

STATE OF TEXAS

HHSC # HHS000516900001

COUNTY OF TRAVIS

**MANAGED SERVICES FOR TELECOMMUNICATIONS CONTRACT**  
*FOR*  
**NETWORK OPERATIONS SUPPORT SERVICES**  
*BETWEEN THE*  
**HEALTH AND HUMAN SERVICES COMMISSION**  
*AND*  
**INSIGHT PUBLIC SECTOR, INC.**

**SIGNATURE DOCUMENT FOR**

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION (HHSC)**  
**CONTRACT NO. HHS000516900001**

The **HEALTH AND HUMAN SERVICES COMMISSION** (“System Agency”) an administrative agency within the executive branch of the state of Texas, and **INSIGHT PUBLIC SECTOR, INC.** (“Contractor”), having its principal office at 6820 South Harl Avenue, Tempe Arizona 85283, (each a “Party” and collectively the “Parties”), enter into the following agreement (“Contract”) for telecommunications managed services consisting of network operations support services to sustain the HHSC enterprise network in accordance with the specifications contained in Attachment A Statement of Work (SOW).

**I. LEGAL AUTHORITY**

This Contract is entered into pursuant to Texas Government Code, sec. 2157.006(a)(2) and 34 Tex. Admin. Code, sec. 20.391.

**II. DURATION**

The Contract is effective on September 1, 2021, and terminates on August 31, 2025, unless sooner terminated or renewed or extended. System Agency, at its sole discretion, may renew or extend this Contract. However, in no event may the Contract term, including all renewals and extensions, exceed 7 years. Notwithstanding the limitation in the preceding sentence, System Agency, at its sole discretion, also may extend the Contract beyond 7 years as necessary to ensure continuity of service, for purposes of transition, or as otherwise determined by System Agency to serve the best interest of the State.

At the sole discretion of the System Agency, any Work Order issued hereunder may survive the expiration or termination of this Contract.

### 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.

The Solicitation, including all addenda, is incorporated into and made a part of this Contract for all purposes and included as Attachment B.

### IV. BUDGET

The total amount of this Contract will not exceed **\$42,708,000**. By executing this Contract, Contractor agrees to the contracted rates and budget for the Contract term, including the initial term, and all renewals and 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. Contractor understands and expressly assumes all risks associated with the commitment of delivery of the contracted Services and Deliverables, including the failure, termination or suspension of funding to HHSC, delays or denials of required third party approvals, and cost overruns not reasonably attributable to HHSC.

### V. CONTRACT REPRESENTATIVES

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

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#### **System Agency Contract Representative**

Patrice Wilson  
HHSC  
701 W. 51st Street Austin, TX  
78751  
Patrice.Wilson01@texas.gov.us

#### **Contractor Contract Representative**

Scott Trinkle, Solutions Executive  
Insight Public Sector, Inc  
2525 Brockton Lane, Suite 390  
Austin, TX 78758  
512-289-4703  
scott.trinkle@insight.com

John Brooks, PMP Director of Services  
2525 Brockton Lane, Suite 390  
Austin, TX 78758  
512-691-2054  
john.brooks@insight.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  
4601 W. Guadalupe  
Austin, Texas 78751

System Agency shall send legal notices to Contractor or the person listed at the address below:

Brittany Dunaway  
Insight Public Sector, Inc.  
6820 S, Harl Ave.  
Tempe, AZ 85283

With a required copy to:

Sam Cowley  
General Counsel  
6820 S, Harl Ave.  
Tempe, AZ 85283

- 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. CONTRACT DOCUMENTS

- A. Unless expressly stated otherwise in this Contract, in the event of conflict, ambiguity or inconsistency between or among any documents, all System Agency documents take precedence over Contractor's documents and the Data Use

Agreement (DUA) and Security and Privacy Inquiry (SPI) take precedence over all other contract documents.

**B.** Subject to the foregoing paragraph A, the following documents are incorporated by reference and made a part of this Contract for all purposes:

1) This final executed document entitled “Managed Services for Telecommunications Contract for Network Operation Support Services HHS000516900001 between the Health and Human Services Commission and Insight Public Sector, Inc. (“the Executed Signature Document”) including the following Attachments:

Attachment A – Statement of Work

Attachment B – Contract Affirmations

Attachment C - HHS Uniform Terms and Conditions (UTC’s)

Attachment C-1 - Additional Provisions Version 1.0

Attachment D – HHSC Data Use Agreement

Attachment H - FNS Handbook 901 Federal Procurement Clauses

Attachment I - Insurance Requirements

2) The Department of Information Resources contract "Insight Public Sector - Managed Services Contract: DIR-TSO-3901" attached hereto as DIR Attachment 1 (the DIR Contract).

3) Insight submitted response to Solicitation HHS0005169 attached hereto as Insight Attachment 1, including the following Exhibits D-1 through J from, and as identified, in the Original Solicitation HHS0005169, and Attachment K, below:

a. Attachment D-1 Security and Privacy Inquiry (SOI)

b. Attachment E - Lobbying Certification

c. Attachment F – Federal Assurances - Non-Construction

d. Attachment G - FFATA Certification

e. Attachment J - Special Affidavit Regarding Conflicts of Interest

f. Attachment K – Insight Clarification Documents.

**C. Order of Precedence.** In the event of any conflict, ambiguity or contradiction between or among the Contract elements, the documents shall control in the following order of precedence:

1) DIR Contract DIR-TSO-3901

2) This executed Signature Document, including its Attachments; and

3) Insight Attachment 1 - Insight submitted responses to HHSC Solicitation HHS0005169, including its Attachments and Insight's clarification documents.

**B. No Implied Assumptions.** The Parties acknowledge and agree that any assumptions, including but not limited to general business assumptions, assumptions concerning key performance requirements, and comments concerning the terms and conditions, shall be deemed to have been rejected and will not be a part of the Contract unless, and only to the extent, the Parties have expressly agreed in writing to include them.

**VIII. 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 FOR SYSTEM AGENCY CONTRACT NO HHS000516900001**

**SYSTEM AGENCY**


DocuSigned by:  
  
F30843A81CCD41C...

Name: Maurice McCreary Jr.

Title: Chief Operating Officer

Date of execution: August 12, 2021

**INSIGHT PUBLIC SECTOR, INC**

DocuSigned by:  
  
7ED39229A7B4451...

Name: Scott Friedlander

Title: Vice President

Date of execution: August 11, 2021

# Attachment A: Statement of Work

<p style="text-align: center;"><b>Attachment – A</b> <b>To Telecommunications Managed Services Contract HHS000516900001</b> <b>Statement of Work</b></p>
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This Attachment A covers scope, resources, and cost in reference to Contract HHS000516900001. Attachment A details the statement of work (SOW) and required services to support the collective and consolidated network operations support requirements of HHSC, Department of State Health Services (DSHS), and Texas Integrated Eligibility Redesign System (TIERS) network infrastructures and these programs are collectively referred to as the HHS Network Services Team (HNST) and Enterprise Network Operations (ENO).

## Attachment A - OVERVIEW

HHSC and Insight have agreed that the identified services and resources detailed in this Attachment A are critical to the support of ENO network operations and management.

### Statement of Work

#### 1.1. Insight Responsibilities

For all work performed under the Contract, Insight shall define and apply a structured methodology to perform the SOW activities, adjusting the methodology as appropriate to meet the HHSC needs to mitigate risk and meet identified requirements. Insight shall follow the project management methodologies that are consistent with the Project Management Body of Knowledge (PMBOK). Insight's staff and Subcontractors are to follow this consistent methodology. Additional requirements necessitate Insight to identify, evaluate, and recommend hardware, software, and services as needed to operate, maintain and refresh the HHSC Enterprise Network environments.

Insight may be required to perform assessments and provide recommendations for any systems and technologies within the general scope of this SOW, to include, but may not be limited to:

- Evaluations, comparisons, integration strategies and feasibility studies including commercial-off-the shelf software (COTS);
- Technology forecasting;

- Technology upgrades; and
- System concept feasibility.

For all work performed under the SOW, Insight shall assist and support HHSC's desire to implement an organizational service model based on the ITIL methodology and framework. Insight shall provide assessments, recommendations, and all necessary support to aid HHSC's evolution to a mature ITIL service catalog, including all necessary recommendations and best practices. Insight shall maintain a complete and updated ITIL service catalog.

All Insight Personnel shall provide ongoing knowledge transfer to include maintenance, operations, technical, and planning services to HHSC staff throughout the term of the Contract.

Insight shall automatically open service tickets for outstanding corrective actions that stem from a Root Cause Analysis (RCA), audit reports/findings, vulnerability scans, or any other source of input as identified by HHSC as applicable.

Insight shall maintain in good standing throughout the life of the Contract any certifications proposed as part of the response to indicate the company's process quality and maturity.

The HHSC scope of services, as described in this SOW, establishes a fixed-price for ITIL-based services furnishing overall operational management, administration, architect and engineering services for the HHSC, DSHS and TIERS Networks. This fixed price work, described as NOSS, includes, but is not limited to: infrastructure management; NOC management; network security; back-up and restoration; network management, maintenance, and operations support; systems management, maintenance and support; technical services, DR services including backup and restoration; strategic IT consultation and business planning services; enterprise architecture and design; network services, monitoring, management systems and tools support; security and certification services; and knowledge transfer. These could include technologies that are on premises or hosted in the cloud.

