written consent of System Agency.

### **5.6 SURVIVAL**

The provisions and obligations of this **Article V** survive any termination or expiration of the Contract.

## 5.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Contractor by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder (the "**System Agency Data**"), is owned solely by System Agency.
- B. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Contractor shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Contractor's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Contractor's performance of its obligations hereunder.

## ARTICLE VI. PROPERTY

### 6.1 USE OF STATE PROPERTY

- A. Contractor is prohibited from using State Property for any purpose other than performing Services authorized under the Contract.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (*e.g.*, laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
- C. Contractor shall not remove State Property from the continental United States. In addition, Contractor may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Contractor shall not perform any maintenance services on State Property unless the Contract expressly authorizes such Services.
- E. During the time that State Property is in the possession of Contractor, Contractor shall be responsible for:
  - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
  - ii. all charges attributable to Contractor's use of State Property that exceeds the Contract scope. Contractor shall fully reimburse such charges to System Agency within ten (10) calendar days of Contractor's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

## **6.2 DAMAGE TO GOVERNMENT PROPERTY**

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Contractor or Contractor's employees, agents, Subcontractors, and suppliers, Contractor shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Contractor shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Contractor shall reimburse System Agency and the State of Texas for such property damage within 10 calendar days after Contractor's receipt of System Agency's notice of amount due.

## **6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT**

In the event the Contract is terminated for any reason, or upon its expiration State Property remains the property of the System Agency and must be returned to the System Agency by the end date of the Contract or upon System Agency's request.

# **ARTICLE VII. WORK ORDERS**

## **7.1 WORK ORDERS**

If the Contract is for indefinite quantities of Services, as specified in the Signature Document, all Work will be performed in accordance with properly executed Work Orders.

## **7.2 PROPOSALS**

For Work Order contracts, the Contractor shall submit to System Agency separate proposals, including pricing and a project plan, for each Project.

## **7.3 RESPONSIBILITY**

For each approved Project, the Contractor shall be responsible for all Work assigned under the Work Order. 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 any other information or special conditions as may be necessary for the Work assigned.

## **7.4 TERMINATION**

If this Work Order is in effect on the day the Contract would otherwise expire, the Contract will remain in effect until this Work Order is terminated or expires; and the Contract and this Work Order may be amended after such termination or expiration to extend the performance period or add ancillary deliverables or services, only to the extent necessary.

# **ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY**

## **8.1 RECORD MAINTENANCE AND RETENTION**

- A. Contractor 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 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.

- B. Contractor shall maintain and retain legible copies of this Contract and all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Contractor for a minimum of seven (7) years after the Contract expiration date or seven (7) years after the completion of all audit, claim, litigation, or dispute matters involving the Contract are resolved, whichever is later.

## **8.2 AGENCY'S RIGHT TO AUDIT**

- A. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Contractor pertaining to the Contract for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Contractor and any of Contractor'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.
- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor shall produce original documents related to this Contract.
- D. 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.
- E. Contractor 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.

## **8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS**

- A. Contractor must act to ensure its and its Subcontractors' 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 Services and Deliverables provided. Any such correction will be at Contractor's or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance shall be solely the decision of the System Agency.



- B. As part of the Services, Contractor must provide to System Agency 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.

#### **8.4 STATE AUDITOR'S RIGHT TO AUDIT**

- A. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The 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, under the direction of the legislative audit committee, 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 state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- B. The Contractor shall comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

#### **8.5 CONFIDENTIALITY**

Contractor shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency Data, System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract. The obligations of Contractor under this section will survive termination or expiration of this Contract. This requirement must be included in all subcontracts awarded by Contractor.

### **ARTICLE IX. CONTRACT REMEDIES AND EARLY TERMINATION**

#### **9.1 CONTRACT REMEDIES**

To ensure Contractor's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Contractor accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to:

- i. suspending all or part of the Contract;
- ii. requiring the Contractor to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Contractor found to be in error;
- iv. suspending, limiting, or placing conditions on the Contractor's continued performance of Work; or
- v. imposing any other remedies, sanctions, or penalties authorized under this Contract or permitted by federal or state law.

#### **9.2 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 the System Agency's notice of termination.

### **9.3 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:

**i. Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, in 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 System for Award Management (SAM) will also constitute a material breach of the Contract.

**ii. 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 Work, or otherwise fully perform its responsibilities under the Contract.

### **9.4 CONTRACTOR RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS**

If the System Agency terminates the Contract for cause, the Contractor shall 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 attributable to Contractor's failure to perform any Work in accordance with the terms of the Contract.

## **ARTICLE X. INDEMNITY**

### **10.1 GENERAL INDEMNITY**

- A. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT.**
- B. 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 FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**

- C. For the avoidance of doubt, System Agency shall not indemnify Contractor or any other entity under the Contract.**

## **10.2 INTELLECTUAL PROPERTY**

**CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:**

- i. THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY CONTRACTOR OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT.**

## **10.3 ADDITIONAL INDEMNITY PROVISIONS**

- A. CONTRACTOR AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. CONTRACTOR SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

## ARTICLE XI. GENERAL PROVISIONS

### 11.1 AMENDMENT

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

### 11.2 INSURANCE

- A. Unless otherwise specified in this Contract, Contractor shall 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 shall 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 shall 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.
- B. 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.

