

**SIGNATURE DOCUMENT FOR  
HEALTH AND HUMAN SERVICES COMMISSION  
CONTRACT NO. HHS000682100014  
UNDER THE  
MENTAL HEALTH RESIDENTIAL TREATMENT CENTER GRANT PROGRAM**

**I. PURPOSE**

The Texas Health and Human Services Commission (“**System Agency**” or “**HHSC**”), and Pegasus Schools, Inc. (“**Grantee**”), each a “**Party**” and collectively the “**Parties**,” enter into the following contract for the Mental Health Residential Treatment Center (“**MH/RTC**”) grant program (the “**Contract**”).

**II. LEGAL AUTHORITY**

This Contract is authorized by and in compliance with the provisions in Health and Safety Code Section § 12.051 as transferred under Texas Government Code § 531.005(k).

**III. DURATION**

This Contract is effective on September 1, 2020 and terminates on August 31, 2024. HHSC, at its own discretion, may renew contracts up to one additional five-year term. The Parties may extend this Contract subject to mutually agreeable terms and conditions.

**IV. BUDGET**

The total Contract value is set at \$0.00 to reflect no maximum System Agency payment amount. Grantee will be paid for all services authorized by System Agency using a fee-for-service payment methodology.

**V. REPORTING REQUIREMENTS**

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

**VI. CONTRACT REPRESENTATIVES**

**System Agency**

Health and Human Services Commission  
Mental Health Contracts Management  
Unit, MC 2058  
P.O. Box 149347  
Austin, TX 78714-9347

**Grantee**

Pegasus Schools, Inc.  
P.O. Box 577  
Lockhart, TX 78644

Attention: Mark Vogt  
mark.vogt01@hhsc.state.tx.us  
Agency Number: 35295295295

Attention: Robert Ellis  
robert.ellis@pegasusschool.net  
Agency Number: 1742569814

## **VII. LEGAL NOTICES**

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

### **System Agency**

Health and Human Services Commission  
Brown-Heatly Building  
4900 N. Lamar Blvd.  
Austin, TX 78751-2316  
P.O. Box 13247  
Attention: Karen Ray

### **Grantee**

Pegasus Schools, Inc.  
P.O. Box 577  
Lockhart, TX 78644  
Attention: Robert Ellis

## **VIII. NOTICE REQUIREMENTS**

Notice given by Grantee will be deemed effective when received by the System Agency. Either Party may change its address for notices by providing written notice to the other Party. All notices submitted to System Agency must:

- A. include the Contract number;
- B. be sent to the person(s) identified in the Contract; and,
- C. comply with all terms and conditions of the Contract.

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY  
CONTRACT NO. HHS000682100014**

**TEXAS HEALTH AND HUMAN SERVICES  
COMMISSION**

**PEGASUS SCHOOLS, INC.**

By: DocuSigned by:  
*Trina Ita*  
97DC84070502414... \_\_\_\_\_  
Trina Ita

By: \_\_\_\_\_ 

Associate Commissioner

Date of Signature: August 28, 2020

Date of Signature: 08/18/2020

**THE FOLLOWING CONTRACT ATTACHMENTS ARE HEREBY INCORPORATED BY  
REFERENCE AND SHALL FOLLOW THIS SIGNATURE DOCUMENT IN DECREASING ORDER  
OR PRECEDENCE IN CASE OF CONFLICT:**

- ATTACHMENT A - STATEMENT OF WORK**
- ATTACHMENT B - UNIFORM TERMS AND CONDITIONS (V. 2.16.1- GRANTEE)**
- ATTACHMENT C - DATA USE AGREEMENT (V. 8.5 - OCTOBER 23, 2019)**
- ATTACHMENT D - OPEN ENROLLMENT NBR. HHS0006821**
- ATTACHMENT E - GRANTEE'S RESPONSE TO OPEN ENROLLMENT NBR. HHS0006821**