Future HHS modernization efforts, including future cloud initiatives affecting the requirements of this SOW, may be required. Depending on the cost and complexity of such efforts Insight and HHSC will need to cooperate in the planning and implementation

needed for such efforts. Such cooperation may include mutually agreed revisions of the scope and pricing through a change order or amendment.

Insight provided NOSS shall be a fixed-price MRC to provide all ITIL-based activities and services required to execute and deliver the requirements as defined in this SOW (see Section 1.14 NOSS Insight Areas of Responsibility) and meets the SLAs, as defined in Section 4, including, but not limited to:

Overall operational management, administration, configuration, break-fix, and backup-restoration services;

- Current and proactive A&E services, which also includes monitoring, planning, designing, engineering, and installation services;
- Maintenance;
- Availability management;
- Capacity management (as defined in ITIL);
- Security of the HHSC, DSHS and TIERS Network environments; and
- Any of the above for existing “non-production” environments, to include, but not be limited to relevant LAB, failover and test environments. For example, “non-production” might include: any devices or network systems or services for confirmation of configuration changes, upgrades, patches, load testing and integration testing for in-scope technology.

The HHSC NOSS fixed-price MRC shall be based on the number of proposed and agreed human resources required to meet or exceed all SLAs in direct support of the HHSC, DSHS and TIERS Network environments. HHSC anticipates fixed capacity as determined primarily by number of onsite human resources, performing blended O&M and “project” work, with periodic true-ups and potentially mutually agreed adjustments to available capacity.

The scope contained in this SOW has resulted from a best effort to be representative of each of the key components of required services. However, this scope should not be considered all-inclusive of what HHSC may request and expect from Insight in the day to day delivery of services and the overall objective to provide complete service excellence to all stakeholders and service consumers. If any services, functions, or responsibilities are required for the proper performance and provision of service regardless of whether they are specifically described in the SOW, schedules or other documents, they shall be deemed to be implied by and included within the scope to be



provided by Insight to the same extent and in the same manner as if specifically described in the SOW.

The HHSC through this SOW is contracting for a pool of sixteen (16) full time dedicated onsite resources and ten (10) additional partial time offsite resources and expects an approach where Insight resources can be redirected by HNST management to work on any tasks or issues they are qualified to work on based upon then current HHSC priorities. The HNST understands that this redirection may from time to time require suspension of one or more SLA measurements while Insight resources have been directed to other agency priorities. In turn HNST expects Insight resources to assist on any issue as directed by HNST management within their ability independent of if it is clearly defined in the scope section or not. The goal is to always fix the issue, solve the problem, support the customer or do whatever should be considered reasonably necessary to assist. Any ongoing scope or capacity issues or concerns can be dealt with during the monthly governance meetings and change order process if it becomes necessary. HNST will always expect Insight to work as an extension of the HNST and any member of either team needs to be willing and allowed to assist on any issue as may benefit HHSC within the allotted resource hours and representative skill sets of the team members.

The NOSS team of Insight and HNST will conduct monthly governance meetings to ensure that resource levels and roles are enough and appropriate to meet the HHSC service levels for operations. If the operational activities increase or decrease by 15% either party may request a meeting to accelerate a recalibration of provided resource levels/roles to adjust and ensure HNST target objectives are met. If a recalibration is required Insight will adjust the monthly operational invoicing as required and agreed upon by HNST. Adjustments that include a cost increase may require an amendment to the SOW and resulting Contract.

## **1.2. NOSS Daily Operations**

The entire Insight NOSS onsite staff resources provided under this Contract shall be physically located on site at either HHSC office at 701 W 51st St, Austin, TX 78751 - Winters Complex Building C, TIERS office located at 8317 Cross Park in Austin or other HHSC Austin office as may be directed by HHSC. Insight shall provide staff coverage to support the services being provided during work hours between 7 a.m. and 7 p.m. Monday through Friday excluding Texas state holidays (this is considered the HHSC Business Day). A Business Hour is defined as any 60-minute period during a Business Day. Some exceptions may be considered for certain high-level escalation resources or program management staff that would be provided generally as remote and may not be physically on-site full time. However, it is HHSC's expectation that the onsite Insight NOSS team will

be able to support delivery of at least 90% of the in-scope services and that the onsite staff built into MRC will be 100% dedicated to providing services to HHSC under this Contract.

Support of all aspects of the TIERS network environment 24x7x365 and is required and included in the base monthly recurring charge. Onsite TIERS support is required between 7 a.m. and 7 p.m. Monday through Friday.

Support of all aspects of the 50+/- HHS critical service locations across Texas 24x7x365 is required and included in the base MRC.

The Table below details the requirements for the contracted Services Solution.

Proposed Solutions	Scope to Include
Contracted Services Solution	<p>7:00 AM to 7:00 PM Monday through Friday onsite coverage support for all in scope services.</p> <p>24x7x365 remote monitoring, response, and support for all TIERS sites and services.</p> <p>24x7x365 remote monitoring, response, and support for all 50+/- HHS critical service locations across Texas including State Hospital and State Supported Living Center sites and services.</p>

Insight will provide HHSC with suitable replacement resources for any Insight staff planned time off away from HHSC Operations of 5 or more consecutive business days. Insight will work with HHSC to provide suitable replacement resources for any unplanned, emergency, or unforeseen situations on a best effort basis and as agreed to with HHSC based on the situation. There must be no gap in services provided during either of these circumstances.

HHSC will provide work space, computers and telephones for all Insight on-site staff. Travel between primary work location and any other Austin Metro office work location is included in this Contract and is to be at Insight's expense. Any requested travel outside the defined Austin Metro area may require additional charges.

Incident management and the emergency change management window shall be considered (24X7X365). On-call after-hours operational support outside work hours is required during the defined period of this Contract. Major change activities are scheduled in advance, usually occurring after 10:00 p.m. Monday – Friday unless otherwise authorized by the HHSC Change Approval Board (CAB)/TIERS Infrastructure Change Control Board (ICCB), and on weekends during approved maintenance windows.

HHSC provides all Insight staff with HHSC email accounts, which include appointment/meeting calendars that serve as the official record of all communication and scheduling of appointments and meetings. Insight staff must follow all HHSC Security Requirements regarding email communications. Insight staff shall comply with any HHSC requirements to gain access to any HHSC system resources. Insight staff are required to use the HHSC provided email addresses for all communications related to delivery of services within this Contract.

Insight will be required to perform change management to proactively open network-related change requests as required. Manage multiple queues within the HHSC change management system to create and monitor the initiation, progression, and completion of planned change activities and communicate same to HHSC change coordinators and/or management. Obtain required approvals and attend the HHSC CAB/ICCB to represent Insight managed change requests and to schedule work to be performed. Insight required to update change records to reflect system's return to normal operations.

Insight will perform incident management to proactively open network related incidents as required. Insight will respond to network outages in accordance with agreed to service level requirements. Insight will mitigate, resolve, and escalate network issues to the attention of higher-level resources as appropriate. Insight will coordinate provider break/fix activities as required. Insight will verify normal operations before accepting systems back into operations.

Insight will routinely assess performance and load on infrastructure to identify systems that may require balancing or additional capacity. Insight will provide inputs and metrics to all capacity management initiatives.

Insight will update, maintain and continually execute and report against a patch management plan that has been submitted to and approved by HHSC.

Insight will perform backups for the data network equipment (configurations) and verify that restoration of configuration and/or data from backups is tested quarterly and demonstrated in a manner consistent with HHSC ENO-approved procedures for this task. Insight will develop, maintain and continually execute and report against a backup and storage management plan that has been submitted to and approved by HHSC.

### **1.3. Operations Management**

Insight is required to provide a minimum of two full time onsite Operations Management staff positions. All managers will provide managerial and technical oversight for all operational activities that fall within Insight's scope. Insight Operations Managers will provide prioritization and guidance for technical operations and incidents. Insight Operations Managers will ensure all incidents and escalations are addressed within the required SLA's. Insight Operations Managers will be responsible for leading efforts on escalated critical events and incidents categorized as high. Additionally, Insight Operations

Managers have the responsibility to supervise Insight technical staff and enforces the overall standards for the NOSS support of HHSC. Insight Operations Managers will participate in all weekly / monthly / quarterly business reviews for operations with the HNST and may include separate meeting requirements for HHSC, DSHS and TIERS supported programs. These Insight Operations Managers roles will assist with operational engineers' interaction with Insights, HHSC, and project managers within and outside of team. Insight Operations Managers will participate in management meetings with HHSC, will respond to operational requests and will provide weekly updates to stakeholders on operational status. Insight Operations Managers will mentor and instruct operational engineers on the team and services being delivered. Insight Operations Managers will be available on-call as needed to provide support for escalations as needed.

#### **1.4. Network Monitoring**

Insight will provide monitoring of the ENO networks and respond per the agreed coverage period for the affected service or site. The emergency incident management window shall be considered (24X7X365). On-call after-hours operational support outside normal work hours is required during the defined period of this Contract for any services or sites documented as requiring (24X7X365) support. HHSC has the sole discretion on determining which sites are to be considered (24X7X365) and the site list may change during the term of this Contract. All other sites are best effort to have services restored in compliance with agreed SLAs.

Insight will utilize HHSC-provided systems and tools to identify the appropriate action to take to monitor the operating states of hardware, operating systems, software applications, and services.

Insight will detect, acknowledge, record, classify, prioritize, and escalate incidents utilizing the HHSC-provided BMC Remedy on Demand (RoD) incident management system. Incidents may be detected and reported from automated alerts and events from tools in use or from incident report phone calls.