### 11.3 LIMITATION ON AUTHORITY

- A. The authority granted to Contractor by the System Agency is limited to the terms of the Contract.
- B. Contractor shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Contract; no other authority, power, or use is granted or implied. Contractor may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- C. Contractor may not rely upon implied authority and is not granted authority under the Contract to:
  - i. Make public policy on behalf of the System Agency;
  - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
  - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Contract. However, upon System Agency request and with reasonable notice from System Agency to the Contractor, the Contractor shall assist the System Agency in communications and negotiations regarding the Work under the Contract with state and federal governments.

### 11.4 LEGAL OBLIGATIONS

Contractor shall 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 shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

#### **11.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS**

Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the Contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Contract. System Agency reserves the right, in its sole discretion, to unilaterally amend the Contract to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

#### **11.6 E-VERIFY PROGRAM**

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 the Contract to determine the eligibility of:

- i. all persons employed by Contractor to perform duties within Texas; and
- ii. all persons, including subcontractors, assigned by the Contractor to perform Work pursuant to the Contract within the United States of America.

#### **11.7 PERMITTING AND LICENSURE**

At Contractor's sole expense, Contractor shall 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 shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Contractor shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

#### **11.8 SUBCONTRACTORS**

Contractor may not subcontract any or all of the Work and/or obligations under the Contract without prior written approval of the System Agency. Subcontracts, if any, entered into by the Contractor shall be in writing and be subject to the requirements of the Contract. Should Contractor subcontract any of the services required in the Contract, Contractor expressly understands and acknowledges that in entering into such Subcontract(s), System Agency is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve Contractor of the responsibility for ensuring that the services performed under all Subcontracts are rendered in compliance with the Contract.

#### **11.9 INDEPENDENT CONTRACTOR**

Contractor and Contractor's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Contractor nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Contractor shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee

benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Contractor and System Agency.

#### **11.10 GOVERNING LAW AND VENUE**

This Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

#### **11.11 SEVERABILITY**

If any provision of the Contract is held to be illegal, invalid or unenforceable by a court of law or equity, such construction will not affect the legality, validity or enforceability of any other provision or provisions of this Contract. It is the intent and agreement of the Parties this Contract shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Contract will continue in full force and effect.

#### **11.12 SURVIVABILITY**

Expiration or termination of the Contract for any reason does not release Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

#### **11.13 FORCE MAJEURE**

Neither Contractor nor System Agency shall be liable to the other for any delay in, or failure of performance of, any requirement included in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

#### **11.14 DISPUTE RESOLUTION**

A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract. If the Contractor's claim for breach of contract cannot be resolved informally with the System Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under §2260.051 of the Texas

Government Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- B. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the System Agency if the Parties are unable to resolve their disputes as described above.
- C. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the System Agency, the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. However, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

#### **11.15 NO IMPLIED WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Contractor which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

#### **11.16 MEDIA RELEASES**

- A. Contractor shall not use System Agency's name, logo, or other likeness in any press release, marketing material, or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Contractor is not authorized to make or participate in any media releases or public announcements pertaining to this Contract or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. 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.

#### **11.17 NO MARKETING ACTIVITIES**

Contractor is prohibited from using the Work for any Contractor or third-party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Contractor's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Contractor as part of the Work.

#### **11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS**

Contractor shall 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.

### **11.19 SOVEREIGN IMMUNITY**

Nothing in the Contract shall be construed as a waiver of the System Agency's or the State's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

### **11.20 ENTIRE CONTRACT AND MODIFICATION**

This 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.

### **11.21 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.

### **11.22 CIVIL RIGHTS**

- A. Contractor shall comply with all applicable state and federal anti-discrimination laws, including:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, *et seq.*);
  - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*);
  - iv. Age Discrimination Act of 1975 (42 U.S.C. §6101, *et seq.*);
  - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, *et seq.*);
  - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011, *et seq.*); and
  - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.
- B. Contractor shall 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.
- C. Contractor shall 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 shall 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.

Contractor shall 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 shall comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 28 CFR Subpart G § 42.503, and Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR Subpart B §35.130 which includes requiring contractor to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the contractor can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
- E. Contractor shall comply with federal regulations regarding equal treatment for faith-based organizations under 45 C.F.R. Part 87 or 7 C.F.R. Part 16, as applicable. Contractor shall not discriminate against clients or prospective clients on the basis of religion or religious belief, and shall provide written notice to beneficiaries of their rights.
- F. Upon request, Contractor shall provide the HHSC Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- G. Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice must be directed to:  
HHSC Civil Rights Office  
701 W. 51<sup>st</sup> Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
Fax: (512) 438-5885.

### **11.23 ENTERPRISE INFORMATION MANAGEMENT STANDARDS**

Contractor shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. 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 HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

### **11.24 DISCLOSURE OF LITIGATION**

- A. The Contractor must disclose in writing to the contract manager assigned to this Contract any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Contractor must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Contract or any

development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Contractor's financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Contract Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

#### **11.25 NO THIRD-PARTY BENEFICIARIES**

The Contract is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Contract as a third-party beneficiary or otherwise.

#### **11.26 BINDING EFFECT**

The Contract shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective permitted successors, assigns, transferees, and delegates.

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