**ATTACHMENTS FOLLOW**

## **ATTACHMENT A STATEMENT OF WORK**

### **I. Scope of Work**

1. HHSC/DFPS will refer children or youth for RTC services based on the following variables:
  - a. geographic proximity to the family's county of residence;
  - b. age and gender of the child or youth;
  - c. family choice of provider;
  - d. clinical needs of the child or youth;
  - e. Grantee's available treatment protocols;
  - f. Grantee's availability of a bed; and
  - g. Grantee's willingness to admit the child or youth based on face-to-face interviews with the child or youth and family and/or a thorough review of all assessment and treatment documents submitted as part of a standard referral packet.
2. HHSC will provide Grantee with the following information to make an admission determination:
  - a. DFPS Referral Form 2037;
  - b. A completed common application for RTC placement;
  - c. A psychological assessment completed within the past year;
  - d. Any additional requested behavioral health treatment history not included in the common application for RTC placement;
  - e. A copy of the most recent [Child and Adolescent Needs and Strengths](#) (CANS) assessment completed by the LMHA; and
  - f. A Relinquishment of Avoidance Understanding form indicating parent's/guardian's/Legally Authorized Representative (LAR)'s commitment to reunification and engagement throughout treatment.
3. Grantee's admitting psychiatrist and office of admissions shall make the final determination of the Child/Youth's eligibility for admission to the RTC.
4. Grantee shall admit the Child/Youth for treatment if the admitting psychiatrist recommends the Child/Youth is an appropriate clinical match with the RTC.
  - a. Grantee shall review the referral packet and make the determination of service eligibility. Grantee must be able to meet the acute clinical needs of the referred Child/Youth. Grantee shall notify HHSC of said eligibility determination within 2 business days.
  - b. Upon determination of appropriateness for admission, Grantee shall notify HHSC and an admission date will be established. An authorization form for admission will be signed by the Children's Mental Health Manager for bed payment and forwarded to Grantee.
  - c. Throughout the Child's/Youth's treatment, the Grantee shall work with HHSC and the respective Local Mental Health Authority (LMHA) to ensure continuity of care, discharge planning and follow-up treatment services are available to the Child/Youth upon discharge from the RTC. The Grantee's Case Manager and the LMHA's Case Manager shall have at least weekly communication regarding progress toward discharge and reunification of the Child/Youth and parent/guardian/LAR.
  - d. Should the Grantee determine at any point throughout treatment that the referred Child/Youth is not appropriate for the RTC, Grantee shall notify HHSC and the LMHA by phone or email and provide written documentation to the RTC Coordinator

## ATTACHMENT A STATEMENT OF WORK

- no later than the following business day. An emergency staffing shall occur by phone or in person to include the LAR, Clinical Staff of the RTC, Case managers, and other relevant participants to ensure appropriate notification and after-care planning. Refer to Section *Transition and Discharge Planning* of this document regarding procedures for planned/unplanned discharge.
- e. Grantee shall send follow-up notification to HHSC and the LMHA describing the issues preventing the Child/Youth from continuing in treatment at the RTC.
5. Grantee shall provide comprehensive residential treatment services to the Child/Youth admitted to the RTC for treatment. Required elements of comprehensive residential treatment services include but are not limited to:
- a. Assessment and evaluation:
    - i. Grantee shall assess and plan treatment for the Child/Youth using professional, trained, skilled, and competent staff. Such assessment and treatment planning shall take into consideration:
      - 1) The child's/youth's and parent's/guardian's/LAR's values;
      - 2) Religious affiliations;
      - 3) Motivation;
      - 4) Disabilities (physical and cognitive);
      - 5) Developmental level;
      - 6) Literacy;
      - 7) Language;
      - 8) Culture;
      - 9) Age;
      - 10) Medical conditions;
      - 11) Substance use history;
      - 12) Trauma history;
      - 13) Child's/youth's/family's strengths; and
      - 14) Transition plans with family's reunification goals.
    - ii. Grantee shall assess the Child/Youth for treatment needs through a Recovery Team. The Recovery Team shall include:
      - 1) Clinical Director;
      - 2) Program Director;
      - 3) Administrator;
      - 4) Therapist;
      - 5) Case Manager;
      - 6) Parent/Guardian/LAR;
      - 7) Child/Youth; and
      - 8) House Manager.
    - iii. The Recovery Team may also include:
      - 1) Natural Supports;
      - 2) Community Supports; and
      - 3) Other Medical Professional(s), if warranted.
    - iv. Grantee's supervising psychiatrist shall provide the Child/Youth with an initial psychiatric evaluation upon admission. This must describe the reason for admission and must support the admission diagnosis given based on the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