Insight will perform predictive analysis to forecast traffic patterns, peak period routing and equipment failures to provide optimal use of network resources and to provide feedback to authorized users of those resources. Insight will capture, document, summarize and report on key operational performance measures for each operating period.

#### **1.5. Meetings and Coordination**

Insight will attend internal coordination, stakeholder coordination, HHSC, DSHS, TIERS program coordination, management reporting, and service level review meetings to assure alignment with HHSC ENO objectives.

Insight will, at the direction of the designated HHSC incident manager, initiate and/or participate in conference calls that require multi-function entities (i.e., network security, network services) to resolve.

Insight will conduct post-mortem meetings after network outages to determine and/or report on root cause. This includes submission of a RCA report.

Insight shall be considered the Subject Matter Experts (SMEs) of the ENO networks and NOSS and as such will participate in ENO Operations, CAB/ICCB or other meetings as necessary to ensure efficient and effective delivery of the services.

### **1.6. Network Technology Plan**

Insight shall develop and implement an enterprise network technology plan that is consistent with industry standards and strategies that enables HHSC to achieve their strategic plans and objectives. The development of the annual network technology plan shall be an iterative process to be carried out in consultation with HHSC architects, directors, and managers as appropriate. The network technology plan shall be finalized by March 31<sup>st</sup> of each year. Insight will include in the network technology plan, a technology roadmap detailing schedules, dependencies, and requirements for introducing new technological changes as well as acquiring, supporting, and retiring software and hardware. The roadmap shall have short-term and long-term goals demonstrating specific technology solutions that apply to new products and processes or emerging technologies. Insight will develop and maintain pertinent ENO network diagrams and documentation in support of the in-scope network components and services. Updated network architecture diagrams must be continually maintained as changes occur. A full set of network diagrams and documentation must be provided on the Network Division share drive and any changes to network diagrams and documentation must be posted within 30 calendar days.

### **1.7. Asset and Inventory Management**

Insight will assist HHSC in developing and maintaining a detailed asset inventory of all devices at Austin Metro locations, TIERS Datacenter locations, and all 750+/- WAN field office locations. Documentation shall include device type, serial number, name, maintenance coverage status, maintenance level, current deployed code level, latest available manufacturer code level, HHSC business purpose, HW or SW Manufacturer End of Support (EoS) dates, deployed or warehoused, HHSC asset number, as well as any other field HHSC determines is necessary to have an effective and accurate inventory management system. Any device replacements, moves, upgrades, RMA etc. will need to be tracked and changes to HHSC asset tracking or SmartNet contract coverage is expected to be managed by Insight with oversight and direction from HHSC. Insight will coordinate completion and submission of any required asset transfer forms and SmartNet or other manufacturer maintenance coverage updates related to any changes for in-scope components. Insight will provide an annual summary report of complete ENO network asset inventory to include components in production, spares and details of any RMAs completed. All Insight responsibilities related to Inventory and Assets will be fully coordinated with the HHSC Asset and Inventory Coordinator.

### **1.8. Ongoing Device and Technology Currency**

Insight will ensure all network devices, appliances, systems, software, and firmware are maintained at current versions and that a plan is in place to replace or upgrade any

provider's product before manufacturer EoS are reached. Insight will perform periodic software upgrades in accordance with HHSC patch management policy. Insight will perform general maintenance, upgrades, QoS configurations, software / firmware updates, and performance upgrades to network devices, appliances, systems, and services used for network monitoring. Work will be accomplished in compliance with Internal Network Services Change Management, HHSC ICCB approved processes and procedures.

## 1.9. Reporting

Insight will produce monthly trend reports to highlight network incidents and problems and establish pre-determined action and escalation procedures when incidents and problems are encountered.

Insight will produce monthly capacity utilization reports of circuits and equipment, exception reports and SLA reports for monthly review meetings. Reports shall include reported issues encountered throughout the reporting period.

Insight will present monthly system reports including fault and performance data, and analysis information of ENO Network issues across the HHSC, DSHS and TIERS environments.

Insight will produce weekly and monthly Network Performance summary reports identifying potential connectivity issues to address.

Insight reporting objectives shall also include the collection of metrics that provide data for key reports; capacity trends, performance, asset management, and other reports that document the health of the ENO networks. Monthly reporting on SLAs and KPIs are required from Insight to monitor and measure agreed upon Contract objectives.

Insight will provide the following daily, weekly and monthly reporting to HHSC. HHSC and Insight will work together to create desired metrics and reports to submit. All reporting tools and metrics will be collected, analyzed and gathered utilizing HHSC-supplied ticketing systems and tools.

Reporting Element	Method	Frequency	Tools
Security Health Check Reports	Email	Daily	Remedy, SolarWinds
Program and Services Delivery Review (no meeting week of monthly Governance meeting)	Meeting	Weekly	Remedy, SolarWinds, SharePoint, PMO Tools
HHSC Newsletter	Email	Weekly	Multiple Sources
Governance Review	Meeting	Monthly	Remedy, SolarWinds
Quarterly Business Review	Meeting	Quarterly	Remedy, SolarWinds, SharePoint, PMO Tools
Technology Roadmap	Meeting	Semi-Annually	Multiple Sources
Technology Plan	Report	Annual	Multiple Sources

### **1.10. Quality Management**

Insight shall perform the work with care, skill, and diligence in accordance with the applicable professional standards and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all work product and/or work furnished under this SOW. All services provided by Insight under this SOW must be performed to HHSC's satisfaction in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. HHSC shall not be required to pay for work found to be unsatisfactory. Any deficiencies, as determined by HHSC, shall, without additional compensation, be corrected by Insight to the satisfaction of HHSC. Insight must implement administrative controls, plans and processes to monitor and assure quality performances, quality standards, and quality assurance measures are utilized in the delivery of all Contract services.

### **1.11. Governance**

Insight shall submit a Governance Plan (GP) which shall identify an operational framework and structured approach to defining program oversight. The framework will include program status, change control, integration and decision making. Insight shall create and implement a detailed governance process for managing performance, customer satisfaction and striving for continual improvement throughout the term of the Contract.

Insight shall attempt to resolve issues at the lowest possible level and drive for consensus-based solutions.

In the event there is a reason to change this Contract or SOW, Insight will initiate the CR. The CR must provide information regarding the change comparable to the detail originally included in the SOW. HHSC and Insight will endeavor to agree upon appropriate and mutually agreeable changes in cost, schedule, or other terms associated with the CR. While such changes are under review, Insight shall continue to perform under the SOW so long as such continued performance does not cause Insight to incur a material cost or other undue hardship in relation to the CR. A decision to discontinue performance due to a CR shall be made only by mutual written agreement of both parties.

No CR shall be implemented unless set forth in writing and approved and signed by an authorized representative of each party. Insight agrees to act in good faith effort regarding price and schedule terms if required for any proposed change.

### **1.12. Operations Management Manual (OMM)**

Insight will develop and maintain an OMM that contains all pertinent content necessary to govern and manage delivery of all services in this Contract. Each section of the OMM will set forth the requirements of HHSC, this Contract and the operational business rules of the HHSC, DSHS and TIERS organizations as needed for ongoing successful delivery and management of Insight provided services. The OMM will be updated on an ongoing basis with updates provided to HHSC at least monthly. The OMM should provide comprehensive documentation of the procedures that will be followed to implement and manage the

Contract and the overall HHSC and Insight relationship.

HHSC and Insight will jointly agree on content and format of the OMM but, at a minimum, it will include:

- Specific responsibilities by job title or function;
- Organization charts, description of functions performed, contact information;
- A list of contacts that are key users of the services and/or perform a liaison function regarding the services (by name, area of responsibility and location);
- A list of major third parties (maintenance providers, software providers, telecom carriers, etc.);
- A description of HHSC and service provider management structure, reporting, and review process associated with transition services and transformation services;
- A description of process and procedures to monitor and coordinate service delivery, including incident management, problem management, change management, service level monitoring and reporting, physical and logical security, project management, work authorization, etc.; and
- A complete and updated ITIL service catalog.

### **1.13. Requirements Pertaining to all Service Areas Provided**

Insight is required to interface with the HHSC Program Management Office (PMO) as may be directed by the Director of Converged Services. The purpose of the PMO is to help HHSC more effectively achieve business outcomes. The PMO goal is to design and promote improved coordination, standardization, optimization, and management of the practice of project management.

Device counts in any section of the Solicitation HHS0005169 SOW or in any Appendix or Attachment were representative only. All devices installed for a service area are to be supported and the number of devices may increase or decrease during the term of the Contract. If the volume of required support activity changes due to the increase or decrease of devices either party can request a review.

In the event there is a reason to change this Contract or SOW, the Vendor will initiate the CR. The CR must provide information regarding the change comparable to the detail originally included in the SOW. HHSC and Insight will endeavor to agree upon appropriate and mutually agreeable changes in cost, schedule, or other terms associated with the CR. While such changes are under review, Insight shall continue to perform under the SOW so long as such continued performance does not cause Insight to incur a material cost or other undue hardship in relation to the CR. A decision to discontinue performance due to a CR shall be made only by mutual written agreement of both parties.

No CR shall be implemented unless set forth in writing and approved and signed by an authorized representative of each party. Insight agrees to act in good faith effort regarding price and schedule terms if required for any proposed change.



HHSC is responsible to provide all monitoring and alerts through SolarWinds or Computer Associates (CA) (or similar network monitoring solution) as well as ticketing and incident management through the ROD system for all services supported in this Contract.

Insight will participate in RCA and develop written RCA reports as needed or directed by HHSC for all service areas provided. A written RCA is required for all critical incidents.

Insight shall communicate and coordinate freely between all HHSC personnel such as other contracted individuals or any third-party Insights within their scope of responsibility supporting the HHSC enterprise and delivery of network operations support services.

Insight must support and carry out network related responsibilities of the Computer Security Incident Response Team (CSIRT) to include network-based evidence identification and preservation.

“Austin Metro” is defined as any office located within the city of Austin or within a 25-mile radius of Austin and all service areas include onsite Insight support if necessary for all HHS Austin Metro offices.

Insight will be responsible for assisting in the maintaining of any lab environment associated with the services provided and for any set up, prep work, or testing for planned changes to production environment for all services provided.

Insight will be responsible for making recommendations for standard configurations for all devices utilized in the delivery of the services being provided.

Unless specifically documented otherwise within this Contract it is agreed ITIL Service Management concepts and foundations are assumed to be integrated into all Insight provided services including:

- Strategy;
- Design;
- Transition;
- Operation; and
- Continual Improvement

#### **1.14. NOSS Insight Areas of Responsibility**

Insight will support HHSC’s strategic goal to maintain the networking infrastructure and services that will evolve with the needs of all the HHS agencies, programs, and constituencies it supports.

These services will support HHSC in effectively and efficiently managing the infrastructure and resources to meet HHSC objectives for the entire HHS System.

Areas of Service Responsibility - Each of the services outlined below will be defined by

services description and level of support provided by Insight or HHSC. The support levels are defined by Levels of Support with Level 1 being the lower or first level for support. The Tiered support model is defined in table 1.0 below. HHSC reserves the sole right to designate an issue or incident as needing Tier 3 support based upon HHSC executive level exposure, involvement or direction.

- WAN Routers and Circuit Support (Field Offices)
- Core and Distribution Network Services
- Perimeter Network and Security Services
- TIERS Datacenter Network Operations Services
- DSHS Central Network Infrastructure and Perimeter Security Services
- Network and Security Architecture Services
- IEE/TIRN Call Centers and Enrollment Broker (EB)/Document Processing Center (DPC) Network
- Local Area Network Services
- Wireless Local Area Network Services
- Access Control Services
- DNS, DHCP and IPAM (DDI) Services
- Systems Services – UCS, VM, SAN
- Network Tools Support Services
- Video Conferencing Service

### 1.14.1. Service Area Responsibility Matrix

<b>Table 1.0 - Service Area Responsibility Matrix</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>
WAN Routers and Circuit Support (Central and Field Offices)	Insight	Insight	Insight
Core and Distribution Network Services	Insight	Insight	Insight
Perimeter Network and Security Services	Insight	Insight	Insight
TIERS Datacenter Network Operations Services	Insight	Insight	Insight
DSHS Central Network Infrastructure, Perimeter Security Services	Insight	Insight	Insight
Network and Security Architecture Services	Insight	Insight	Insight
LAN/WLAN – Austin Metro	Insight/HHSC	Insight/HHSC	Insight
LAN/WLAN – Outside Austin Metro Field Offices	HHSC	HHSC	Insight
Access Control Services	Insight	Insight	Insight
DNS, DHCP and IPAM (DDI) Services	HHSC	Insight/HHSC	Insight
Systems - UCS, VM, SAN, O/S DOWN	Insight	Insight	Insight
Network Tools Support Services	HHSC	HHSC	Insight
Video Conferencing	Insight	Insight	Insight
EE/TIRN Call Centers and EB/DPC Network	Insight	Insight	Insight

### 1.14.2. Service Level Descriptions

Level	Services Categories	Services Tasks
<b>Level 1</b>	Access Management	Input Incidents into Incident Management System
		Monitor Remedy Ticket Queue
		Maintain Incident Status throughout lifecycle of Incident
		Provide On-call Support
	Request Fulfillment	Provide Network and System Monitoring
		Basic Troubleshooting and Incident Investigation
		Incident Prioritization
	Event Monitoring	Primary Point of Contact for status and communication of Incidents
	Incident Management	Incident Resolution or Escalation to Level 2
		Document Ticket with Required Information
		Update and Maintain Configuration Management System
		Participate in RCA as needed
Close Resolved Tickets		
<b>Level 2</b>	Event Management	Monitor Remedy Ticket Queue
		Provide On-call Support
		Field Escalations from Level 1
	Incident Management	Advanced Troubleshooting
		Incident Resolution or Escalation to Level 3
		Maintain Proactive Maintenance Schedule for Systems
	Availability Management	Perform Scheduled Maintenance
		Perform IOS and Software Upgrades
		Document Ticket with Required Information
	Problem Management	Perform Design and Configuration Changes
Change Management	Close Resolved Tickets	
<b>Level 3</b>	Strategy/Design	Provide On-call support
		Expert Troubleshooting
	Capacity Management	Provide Escalation support for Critical Incidents and Events
		Provide Architecture Design and Guidance
	Architecture Consultancy	Provide IOS Version Recommendations
		Provide Hardware and Platform Recommendations
		Participate in RCA as needed
	Incident Escalation	Provide Support for Sanctioned Operational Initiatives
		Perform Network Maintenance in compliance with change management process

	Change Management	Provide Support for Sanctioned Projects
		Close Resolved Tickets
		Collect network data and perform analysis to identify issues, patterns, or trends
		Define Process and Procedures for Level 1 and Level 2
		Provide Process Improvement and Technical Enhancements

## 1.15. High Level Service Descriptions

### 1.15.1. WAN Routers and Circuit Support

Insight will provide full support (Level 1, 2, 3) for all issues regarding WAN Routers at Austin Metro office locations and 750+/- remote field offices. WAN Routers and Circuit Support also includes third party services HHSC may contract for which are delivered over the MPLS WAN. This includes expert level troubleshooting for all issues. Insight will provide recommendations for IOS levels, hardware models, configurations and perform device upgrades. Insight will participate in RCA as required.

### 1.15.2. Core and Distribution Network Services

Insight will provide full support (Level 1, 2, and 3) for the Core and Distribution network, including Legacy Core Network equipment. Support of all load balancing equipment is also included. Insight shall create new VIPs and revise existing VIPs as needed. The support includes onsite support if necessary for all related equipment installed in any Austin Metro offices. Insight will support all monitoring and alerts through HHSC SolarWinds as well as managing the Incident Remedy queue. Insight will provide troubleshooting and incident management, change management, request fulfillment, and configuration management. Insight will provide recommendations for IOS levels and will implement the recommendations upon the direction of HHSC. Insight will participate in RCA as required.

### 1.15.3. Perimeter Network and Security Services

Insight will provide full support (Level 1, 2, and 3) and is responsible for monitoring and managing the Internet Perimeter Network Infrastructure, Proxy Services (IronPort), and all agency firewalls. The operational focus is on protection of the network through proactive monitoring, analysis, assessment, and response to security threats as well as developing and approving security policy and posture in conjunction with the HHSC Security Operations Team. The primary goal is the health and performance of the Internet Perimeter Network Infrastructure. Insight will also support Enterprise VPN and Site to Site VPN Tunnel Operations Support Services. Insight work with HHSC stakeholders to provide required access into the HHSC, DSHS and TIERS systems. The email proxy services are dependent upon HHSC deployed solutions and are intended to include but are not limited to Global Threat Analysis, Spam blocking, Graymail detection, Advanced Malware Protection, Outbreak filters, Web interaction tracking, Outbound message control and Forged email detection. This includes automated monitoring and analysis of inbound and

outbound traffic, application visibility and control as well as fast identification of zero-day attacks. The support includes onsite support if necessary for all related equipment installed in any Austin Metro offices. These activities include incident management and resolution, change management, configuration management and problem management. Insight will provide recommendations for IOS levels, security best practices, configurations. Insight will provide RCA as needed.

Insight shall maintain intrusion detection and prevention as coordinated and approved by HHSC. Intrusions include, but are not limited to, electronic tampering, and unauthorized access. Intrusion detection also includes virus detection, elimination, prevention, and incident management. Insight shall respond to, investigate, and remediate intrusions as they occur, either because of Insight's own monitoring efforts or at the request of HHSC for HHSC-owned assets. Insight perimeter security service resources shall provide technical guidance, suggestions, and leadership for the HHSC security architecture. This includes by way of example, but not limited to, strategic business consulting and development of best practices in perimeter security, development of firewall or switch rule sets. Insight shall be responsible for capacity and availability management services of all HHSC perimeter network security devices.

#### **1.15.4. TIERS Datacenter Network Operations Services**

Insight will provide management and maintenance coordination of network components within the HHSC TIERS Program including TIERS data center network operations at the HHSC Winters Data Center (WDC) and the HHSC San Angelo Data Center (SADC). These services shall include the effective management of intrusion protection systems and firewalls, as well as overall compliance with the TIERS Security Program and federal CMS guidelines. Insight participation in and adherence to the TIERS Security Program is mandatory. All Federal, State and organizational security and privacy rules must be complied with. Insight will actively lead TIERS network architecture design/planning. Direct network support (advisor for TIERS network projects), and data center architecture and layout (design principles) in support of the TIERS network project. Insight will participate in and provide support to the TIERS Performance Assurance Group after all TIERS application releases, as well as the ongoing Performance Assurance Team's efforts. Insight will utilize TIERS systems and tools to identify the appropriate action to take monitoring the operating states of hardware, operating systems, software applications, and services. Insight will be required to work cooperatively with all other TIERS contractors as necessary to successfully maintain the TIERS program and ensure continuity of service delivery.