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- v. The Recovery Team and the psychiatrist, shall identify the Child's/Youth's current health status to determine if referral to other providers (i.e., consultant medical staff, psychologist, speech/hearing therapist, physical therapy, etc.) for additional assessment is indicated during treatment. The Child/Youth admitted to the RTC must be medically stable and not require 24 hour medical/nursing care.
  - vi. Grantee shall provide the Child/Youth with immediate access to medical care throughout the course of treatment.
  - vii. Grantee shall provide psychotropic medications to the Child/Youth as prescribed.
  - viii. The Child's/Youth's educational level and needs shall be assessed to determine grade level and appropriate methods of instruction. Grantee shall provide appropriate grade level educational services based on the results of the educational assessment. The Child's/Youth's primary teacher shall complete a current Individual Education Plan (IEP) that conforms to local school district IEP requirements. Grantee shall place the IEP in the chart and review it quarterly to ensure the IEP remains current.
  - ix. Grantee shall assess the need for, and provide social, recreational, and habilitation services throughout treatment. These services should be provided during after school/evening and weekend hours, and when education classes are not in session. Grantee shall provide both on and off-campus socialization events to promote integration into the community. Grantee shall determine the Child's/Youth's eligibility to participate in various programs based on their level of treatment progress and approval by the attending Recovery Team.
  - x. Grantee shall administer a nutritional assessment to the Child/Youth and, based on the assessment results, Grantee shall provide the Child/Youth with well-balanced, nutritious meals. Food allergies must be considered.
6. Clinical Treatment Services:
- a. Grantee shall provide individualized and strength-based, child/youth guided, and family driven clinical treatment services to the Child/Youth. These services shall be provided with cultural and linguistic competency. Clinical treatment services shall ensure that a trauma-informed approach is used when assessing a child/youth for treatment. Services shall link residential treatment services with community services. Services shall be research-based, and evidence and practice-informed. Grantee's attending psychiatrist, (on-staff psychiatrist or consulting psychiatrist) shall provide direct treatment of the Child/Youth as well as the following services:
    - i. Supervise Recovery Team staff in the development and implementation of the Individual Treatment Plan (ITP) for the Child/Youth. The ITP will be conducted according to the following clinical schedule:
      - 1) The initial ITP shall be conducted at the 14<sup>th</sup> day after admission;
      - 2) The ITP update shall be conducted at the 3<sup>rd</sup> month post-admission;
      - 3) The Transition Plan and Discharge Summary and/or ITP update shall be conducted at the 6<sup>th</sup> month post admission. A Transition Plan must be developed and included at this stage to measure preparedness of the family for the child/youth to return to the community and ensure community resources are in place;

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- 4) The Transition Plan and Discharge Summary and/or ITP update shall be conducted at the 9<sup>th</sup> month post admission; and
  - 5) Where applicable, the Transition Plan, Discharge Summary, and ITP update shall be conducted at the final month services are provided.
  - ii. Evaluate for and, when indicated, prescribe the appropriate psychotropic medication and monitoring for response and adverse reaction(s) with indicated adjustment of medications. Provide psychiatric consults monthly at a minimum.
  - iii. Order and follow-up on indicated laboratory tests for medication(s) prescribed.
  - iv. Maintain contact with parent/guardian/LAR and community treatment and support staff and obtain consent for prescribing medication from the parent/guardian/LAR.
  - v. At time of discharge, complete or review and approve the transition and discharge summary to provide meaningful treatment information for continuity of care purposes.
- b. The Recovery Team Coordinator shall perform the following services:
- i. Under the direction of the Director of Treatment Services, provide therapeutic services to the Child/Youth and serve as a member of the Recovery Team
  - ii. Consult with the Recovery Team and facility staff regarding daily programs, individual and group dynamics of residential living, treatment of high risk behaviors, special interventions and training on various aspects of the behavioral health treatment of the Child/Youth.
  - iii. Develop the ITP in conjunction with the Recovery Team, and under direction of the psychiatrist. The ITP shall include, but is not limited to:
    - 1) Brief description of the Child/Youth;
    - 2) Summary of child/youth and family strengths;
    - 3) Summary of psychosocial history;
    - 4) Health and developmental history;
    - 5) Treatment history to-date;
    - 6) Presenting problems and needs;
    - 7) Diagnostic formulation (data substantiating the diagnosis);
    - 8) Diagnosis based on the current DSM;
    - 9) Case formulation (the clinician's hypotheses about underlying dynamics/issues that drive and maintain problematic behaviors, emotions and/or cognitions);
    - 10) Criteria for completing treatment; and
    - 11) Objectives and measurable treatment goals that focus on skill building, family involvement, and community integration.
  - iv. Conduct Recovery Team conference calls at least once a month that involve HHSC, the LMHA, and the LAR. During this time, the RTC shall provide updates on measurable treatment goals and objectives, and communication regarding treatment of the Child/Youth.
- c. Grantee shall provide the following required elements of comprehensive treatment services:
- i. Psychopharmacological Therapy (if indicated based on psychiatric evaluation):  
The treatment of psychiatric illness with psychotropic medication on an ongoing basis.