Network Operations Management of the TIERS Program Network will require development of and/or access to systems that contain Personally Identifiable Information (PII) and as such, requires strict adherence to the security and privacy policies and standards set by HHSC consistent with:

- Department of Health and Human Services 45 CFR §155.260(b) - Privacy and Security of PII as it pertains to non-Exchange entities
- HIPAA Mappings to NIST SP 800-53 Rev. 4

- CMS Minimum Acceptable Risk Standards for Exchanges (MARS-E)
- Privacy Policies and Procedures

TIERS has established security and privacy policies and procedures for how data is stored, handled, and accessed within the TIERS Program environment. Data must be encrypted in transit to and from the service provider environment. All mechanisms used to encrypt data must be Federal Information Processing Standards (FIPS) Publication 140-2, (FIPS PUB140-2) compliant, (The 140 series of FIPS are U.S. government computer security standards that specify requirements for cryptography modules.) and operate using the FIPS 140-2 compliant module; and requires that:

- Storage devices where data has resided must be securely sanitized according to CMS MARS-E MP-6 - Media Sanitization security control prior to use; and
- Per MARS-E SA-9 (5) - Processing, Storage and Service Location, the outsourcing of information system services outside the continental U.S. must be authorized by the CIO of CMS.

#### **1.15.5. DSHS, State Hospital, WIC and Women's Health Central Network Infrastructure and Perimeter Security**

HHSC is working to consolidate the DSHS, State Hospital, WIC and Women's Health Central Network and Perimeter Security infrastructure to utilize the HHSC common core and perimeter security infrastructure. Eventually the separate network perimeter security environment will be eliminated, and services will be delivered through the HHSC perimeter security infrastructure. Insight will be required to support the separate DSHS, State Hospital, WIC and Women's Health central network and perimeter security infrastructure until consolidated into the HHSC environment. Insight will also be required to support migration of any remaining elements to the HHSC common core and perimeter security infrastructure that have not been completed by the effective date of this Contract.

These current DSHS, State Hospital, WIC and Women's Health Central Network and Perimeter Security services directly support application environments such as critical network resources dedicated to the National Electronic Disease Surveillance System (NEDDS), the Environmental Systems Research Institute, Inc. (ESRI), Newborn Screening (NBS), State Health Laboratory, Vital Statics Unit, the Commissioner of Health, as well as the State Hospitals, WIC and Regional headquarter locations. Most of which require continuous 24x7x365 operation with minimal down-time. The DSHS headquarters location is currently located at 1100 West 49th Street, Austin, TX 78756.

#### **1.15.6. Network and Security Engineering and Architecture Services**

Insight will provide Network and Security Engineering and Architecture Services to HHSC based on evolving industry trends and best practices. Insight will provide recommendations to integrate these technologies into all the HHS Enterprise Network Infrastructure and will

provide recommendations for hardware models and IOS/OS software versions. Additional responsibilities include assisting with developing test cases, identifying pros/cons of the technologies within enterprise core network, and helping to develop RCAs for enterprise core network outages. The services to include architecture design support across all networking technologies and if Insight onsite architect resources do not possess a certain technology skill set necessary to support an HHSC request then Insight will locate another resource who can temporarily assist the onsite team to meet the need. The services to include architecture design support to Identify, evaluate, plan and move major connections/services from end of life legacy equipment. To provide DMVPN Architecture support and Enterprise WAN troubleshooting. Insight support will include architecture assistance for IPv6 planning, RFC 1918 design planning and other HHSC IP address management architectural initiatives. Insight Architecture Services will also include support for designing and planning Cisco ISE and/or similar technologies. Insight Network and Security Architect(s) will be physically onsite located at the HHSC headquarters, John H. Winters building at 701 W. 51st Street, TIERS office located at 8317 Cross Park or a mutually agreed HHSC Austin Metro area Operations Center location.

#### **1.15.7. Local Area Network Services (LAN)**

Insight and HHSC will share responsibility for providing Level 1 & 2 support for Austin Metro office locations. Insight will provide Level 3 support for Austin Metro office locations including onsite support if needed. HHSC will provide Level 1 & 2 support for offices outside the Austin Metro area. Insight will provide Level 3 support for offices outside of the Austin Metro area. Insight will provide recommendations for IOS levels and configurations as directed by HHSC. Insight will participate in RCA as required. This infrastructure supports all the remote field sites, which have HHSC IT Customer Service (ITCSO) remote hands available to assist for offices outside the defined Austin Metro area.

#### **1.15.8. Wireless Local Area Network Services (WLAN)**

Insight and HHSC will share responsibility for providing Level 1 & 2 support for Austin Metro office locations. Insight will provide Level 3 support for Austin Metro office locations including onsite support if needed. HHSC will provide Level 1 & 2 support for offices outside the Austin Metro area. Insight will provide Level 3 support for offices outside of the Austin Metro area. Insight will provide recommendations for IOS levels, FUS image, configurations as directed by HHSC. Insight will participate in RCA as required. This infrastructure supports all the remote field sites, which have HHSC ITCSO remote hands available to assist for offices outside the defined Austin Metro area. Current WLAN coverage is at less than 10% of HHS office locations around the state but is projected to grow significantly during the term of this Contract.

#### **1.15.9. Access Control Services**

Insight will provide full support (Level 1, 2, and 3) for the ISE, ACS and RSA servers currently hosted on HHSC platforms located at the Winters Data Center (WDC), DIR NSOC and DR location(s). This service includes support for the administration and usability for the ISE and RSA applications as it applies to the HHSC network environment. This service will provide support for the capacity and availability planning in support of HHSC initiatives

and expansion of the network. Insight will participate in RCA as required. This service includes support for execution of migration of network device management from Cisco ACS to Cisco ISE and/or similar technologies.

#### **1.15.10. DNS, DHCP and IPAM (DDI) Services**

Insight will provide Level 3 support of DDI Services. DDI is the administration of DNS and DHCP, which are the network services that assign and resolve IP addresses to machines in a TCP/IP network. HHSC utilized tools include DNS and DHCP. Currently Infoblox and BlueCat DDI solutions are utilized.

#### **1.15.11. Systems Services**

Insight will provide full (Level 1, 2, and 3) operational support of the Infrastructure Systems Platforms. These platforms include:

- The Telecom Services Team systems at the WDC and a disaster recovery/backup system located at the DIR NSOC. This service includes system support of the VMWare/ v-Center infrastructure, UCS platform and the EMC UNITY and VNX SAN Storage systems for the HHSC Telecom Verint and Avaya platforms. Systems support includes the restoration of services from the backup location as required. Systems support will include infrastructure support for building application servers from OVA. Systems support includes support from the operating system down. Operating system support includes validating and applying Insight published hot fixes and updates as authorized by HHSC or Telecom. Anti-virus and software firewalls are not included in operating system support. Insight will participate in RCA as required.
- The HNST systems are located at the WDC and the DIR NSOC. These systems include the Cisco HyperFlex UCS and other B and C series UCS and Dell Compellent systems operated by the Network Division. Systems support includes the restoration of services from the backup location as required. Systems support will include infrastructure support for building application servers from OVA. Systems support includes support from the operating system down. Operating system support includes validating and applying Insight published hot fixes and updates as authorized by HHSC. Insight will participate in RCA as required.

#### **1.15.12. Network Tools Support Services**

Insight will provide Level 3 support of the Network Tools applications hosted on HHSC platforms located at the WDC or NSOC. This support includes, but may not be limited to, Cisco ISE Prime and Collector, SolarWinds, Computer Associates (CA), Skybox, NetScout or other applications or products utilized to monitor, maintain and manage all the network services. The support does not include support of the application code itself. Insight will participate in RCA of issues as required.

#### **1.15.13. Video Conferencing**

Insight will provide full (Level 1, 2, and 3) operational support of the HHSC and DSHS Video



Infrastructure System Platforms located at the WDC, the DIR NSOC or Austin Metro locations. The platform is made up of TelePresence Video Communication Server (VCS), Expressway, Telepresence content server, TelePresence Management Suite (TMS) and the Cisco Meeting Server (CMS) components. The solution is hosted on HHSC provided hardware located at the WDC and may be deployed at the DIR NSOC at some time during the term of this Contract. The Video conferencing solution supports internal endpoints, external endpoints (Internet/B2B) as well as neighbor zones for included agencies. Supported endpoints includes the TC and CE Series enabled endpoints from with a centralized phonebook. The support of the Video Platform system and its underlying infrastructure does include individual end user support or scheduling activities. Insight will participate in RCA as required. No onsite office support is included outside the defined Austin Metro area.

**1.15.14. IEE/TIRN Call Centers and EB/DPC Offices  
Network Support Services**

Insight will provide full support (Level 1, 2, and 3) for network routers, LAN switches, firewalls, WLC, wireless APs (Ed Bluestein, Kramer Lane, San Antonio), ACS (Ed Bluestein), and DHCP server (IEE phones) at IEE Call Centers Network at Ed Bluestein, Austin, San Antonio, Athens and Edinburg, IEE and TIRN Data Center Networks at NSOC and SADC, EB Outreach offices at Houston, Abilene and Arlington and Document Processing Center Network at Kramer Lane, Austin and Athens. This includes onsite support if needed at all in-scope locations except TIRN call center locations. Insight will provide recommendations for IOS levels and as well as hardware models. Insight will participate in RCA as required. Insight support shall include 211 TIRN Call Centers and both the IEE and HHSC network components and services at the four IEE Call Centers Network at Ed Bluestein, Austin, San Antonio, Athens and Edinburg. .

**1.16. Service Response and Service Resolution Definitions  
(SRDs)**

Insight and HHSC will agree upon specific SRDs during the Transition-In period but they will generally conform to the following:

**1.16.1. Service Response**

Problem Severity	Level 1 Response	Level 2 Response	Resolution Plan	Hardware Replacement	Problem Resolution
Critical Incident	Immediate escalation to Level 2, HHSC Network Management	15 minutes	2 hours	2 hours if spares onsite, 6 hours if 4hr manufacturer replacement or Next	4 hours

				Business Day (NBD) for non (24x7x365) site	
High Incident	Immediate escalation to Level 2, HHSC Network Management	15 minutes	4 hours	2 hours if spares onsite, 6 hours if 4hr manufacturer replacement or Next Business Day (NBD) for non (24x7x365) site	8 business hours
Medium Incident	15 minutes	2 hours	12 hours	16 business hours	36 hours
Low Incident	15 minutes	4 hours	3 days	5 business days	6 days

**1.16.2. Severity Definitions**

Critical *	High	Medium	Low
Severe business impact	High business impact	Non-critical business function is stopped or severely degraded	A functional query or fault that has no business impact for the organization
Primary business function is stopped with no redundancy or backup	Primary business function is severely degraded or supported by backup or redundant system	Some specific network functionality is lost or degraded, such as loss of redundancy	Non-critical business function is degraded
Critical WAN site down	Risk of critical outage until redundancy restored		

### 1.16.3. Support Level

Support Level	Responsibility	Goals
Level 1 Support	7-7 M-F service desk support. First line end user support. Opens trouble tickets. Works on problem up to 15 minutes, documents ticket and escalates to appropriate Insight level 2 support	Resolution of 50% of incoming tickets
Level 2 Support	Queue monitoring, network management. Place trouble tickets for software/hardware identified problems. Take calls from level 1, Insight, and level 3 escalations. Assume ownership of call until resolution. Manage change control. Implements after-hours changes. Coordinates 3rd party Insight support and equipment replacements.	Resolution of 80% of tickets escalated to level 2
Level 3 Support	Provide immediate support to level 2 for all Critical severity incidents. Works to help with all incidents unsolved by level 2.	Resolution of all escalated incidents

### 1.16.4. Required Problem Escalation Plan

Insight must provide and maintain a Problem Escalation Plan (PEP) for both routine and emergency situations. The PEP must state how Insight will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of HHSC or HHSC Executive Management within appropriate timeframes. Insight shall provide contact information to the Contract Manager, as well as to other HHSC personnel, as directed by the Contract Manager.

Insight must provide the PEP no later than thirty (30) business days after effective date of the Contract. The PEP, including any revisions thereto, must also be provided within ten (10) business days after the start of each Contract year and within ten (10) business days after any change in circumstance which changes the PEP. The PEP shall detail how

problems will be escalated to resolve any issues in a timely manner. The PEP shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level in Insight's organization before automatically escalating the problem to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback to be provided to HHSC;
- Identification of, and contact information for, progressively higher levels of personnel in Insight's organization who would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal HHS business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- A process for updating and notifying the Contract Manager of any changes to the PEP.

## **2. NOSS Transition-In and Transition-Out Requirements**

Transition-In is the period during which Insight is starting up services under the Contract. As Insight is the incumbent vendor through 8-31-21 the parties mutually agree there will be no Transition-In charges and the Monthly Recurring Charges under this contract will begin 9-1-21. Transition-Out is the period during which Insight is shifting out services to another entity at the end of the Contract term.

### **2.1. NOSS Transition-In Requirements**

Insight will begin performing Transition-In services as of the effective date of the Contract. HHSC expects the Transition-in period to be completed no later than 30 calendar days from start of Transition-In services.

Insight will submit a full Transition-In plan within seven (7) business days of Contract effective date. This plan shall include at a minimum, but may not be limited to, transitioning all network management, security assessment, network performance baseline, operations and maintenance activities, as fully described in this SOW.

Insight shall schedule, manage, and document all necessary activities to complete Transition-In activities, coordinate weekly status meetings and document progress, schedule and risks.

The Transition-In period shall be complete when the Transition-In Plan has been fully executed and has been accepted as successfully completed by the HHSC Director of Converged Services and the Contract Manager.

### **2.2. NOSS Transition-Out Requirements (Turnover)**

Turnover is defined as activities required for Insight to perform transition and turnover services to HHSC or to HHSC's designated resources. The Turnover Phase and Contract closeout will begin no later than three (3) months prior to the end of the SOW Contract Term, which may include optional renewal periods, or HHSC's request for Contract termination.

### **2.2.1. Transition-Out and Turnover Plan**

Turnover includes the administrative and operational activities performed by Insight to transition operations to either HHS or HHS-designated successor Insight at the direction of HHS.

Turnover tasks must be planned and coordinated with HHS and HHS-designee to ensure stakeholders and HHSC ENO users or stakeholders do not experience any adverse impact from the turnover.

Turnover activities must be completed according to the HHS-approved turnover plan. Insight will be responsible for completion of all Service Requests (SR) agreed upon with the State prior to Turnover.

During turnover, Insight must ensure program stakeholders do not experience adverse impact from the transfer of services. Six (6) months prior to the end of the Contract term, Insight must develop and submit a comprehensive Turnover Plan detailing the proposed schedule, activities, and resource requirements associated with the turnover tasks identified.

### **2.2.2. Turnover Activities**

The Turnover activities include, but may not be limited to:

- Submission of and adherence to the HHSC-approved Turnover Plan, including specific completion and Acceptance Criteria;
- Turnover Inventory, including a complete inventory of all Insight artifacts, tasks, systems, tools, and hardware, being turned over to HHSC;
- Turnover Results Report;
- Develop and implement an HHSC-approved, comprehensive Turnover Plan detailing the proposed schedule, activities, and resource requirements associated with the turnover tasks identified. Turnover commences three (3) months prior to the end of the Contract Term, which may include any optional renewal periods, or HHSC's request for Contract termination;
- Transfer of information on all software tools currently in use;
- Implement a quality assurance process to monitor turnover activities;
- Training HHSC and/or its designated resources on the delivery of operational phase services;
- On-boarding Insight Turnover Service Domain Lead;
- Preparing a Turnover Plan identifying tasks, task owners, and turnover milestone dates;

- Execute the approved Turnover Plan in cooperation with HHS or HHS-approved successor transition plan;
- Maintain service delivery staffing levels during the turnover period and only reduce staffing levels with prior approval by HHSC;
- Notify HHSC of reassignment, resignation, or termination of Contract for any of its Key Personnel during the turnover phase;
- Provide to HHSC or its designee, within 15 business days of the request, data and reference tables, scripts, other documentation, and records required by HHSC or its designee;
- Prepare a turnover Inventory (inventory of all Insight artifacts, tasks, systems, tools, and hardware being turned over to HHSC);
- Hand off the operation and management of all service delivery functions to HHSC or its designee. Plan and manage Turnover without disruption of service to users, clients and/or beneficiaries;
- Work closely with HHSC to ensure Turnover of responsibilities and the necessary knowledge transfers by the end of the Contract period;
- Respond within HHS-approved timeframes to all HHSC requests regarding turnover information;
- Provide knowledge transfer services to the HHS or HHS's designee during Turnover period including, implementation of a quality assurance process to monitor Turnover knowledge transfer activities and training for HHSC staff and/or HHSC designees on the delivery of services;
- Provide a Turnover Results Report
- Provide 90 business days of on-site post-turnover support to address technical questions from HHSC or HHSC's designee;
- Both Parties agree that neither Party will directly or indirectly solicit, offer employment or hire any current or former employee or consultant of the other party who was directly involved in the HHSC ENO Network Operations Support Services. This provision does not restrict the right of either party to solicit or recruit generally in the media and does not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for hire without having been initially personally solicited or recruited by the hiring party; and

### **3. Qualified Personnel Requirements**

Insight personnel are employees of Insight and under the administrative control and supervision of Insight. Insight must select, supervise, and exercise control and direction over its employees (including Subcontractors) under this Contract. Insight is accountable to HHSC for the action of its personnel and Subcontractors. HHSC may, at its discretion, require specific qualifications or certifications for any program or project resource, staff or Subcontractor engaged in HHSC support or project activity.

#### **3.1. Staff Qualifications**

Insight provided staff will have appropriate qualifications across different components including:

- Experience with common network components (e.g., routers, switches, firewalls) and interconnections (i.e., WAN circuits of various technologies and capacities including T1, DS3, metropolitan fiber, etc.) used within the HHSC network;
- Knowledge of network topology technologies that are in use and deployed by HHSC to support the HHSC, DSHS and TIERS network environments. The positions will be educated and debriefed as part of an onboarding process so that Insight staff understand how agency locations and regions are provided connectivity to the HHSC core network and data centers as well as to the shared data centers and Internet-facing connectivity operated by DIR;
- Experience and skills with common systems administration procedures including scheduled backup and on-demand restoration of large-scale software applications and/or related data;
- Experience in the use of common desktop tools (e.g., Excel) for the parsing and/or analysis of fault and performance data;
- Experience with inter-networking troubleshooting in a large-scale network environment;
- Knowledge of IP Internetworking, LAN Switching, PRIME Infrastructure, WAN Expertise, WLAN and Voice technologies;
- Experience with QoS mechanisms and configurations in an enterprise environment to support voice traffic;
- Experience with supporting a VoIP solution in an enterprise network as an end-to-end solution from IP Phones, access, distribution, and core layer switches. Insight will support configuration changes (provided by others) on the network devices for VoIP transport on the managed services platform;
- Experience with the use of enterprise-level tools for network fault and performance monitoring activities such as those within the SolarWinds Orion suite and CA products including Spectrum, eHealth, NetQoS Reporter Analyzer or similar products from other Insights;
- Experience with networking protocols within the TCP/IP family to include an understanding of basic network sub-netting and routing principles, DNS, and depth in the requirements and use of protocols common to networking monitoring and management including SNMP, Secure Shell (SSH), NetFlow, and others; and
- Experience with the Telecom Infrastructure Systems Platform made up of a primary system at the WDC and a DR/Backup system located at the DIR NSOC. This service includes system support of the VMWare/ v-Center infrastructure, UCS platform and the EMC UNITY SAN Storage systems for the HHSC and Telecom Verint and Avaya platforms. Systems support will include the Fabric switch and the interface/hand-off to the HHSC infrastructure team.