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- ii. Psychotherapy and counseling: Individual, family, and group therapy focused on the reduction or elimination of a Child's/Youth's symptoms of serious emotional disturbance and increasing the individual's ability to perform activities of daily living must be provided.
  - 1) Grantee shall engage the Child/Youth and the parent/guardian/LAR in family therapy no later than six weeks after the Child/Youth has been admitted to the RTC. This process shall be coordinated by the RTC Case Manager.
  - 2) Grantee shall provide the following sessions for the Child/Youth:
    - a) Individual;
    - b) Family; and
    - c) Group (Optional).
  - 3) All sessions should be enacted on a weekly basis by the 6<sup>th</sup> week after the Child/Youth has been admitted to the RTC.
  - 4) Grantee shall give preference to treatment interventions considered evidence-based practices.
  - 5) Grantee shall provide all counseling services to the Child/Youth by a Licensed Professional of the Healing Arts (LPHA) practicing within the scope of their own license or by an individual with a master's degree in a human services field pursuing licensure under the direct supervision of an LPHA, if not billed to Medicaid.
- iii. Behavior Management: The Grantee shall provide a Child/Youth-centered, evidence-based, and Trauma-Informed Care treatment approach. Behavior management treatment approaches shall be provided with a focus on reinforcement and prevention methods while using the least restrictive procedures likely to be effective. The grantee shall use evidence-based practices to prevent, reduce or eliminate the use of punishment procedures, seclusion, and restraint.
- iv. Recreation: Therapeutic Recreation is a planned process which utilizes techniques to assess, prescribe, treat, and evaluate the success of treatment for the Child/Youth who experiences significant barriers to leisure fulfillment. These barriers include the lack of physiological, psychological, and/or social skills. Recreational and other leisure-time activity services provide for the development, maintenance, and expression of an appropriate leisure/social lifestyle for Child's/Youth's with mental, physical, emotional, or social limitations.
- v. Habilitation: This includes training in competencies and skills that Children/Youth will need in the specific environments where they will reside when they leave the facility. Vocational evaluation and prevocational training shall be made available to Children/Youth for whom those services are clinically indicated.
- vi. Educational Requirements: Children/Youth who are determined to meet eligibility criteria to receive Section 504 or special education services shall receive those services at the RTC or in partnership with the local independent school district in accordance with federal and state rules and regulations. The education team shall complete an IEP or Section 504 plan for each Child/Youth



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under their direction. This does not preclude a Child/Youth from being enrolled in regular education classes if that setting meets the identified education needs of the Child/Youth and the Child/Youth has the social skills to adequately learn in that setting. The school calendar may be based on the year-round attendance model.

- vii. **Family/Youth Engagement and Inclusion:** The Grantee shall extend efforts to provide clinical strategies for engaging families to ensure treatment is Child/Youth guided; Family-driven; and Culturally Competent. Evidence-based practices should be used to meet the needs of the youth and family that is strength based and includes the child/youth, parent/guardian, natural supports, community supports, and clinical/therapeutic staff. The child/youth should be permitted to have access to parents/guardians via phone calls upon admission and throughout the duration of their participation in services at the RTC, notwithstanding punishment or denial of access due to reasons of adjustment from initial separation from the parent/guardian. Parents shall engage in Family Therapy on a weekly basis after enacted by the RTC upon the 6<sup>th</sup> week after the Child/Youth has been admitted. In cases where transportation is a barrier for the parent(s)/guardian(s) to attend family therapy in person, the Grantee shall provide alternative ways to include them. Parents shall be active participants in the recovery process and reunification goals/strategies shall be assessed at each ITP meeting. (Please refer to section I.,C.,2. *Clinical Treatment Services*, a.,1) of this document for schedule of ITP Meetings)
- viii. **Transition and Discharge Planning:** Planning for discharge starts at the time of the initial assessments by the Recovery Team and shall be coordinated with HHSC and respective LMHA. Discharge planning should be youth and family driven, as families decide which services and supports they will need from the residential program and from the community for the youth to return home. Transition of the child/youth shall be assessed at each ITP update to determine child/youth's readiness to return home and to the community. Prior to discharge, a "Continuity of Care" conference shall be held with participation by the Child's/Youth's Recovery Team, RTC Coordinator, referring LMHA, and any other relevant designated parties. The attending psychiatrist (or other psychiatrist providing coverage) must write the discharge order. Grantee shall document this process and provide the discharge summary assessment to the parent/guardian/LAR at discharge. An additional written copy of the discharge summary shall be provided to HHSC within two business days. If there are unforeseen circumstances that prompt an immediate discharge, the Grantee shall communicate with the parent/guardian/LAR, HHSC and all parties involved in the Child's/Youth's treatment. If there are geographical constraints involving an unplanned discharge, the Grantee and the parent/guardian/LAR shall come to an agreement regarding transportation at the time of discharge. Grantee shall maintain physical custody of the Child/Youth until such point that a safe transfer is scheduled. After date of discharge, HHSC will no longer be responsible for payment of bed through the RTC Project.
- ix. **Chaplaincy Services:** Chaplaincy services include but are not limited to:

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- 1) Regularly scheduled worship based on the Child's/Youth's religious affiliation;
  - 2) Pastoral care if requested by the Child/Youth; and
  - 3) Special religious activities for the Child's/Youth's religious development and spiritual formation which include but are not limited to:
    - a) Bible studies;
    - b) Religious movies;
    - c) Community gospel music events;
    - d) Youth participation in chapel music; and
    - e) Other religious activities as needed and requested.
7. Grantee's Documentation Requirements
- a. Treatment records shall be filed in the Child's/Youth's on-site chart (hard copy or electronic) including:
    - i. Copies of all referral documents;
    - ii. Copies of all assessments, evaluations, and treatment summaries performed by the Grantee;
    - iii. A copy of the Child's/Youth's ITP, including documentation of treatment plan reviews and Recovery Team staffings related to the Child/Youth;
    - iv. Copies of progress notes for all treatment modalities (individual therapy, group therapy, family therapy, recreational therapy, psychiatric consultation, case management activity, etc.);
    - v. A copy of the transition and discharge plan;
    - vi. A copy of the Child's/Youth's IEP or Section 504 plan;
    - vii. Medical progress notes; and
    - viii. A copy of the reunification agreement signed by the parent/guardian/LAR.
  - b. The Child's/Youth's charts and all records relating to the care of the Child/Youth shall be made available to HHSC and the referring LMHA upon request.
  - c. While the Child/Youth is receiving services from Grantee and post-discharge, Grantee shall provide copies of Child's/Youth's medical records to the Child's/Youth's parent/guardian/LAR upon request. Grantee shall provide medical records directly to the Child's/Youth's parent/guardian/LAR.
8. Additional Grantee Requirements
- a. Grantee shall deliver all services by appropriately licensed/certified/trained staff. Personnel records must reflect current licenses/certifications/training records for all staff.
  - b. Grantee shall comply with Health Information Portability and Accountability Act (HIPAA) requirements and all other applicable laws at all times.
  - c. Grantee shall supply the Child/Youth and parent/guardian/LAR with a list of residents' rights and responsibilities as well as a formal complaint process while a resident of the RTC.
  - d. Grantee shall provide families with a clear system for communicating with the Child/Youth. In accordance with this section, nothing herein shall be construed as prohibiting or penalizing communication between Grantee and the Child/Youth and parent/guardian/LAR regarding available treatments options, including Medically Necessary or appropriate care for the Child/Youth. The Grantee shall facilitate access to the Child/Youth so long as it is not interfering with the course of treatment.

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- e. Grantee shall ensure physical safety of all RTC residents at all times.
  - f. Grantee shall maintain an inventory of the Child's/Youth's clothing and personal items that are of substantial medical, monetary, or sentimental value by:
    - i. Completing an inventory of clothing and personal items at admission; and
    - ii. Updating the inventory of clothing and personal items at least quarterly and at time of discharge.
  - g. Regarding room, board and furnishings, Grantee shall:
    - i. Provide the Child/Youth with a bed, sheets, towels, blankets, bedspreads, pillows, mattresses, and other furnishings necessary to meet the Child's/Youth's needs. Grantee shall ensure that items are kept clean and in good repair.
    - ii. Ensure the Child/Youth has personal storage space for their clothing and personal items.
    - iii. Ensure the Child/Youth wears clothing that is clean, in good repair, and appropriate to the weather and/or activity in which the Child/Youth is participating.
    - iv. Provide behavioral, gender and age appropriate living arrangements for the Child/Youth.
  - h. Grantee shall conduct and document in personnel files DFPS background checks, found at: [https://www.dfps.state.tx.us/Background\\_Checks/default.asp](https://www.dfps.state.tx.us/Background_Checks/default.asp), on the Grantee's employees, subcontractors, volunteers, and all individuals who have direct contact with the Child/Youth or direct access to their records.
  - i. Grantee shall maintain at all times a written disaster and emergency response plan, policies and procedures to address internal and external emergencies. Disasters may include but are not limited to acts of nature (such as floods, hurricanes, fires or tornadoes), chemical or hazardous material spills, critical equipment failure, weapons of mass destruction events, and acts of terrorism. In the event of an emergency requiring evacuation or quarantine, the Grantee is responsible for maintaining the safety and placement of the Child/Youth resident in its care. All staff and subcontractor of the Grantee must be aware of the disaster plan requirements and be prepared to fulfill their role in executing the plan.
  - j. Grantee shall at all times, permit access to all Children/Youth placed by HHSC, to the respective LMHA Continuity of Care Officer and parent/guardian/LAR.
  - k. Grantee shall communicate disaster plans to HHSC and parent/guardian/LAR in the case of a disaster response initiative.
  - l. Grantee shall ensure the family remains connected to the LMHA throughout the duration of residential services. If LAR chooses not to participate in LMHA services, RTC services may be at risk.
  - m. It is recommended that the Grantee should engage in ongoing training and technical assistance as recommended or provided by HHSC or seek training opportunities independently.
  - n. Grantee shall report number of available beds to HHSC's RTC subject matter expert on a bi-weekly basis via email. If Grantee is aware of vacancies prior to the standard two-week notification, such information should be provided immediately.
9. Additional Grantee Services
- a. Grantee shall refer the Child/Youth to other resources when the Child/Youth has special needs the facility cannot provide for or when another resource may be more