### **3.2. Skill Sets**

Insight resources within the NOSS team shall include engineers and technicians with knowledge and skillsets across the technologies utilized in the HHSC ENO environments.

The provided resources shall have the following minimum qualifications and skill sets:

- Experience performing the duties listed in the Scope section of this SOW;
- Experience monitoring alerts, events, and network security solutions using technologies listed in the Current State Technologies section;
- Minimum of five (5) years working experience in this field;
- Professional certifications such as, CCIE, CCNP, and/or CCNP-Security or equivalent as needed to deliver the complete scope services in this Contract;
- Demonstrated ability to interact positively and constructively with customers;
- Excellent oral and written communication skills to share findings in an understandable and actionable manner;
- Ability to handle multiple competing priorities;
- Capable of turning ambiguous problems into clear information;
- A firm understanding of the concepts of confidentiality, integrity, and availability;
- Experience working within and providing leadership to a team of network-management services personnel;
- Experience in the use of BMC Remedy OnDemand, including incident, change, and configuration management in support of established ITIL processes; and
- Experience in the use of common desktop tools (e.g., Excel) for the parsing and/or analysis of fault and performance data

### **3.3. Use of Subcontractors**

Insight shall provide HHSC with prior written notice and obtain written approval from HHSC prior to any change in key personnel involved in providing services under this Contract.

Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of Insight. No subcontracting under the Contract shall relieve Insight of responsibility for ensuring the requested services are provided. HHSC retains the right to check Subcontractor's background and approve or reject the use of submitted Subcontractors at any time during the life of the Contract. Access to certain State facilities requires passing a Texas Department of Public Safety (DPS) background check.

### **3.4. HHSC Request for Removal**

HHSC reserves the sole right to require removal of any specific Insight staff member for any reason from further work under this Contract. In such an event HHSC management



will work with Insight to provide a reasonable amount of time to provide a replacement resource.

### **3.5. Key Personnel**

Insight shall provide required Key Personnel for continuous performance under the Contract.

Key Personnel for the NOSS Contract are required as follows:

For duration of the Contract

- Program Manager;
- Minimum of Two (2) Operations Managers;
- Lead Network Architect – Cisco CCIE Required; and
- Lead Security Architect – Cisco CCIE Required

From Contract effective date through successful completion of Transition-In services

- Transition-In Manager; and
- OMM Documentation Manager

Unless explicitly authorized by the HHSC Director of Converged Services or Contract Manager Key Personnel shall be assigned to the HHSC as a dedicated resource.

Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in for the Transition-In period. Key Personnel may not be removed by Insight from working under the Contract without the prior written approval of the Contract Manager.

### **3.6. Exceptions to Key Personnel Requirement – HHSC Discretion**

**Extraordinary Personnel Event** – means leave under the Family Medical Leave Act; or an incapacitating injury or incapacitating illness; or other circumstances that in the sole discretion of the HHSC warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.

**Incapacitating Event** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in Insight response.

#### **Key Personnel Replacement**

To replace any Key Personnel in a circumstance other than as described above, including transfers and promotions, Insight shall submit a substitution request to the Contract Manager at least fifteen (15) business days prior to the intended date of change. A

substitution may not occur unless and until the Contract Manager approves the substitution in writing.

Insight shall replace Key Personnel whenever a vacancy occurs due to the sudden termination, resignation, Extraordinary Personnel Event, Incapacitating Event or death of such personnel. Insight shall demonstrate to the HHSC Contract Manager's satisfaction that the proposed substitute has qualifications at least equal to those of Insight Personnel proposed to be replaced.

Insight shall provide the HHSC Contract Manager with a written substitution request that shall include:

- A detailed explanation of the reason(s) for the substitution request;
- The resume of the proposed substitute;
- The official resume of the current personnel for comparison purposes; and
- Evidence of any required credentials.

#### **4. Performance Measures and Associated Remedies**

This SOW defines distinct scopes of work for ongoing NOSS efforts. HHSC requires Insight to perform its responsibilities and tasks as specified in the Contract. Insight's performance during operations will be assessed for compliance with the SLA defined below. The purpose of SLAs is to quantify Insight's expected performance for recurring services and the liabilities for poor performance or underperformance. SLAs are not intended to be punitive on Insight and the objective is to prompt and incentivize positive Contract performance by Insight. Insight shall track and report to HHSC on all SLAs and shall ensure that the HHSC has real-time access to all source data on which the SLA reporting is based. Penalties shall be calculated and applied monthly, beginning on the first day of the month and concluding on the last day of the month. HHSC shall be entitled to other remedies should Insight fail to meet transition objectives for deliverable quality and/or schedule consistency, or should Insight fail to comply with operational SLAs. All SLA response time requirements related to critical incidents are based upon clock hours and not business hours.

HHSC requires that SLA compliance validation be based on objectively measurable data drawn from systems under HHSC management and administrative control. The systems used for compliance validation will include but may not be limited to HHSC instances of CA and SolarWinds Orion management tools, and the HHSC instance of Remedy (ITSM).

Without affecting any rights or remedies available to HHSC under the Contract, HHSC may require a corrective action plan in the event Insight fails to meet an SLA two (2) or more times within a rolling six (6) month period. In the event HHSC requires a corrective action plan, Insight shall provide a written response within seven (7) business days of the date of the notice and shall immediately implement the plan upon written acceptance by the Director of Converged Services or Contract Manager. If the HHSC rejects the plan, Insight shall revise and resubmit the plan to HHSC within five (5) business days, or in the

timeframe set forth by HHSC in writing.

Insight shall not be assessed liquidated damages to the extent that performance of its obligations is prevented by an event of Force Majeure. Insight shall provide HHSC with written notice of any Force Majeure occurrence as soon as the delay is known. The Contract Manager must concur in writing that performance was prevented by an event of Force Majeure, such concurrence not to be unreasonably withheld. "Force Majeure" means an event that cannot be reasonably anticipated or controlled by HHSC or Insight or others under Insight's control and includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of Insight or HHSC in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented.

Insight's failure to meet an SLA will result in a credit, as liquidated damages and not as a penalty, to the MRC payable by HHSC during the month of the nonperformance. The reductions will be cumulative for each missed service requirement. HHSC and Insight may mutually agree to apply any accrued SLA-related liquidated damages to offset any additional fees that maybe associated with approved change orders. HHSC and Insight will also develop several measurable KPIs that will assist with monitoring and measuring ongoing Insight performance. While the KPIs will not be associated with liquidated damages Insight shall make commercially reasonable efforts to attain, measure and report on the agreed the KPIs.

Service Level	Service Level Agreement	Description	Measurement Period	Liquidated Damage
Availability	99.7%	Components or services should be available a minimum of 99.7%, 24X7X365 during a given calendar month, except during scheduled maintenance windows	Calendar Month	\$20,000
Component Availability	99.7%	A component is defined as: In-scope equipment used within the Network Management Services and select LAN, inclusive of the component's operating software. In-scope Management Systems Servers,	Calendar Month	\$10,000

Service Level	Service Level Agreement	Description	Measurement Period	Liquidated Damage
		including operating and application software. The SLA is based on 24X7X365 availability, outside scheduled maintenance windows.		
Network Service Availability	99.7%	Network Service is defined as the hardware, operating software, application software, and tools used by network devices. The SLA is based on 24X7X365 availability, outside scheduled maintenance windows.	Calendar Month	\$10,000
Mean-Time-To-Restore (MTTR)	95%	The total restoration time of all incidents within a category is within 95% or greater than the target restoration time for all incidents in that category. Target restoration times are categorized as follows: Core and critical components and connectivity – 4 Hours for identification and restoration. Network Services – 4 Hours for identification and restoration. Management Systems – 4 Hours for identification and restoration. Non-critical components and	Calendar Month	\$5,000

Service Level	Service Level Agreement	Description	Measurement Period	Liquidated Damage
		connectivity – 8 Hours for identification and restoration.		
Critical Event Notification	95%	Appropriate notifications occurred within 15 minutes for 95% of all critical incidents.	Calendar Month	\$2,500
Change Management Implementation	95%	Ninety-five percent of all changes are implemented within the approved change duration window	Calendar Month	\$2,500
Unrecorded/ Unapproved Changes	0	Zero incidents of unapproved or unrecorded changes.	Calendar Month	\$10,000
Configuration Standards	98%	Ninety-eight percent of all components are configured and maintained according to established standards.	Calendar Month	\$5,000

**Availability** specifies that components or services should be available a minimum 99.7%, 24X7X365, during a given calendar month, except during scheduled maintenance windows. Assessment will first determine the percent availability of each component during the assessment period. Assessment will total target availability for all components during the period, less any scheduled down time.