## **ATTACHMENT A STATEMENT OF WORK**

appropriate to provide for those needs. These resources, where applicable, will abide by the Joint Commission (formerly the Joint Commission on Accreditation of Healthcare Organizations) standards concerning confidentiality of client information.

Referrals may include but are not limited to:

- i. Computerized Tomography (CT) Scans, magnetic resonance imaging (MRIs), and other radiographic assessments;
  - ii. Clinical examinations, assessments, and consultations that are not within the professional domain of the RTC staff;
  - iii. All procedures (elective and non-elective);
  - iv. Dental care; and
  - v. The prescription and preparation of appropriate hearing aids, eyeglasses, and other prosthetic devices.
- b. Grantee shall make referrals for medical/dental services only to appropriately licensed facilities or clinicians that have been approved by the RTC Director of Medical Services.
- c. Grantee shall provide emergency first aid at the RTC. More definitive and comprehensive emergency services shall be provided by licensed emergency transports and a Joint Commission accredited hospital/facility.
10. Appeals of Clinical Necessity:
- a. Appeals: In the event that HHSC notifies Grantee that (i) proposed treatment or services for a referred Child/Youth will not be Certified; or (ii) treatment or services for a referred Child/Youth which had previously been Certified will no longer be Certified, Grantee shall not be entitled to an appeal of such non-Certification.
  - b. Section Survival: The terms of this Article shall survive the termination of this Agreement and shall supersede any oral or written agreement entered into by any Child/Youth or other person acting on the Child's/Youth's behalf that is contrary to this Article.
11. Records and Information:
- a. Maintaining Records: Grantee shall retain all records and information related to services provided pursuant to this Agreement for seven years from the date of service, except records relating to matters in litigation must be retained for seven years or five years following the termination or resolution of such litigation, whichever is longer. Grantee's obligations to retain records and provide information hereunder shall survive the termination of this Agreement. The records maintained by Grantee with respect to the Child/Youth shall be and remain the property of Grantee.
  - b. Access to Records: HHSC shall have access during all hours of program operation to the clinical information, books, records and papers of Grantee regardless of the media in which they are maintained relating to: (i) treatment or services provided to any referred Child/Youth, (ii) payments received from referred Child/Youth Members or from others on their behalf (hereinafter collectively referred to as "Documentation"). Upon five (5) days prior notice and without any cost to HHSC, Grantee shall allow HHSC to conduct an on-site audit of such Documentation. At Grantee's discretion, Grantee may send HHSC copies of the Documentation with the letter of request, so that HHSC may conduct such audit in HHSC' office.

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- c. Transferred Records: Upon request of HHSC, *Grantee* shall, at its own expense, promptly provide HHSC with electronic or paper copies of all clinical records and information in specific to a referred Child/Youth in accordance with such request.
  - d. Record Confidentiality: The obligations set forth in this Article shall be subject to applicable law pertaining to the confidentiality of medical, mental health or substance abuse records and shall survive the termination of this Agreement. Grantee will be responsible for obtaining any necessary referred Child/Youth consent to release such records to HHSC.
  - e. Incident Reports: Grantee shall complete incident report forms and submit them to the RTC Coordinator within 24 hours of the incident or upon knowledge of when the incident occurred. A system of incident reporting will be made available through HHSC.
12. Extension of Services:  
Grantee shall assess the Child/Youth's progress in treatment at the 7<sup>th</sup> month. If the Child/Youth does not meet the expected progress in treatment, Grantee shall submit to HHSC, a written request to extend the length of stay for the Child/Youth. Based on review of progress in treatment by HHSC, the length of stay may be extended if clinically indicated.

### **II. Performance Measures**

- 1. Grantee shall provide HHSC with 24-hour phone and email contact information.
- 2. Grantee shall provide focused, intensive treatment services as outlined in the Scope of Work with an expected length of stay of six to nine months.
- 3. Grantee shall submit to HHSC by the 7th month, and where applicable, a written request to extend the length of stay for the Child/Youth based on progress in treatment. Grantee shall include updated progress note(s) to support the request. This extension shall be approved by HHSC.
- 4. Grantee shall, at the time of discharge, document in the goal reviews contained in the discharge summary the percentage of goals and objectives on which the Child/Youth made improvement and shall describe the course of treatment. , In the description of the course of treatment, documentation of the specific treatment plan adjustments made each time the individual's behavior or psychological condition deteriorated or plateaued, as well as, the individual's response to the changes, should be included.
- 5. Grantee shall inform HHSC no later than the following business day should the Child/Youth experience a change in status which includes but is not limited to hospitalization or juvenile detention placement.
- 6. Contractor shall submit all ITPs within 5 days of completing an ITP.
- 7. Contractor shall submit all progress notes and supporting clinical documentation on a bi-weekly basis.
- 8. Contractor shall submit all monthly Recovery Team meeting notes by the 30th of each month.
- 9. Grantee shall timely submit all reports, documentation, and other information required by this Contract electronically to mhcontracts@hhsc.state.tx.us, with a copy to the assigned Contract Manager and HHSC RTC Subject Matter Expert. Alternative submission arrangements must be approved by the assigned Contract Manager.

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### III. Invoice and Payment

1. HHSC will pay contracted providers the intense residential treatment facility rate established by the DFPS and published on the DFPS 24-Hour Residential Child Care Reimbursement Rates webpage located at the link below. Contracted providers must bill Medicaid or other third-party payors for all clinical services provided with the Residential Treatment Center (e.g., psychiatric, psychological, psychotherapy and psychotropic medication services, etc.).

[https://www.dfps.state.tx.us/Doing\\_Business/Purchased\\_Client\\_Services/Residential Child Care Contracts/Rates/default.asp](https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/Rates/default.asp)

2. Grantee will request payment monthly on or before the 15<sup>th</sup> of the following month, using the State of Texas Purchase Voucher Form 4116, which is incorporated by reference and can be downloaded at: <https://hhs.texas.gov/laws-regulations/forms/4000-4999/form-4116-state-texas-purchase-voucher> and which is incorporated by reference. At a minimum, Form 4116 shall include:
  - a. Name, address, and telephone number of Grantee;
  - b. System Agency Contract Number and/or Purchase Order Number;
  - c. The System Agency assigned identifying number of each Child/Youth receiving services;
  - d. The total number of days and associated amount invoiced; and
  - e. Any additional supporting documentation required by this Contract, or as requested by System Agency.
3. Grantee shall electronically submit monthly invoices with any required or requested supporting documentation to the Claims Processing Unit at [hhsc\\_ap@hhsc.state.tx.us](mailto:hhsc_ap@hhsc.state.tx.us) with a copy to [mhcontracts@hhsc.state.tx.us](mailto:mhcontracts@hhsc.state.tx.us), the assigned Contract Manager and the Program Liaison. Alternative submission arrangements must be approved by the assigned HHSC Contract Manager.

Attachment B

HHSC Uniform Terms and Conditions Version 2.16  
Published and Effective: March 26, 2019  
Responsible Office: Chief Counsel



# TEXAS

## Health and Human Services

**Health and Human Services Commission**  
**HHSC Uniform Terms and Conditions - Grant**  
**Version 2.16.1**

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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 or Technical Guidance Letters.

“[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, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference for all purposes.

“[Deliverable](#)” means the work product(s), including all reports and project documentation, required to be submitted by Grantee to the System Agency.

“[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.

“[Grantee](#)” means the Party receiving funds under this Contract. May also be referred to as "Contractor" in certain attachments.

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

“[HUB](#)” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“[Intellectual Property Rights](#)” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right 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.

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

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

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

“Program” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

“Project” means specific activities of the Grantee that are supported by funds provided under this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

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

“Solicitation” or “Request for Applications (RFA)” means the document (including all amendments and attachments) issued by the System Agency under which applications for Program funds were requested, which is incorporated by reference for all purposes in its entirety.

“Solicitation Response” or “Application” means Grantee’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 Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“Statement of Work” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

“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.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

“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 Grantee in connection with Grantee’s performance of its duties under the Contract or through use of any funding provided under this Contract.