**Mean-Time-To Restore (MTTR)** specifies a compliance threshold for resolving incidents. Compliance is determined by first assessing the time to resolve all incidents during the assessment period in a category then by determining the total MTTR for all systems in that category.

**Critical Event Notification** specifies a compliance threshold for notifying TIERS and HHSC contacts of critical incidents within specified timeframes. Compliance is determined by first assessing the time to notify individuals on an approved escalation list of critical incidents

during the assessment period. To achieve the SLA, 95% of those notifications must occur within 15-minutes of receiving or identifying the critical incident.

**Unrecorded/Unapproved Changes** defines the threshold for an instance of unrecorded or unapproved changes as zero “0.” If a change is implemented without approval or a change is not recorded in the appropriate change management system, the SLA target is not achieved.

**Configuration Standards** assess Insight performance of duties in configuration management. Compliance is determined by assessing component configurations against established standards. If more than 98% of the components have configurations outside of established standards, the SLA target is not achieved.

## 5. Invoicing

Insight shall submit original itemized invoices. No payment shall be made under the resulting Contract without the prior submission of an invoice supported by documentation adequate to support all charges. Subject to the limitations of this SOW, payments will be processed in accordance with the Texas Prompt Payment Law (Chapter 2251, Texas Government Code). HHSC will incur no penalty for late payment if payment is made in 30 or fewer calendar days from receipt of goods or services and a proper and correct invoice. Invoices are to be adequately detailed for HHSC to determine the validity of same. Insight will send all invoices electronically via email.

All services performed under the Contract shall be to the satisfaction of HHSC and in accordance with the requirements, terms, and conditions of the Contract. HHSC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services before approving payment.

## 6. ENO Network Operations Support Services Fees

### 6.1. ENO Network Operations Support Services - Fee Table

Insight will provide HNST the “ENO Network Operations Support Services” at the fixed monthly fees listed below. HNST will be invoiced monthly at these rates at the end of each month of service starting from September 1, 2021 through August 31, 2025. HNST may extend the term of this Contract for up to three (3) successive one-year periods after the expiration of the initial term, or as necessary to complete the mission of the procurement.

Frequency	Number of Months	Coverage Period or Component	Fees	Total Fees
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Month	48	September 1, 2021 through August 31, 2025	\$437,000.00	\$20,976,000.00
Month	36	** HNST Option for 3 one-year extensions (36 months total)	\$437,000.00	\$15,732,000.00
As Needed	N/A	Project Services	\$6,000,000.00	\$6,000,000.00
** Note the monthly fee for the 3 one-year extensions is representative only and is subject to change per the terms found in Section IV Budget of contract HHS000516900001				
<b>Total Maximum Potential Contract Value</b>				<b>\$42,708,000.00</b>

## 6.2. Projects Services - Fee Table

At the written request of HNST, Insight will provide hourly or fixed fee project services for any projects or initiatives mutually agreed to fall outside of the defined base services described within this Contract. These services will utilize the established Change Request process and will not exceed \$6,000,000.00 throughout the duration of the Contract. Utilization of this change request process to authorize project services up to the \$6,000,000.00 will not require an amendment to this Contract.

Frequency	Component	Fee or Rate
As Agreed by Each Project	Fixed Fee Project	TBD Per Each Project
<b>Hourly Rates per Resource</b>	<b>Roles</b>	<b>Hourly Rate</b>
Monthly Bill	Business Analyst	\$85.00
Monthly Bill	Project Lead	\$150.00
Monthly Bill	Project Manager	\$175.00
Monthly Bill	Network Technician	\$105.00
Monthly Bill	Network Engineer	\$145.00
Monthly Bill	Network or Security Enterprise Architect	\$232.00
Monthly Bill	Network Administrator	\$145.00
Monthly Bill	Systems Analyst	\$105.00
Monthly Bill	Technical Writer	\$85.00

## Change Request Process and Form

HNST and Insight will utilize the change request form below to document any utilization of the project services authorized within this Contract.

<b>CHANGE REQUEST FORM</b>			
<b>CHANGE REQUEST # XXXX</b>			
<b>Client / Client's Contract No#</b>	<b>Original Project Name</b>	<b>Original Insight SoW #:</b>	
<b>Insight Services Manager/Director</b>	<b>Client Project Sponsor</b>	<b>Request Date</b>	
<b>Purchase Order to Apply to Changes:</b>			
<b><u>Change Request Summary</u></b>			
<b>Original Scope Task</b>	Enterprise Network Operations Support Services		
<b>Reason for Change</b>			
<b>Description of Change</b>			
<b>Schedule</b>			
<b>Pricing</b>			
<b><u>Signatures</u></b>			
<b>Insight Authorized Signer:</b>		<b>Date:</b>	
<b>Print Name:</b>		<b>Title:</b>	
<b>TX HHSC Authorized Signer:</b>		<b>Date:</b>	
<b>Print Name:</b>		<b>Title:</b>	



**HEALTH AND HUMAN SERVICES**

**CONTRACT NO. HHS000516900001**

**Attachment B CONTRACT AFFIRMATIONS**

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

**2. Complete and Accurate Information**

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

**3. Public Information Act**

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

**4. Contracting Information Requirements**

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

**5. Assignment**

- A. Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

**6. Terms and Conditions**

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

**7. HHS Right to Use**

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

**8. Release from Liability**

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

**9. Dealings with Public Servants**

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

**10. Financial Participation Prohibited**

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**11. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and

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

**12. Child Support Obligation**

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

**13. Suspension and Debarment**

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

**14. Excluded Parties**

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,*" published by the United States Department of the Treasury, Office of Foreign Assets Control.'

**15. Foreign Terrorist Organizations**

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

**16. Executive Head of a State Agency**

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

**17. Human Trafficking Prohibition**

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**18. Franchise Tax Status**

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

**19. Debts and Delinquencies**

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

**20. Lobbying Prohibition**

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

**21. Buy Texas**

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

**22. Disaster Recovery Plan**

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

**23. Computer Equipment Recycling Program**

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

**24. Television Equipment Recycling Program**

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

**25. Cybersecurity Training**

- A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

**26. Restricted Employment for Certain State Personnel**

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

**27. No Conflicts of Interest**

- A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

**28. Fraud, Waste, and Abuse**

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184

- **OIG Website:** ReportTexasFraud.com
- **Internal Affairs Email:** InternalAffairsReferral@hhsc.state.tx.us
- **OIG Hotline Email:** OIGFraudHotline@hhsc.state.tx.us.
- **OIG Mailing Address:** Office of Inspector General  
Attn: Fraud Hotline  
MC 1300  
P.O. Box 85200  
Austin, Texas 78708-5200

**29. Antitrust**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and
- C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

**30. Legal and Regulatory Actions**

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor’s performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency’s consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor’s performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency’s consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency 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 System Agency shall constitute breach of contract and may result in immediate contract termination.

**31. No Felony Criminal Convictions**

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

**32. Unfair Business Practices**

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**33. Entities that Boycott Israel**

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the contract, Contractor shall promptly notify System Agency.

**34. E-Verify**

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

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

**35. Former Agency Employees — Certain Contracts**

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.

**36. Disclosure of Prior State Employment — Consulting Services**

If this Contract is for consulting services,

- A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
1. Name of individual(s) (Contractor or employee(s));
  2. Status;
  3. The nature of the previous employment with HHSC or the other State of Texas agency;
  4. The date the employment was terminated and the reason for the termination; and
  5. The annual rate of compensation for the employment at the time of its termination.
- B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

**37. Abortion Funding Limitation**

Contractor understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

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

**38. Funding Eligibility**

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code.



**39. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)**

Contractor certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract or funding pursuant to 2 CFR 200.216.

**40. False Representation**

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**41. False Statements**

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**42. Permits and License**

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

**43. Drug-Free Workplace**

Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 et seq.) and maintain a drug-free work environment.

**44. Equal Employment Opportunity**

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

**45. Federal Occupational Safety and Health Law**

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

**46. Signature Authority**

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

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

Insight Public Sector, Inc.

**Legal Name of Contractor**

N/A

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

N/A

**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 and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed**



**Signature of Authorized Representative**

Lianne Steinheiser

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

2/15/2021

**Date Signed**

Global Compliance Office and  
Asst. Secretary

**Title of Authorized Representative**

6820 S. Harl Ave

**Physical Street Address**

Tempe, AZ 85283

**City, State, Zip Code**

Same

**Mailing Address, if different**

Same

**City, State, Zip Code**

(480) 333-3000

**Phone Number**

(480) 760-9488

**Fax Number**

lianne.steinheiser@insight.com

**Email Address**

114719003

**DUNS Number**

36-3949000

**Federal Employer Identification Number**

13639490005

**Texas Payee ID No. – 11 digits**

1363949005

**Texas Franchise Tax Number**

0011604006

**Texas Secretary of State Filing  
Number**



# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**

**Uniform Terms and Conditions - Vendor Version 3.1**

Published and Effective - November 23, 2020

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 *Textravel* 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 Performing Agency by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Performing Agency in the course of providing data processing services in connection with Performing Agency's performance hereunder (the "**System Agency Data**"), is owned solely by System Agency.
- B. Performing Agency 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 Performing Agency to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Performing Agency 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. Performing Agency 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 Performing Agency's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Performing Agency'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) exclusion list 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.