“Uniform Grant Management Standards” or “UGMS” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas

Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

## **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 METHODS AND RESTRICTIONS**

### **2.1 PAYMENT METHODS**

- A. Except as otherwise provided by this Contract, the payment method will be one or more of the following:
  - i. Cost Reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
  - ii. Unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
  - iii. Advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has

implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law, state and federal regulations, and at the sole discretion of the System Agency.

- B. Grantee shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

## **2.2 FINAL BILLING SUBMISSION**

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received after the deadline may not be paid.

## **2.3 FINANCIAL STATUS REPORTS (FSRs)**

Except as otherwise provided, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to System Agency by the last business day of the month following the end of each quarter for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

## **2.4 USE OF FUNDS**

Grantee shall expend funds under this Contract only for approved services and for reasonable and allowable expenses directly related to those services.

## **2.5 USE FOR MATCH PROHIBITED**

Grantee shall not use funds provided under this Contract for matching purposes in securing other funding without the written approval of the System Agency.

## **2.6 PROGRAM INCOME**

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use Program Income, as provided in UGMS Section III, Subpart C, .25(g)(2), to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Contract.

## **2.7 NONSUPPLANTING**

Grant funds may be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds in place to support current programs and related activities.

## **2.8 ALLOWABLE COSTS**

Allowable Costs are restricted to costs that comply with the Texas Uniform Grant Management Standards (UGMS) and applicable state and federal rules and law. The Parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.

## **2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable contracts. Grantee will provide the necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and Uniform Grant Management Standards (UGMS).

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

## **3.1 FUNDING**

This Contract is subject to termination or cancellation, without penalty to 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 Grantee'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 Grantee 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**

Grantee 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 RECAPTURE OF FUNDS**

A . At its sole discretion, the System Agency may i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s), or ii) require Grantee 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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

#### ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

##### 4.1 ALLOWABLE COSTS

- A. System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include, but are not limited to:

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local, and Tribal Governments	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or Uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
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- B. OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

#### 4.2 AUDITS AND FINANCIAL STATEMENTS

##### A. Audits

- i. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee will be subject to the sanctions and remedies for non-compliance with this Contract.
- ii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.
- iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS.
- iv. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits.
- v. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

##### B. Financial Statements

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements.



### 4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

#### A. Audits

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically one copy of the single audit or program-specific audit to the System Agency via:

i. HHS portal at: or,

<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>

ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

#### B. Financial Statements

Due no later than nine months after the Grantee's fiscal year end, Grantees which are not required to submit an audit, shall submit electronically financial statements via:

i. HHS portal at:

<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,

ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

## ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

### 5.1 GENERAL AFFIRMATIONS

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

### 5.2 FEDERAL ASSURANCES

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Assurances and that Grantee is in compliance with all requirements.

### 5.3 FEDERAL CERTIFICATIONS

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

## ARTICLE VI. INTELLECTUAL PROPERTY

### 6.1 OWNERSHIP OF WORK PRODUCT

All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency. 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, Grantee 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. Grantee agrees to execute all papers and to perform such other property rights as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee 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.

## 6.2 GRANTEE'S PRE-EXISTING WORKS

To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Contract ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works, and Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, 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. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

## 6.3 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

## 6.4 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, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Contract. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Contract without the prior written consent of System Agency.

## 6.5 SURVIVAL

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

## **ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE**

### **7.1 BOOKS AND RECORDS**

Grantee 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. Unless otherwise specified in this Contract, Grantee shall maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the Contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

### **7.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS**

In addition to any right of access arising by operation of law, Grantee and any of Grantee'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 Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee 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.

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

- A. Grantee 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 Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Contract.

## 7.4 SAO 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. Grantee 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.

## 7.5 CONFIDENTIALITY

Grantee 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's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract.

# ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION

## 8.1 CONTRACT REMEDIES

To ensure Grantee's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Grantee 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 Grantee to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Grantee found to be in error;
- iv. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
- v. imposing any other remedies, sanctions or penalties authorized under this Contract or permitted by federal or state statute, law, regulation or rule.

## 8.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Contract at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination. The System Agency's right to terminate the Contract for convenience is cumulative of all rights and remedies which exist now or in the future.

## 8.3 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 Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any, or Grantee's addition to the Excluded Parties List System (EPLS) 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 Grantee no longer maintains the financial viability required to complete the services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

## **ARTICLE IX. MISCELLANEOUS PROVISIONS**

### **9.1 AMENDMENT**

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

### **9.2 INSURANCE**

- A. Unless otherwise specified in this Contract, Grantee 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. Grantee 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, Grantee 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, Grantee must produce renewal certificates for each type of coverage.
- B. These and all other insurance requirements under the Contract apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

### **9.3 LEGAL OBLIGATIONS**

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

#### 9.4 PERMITTING AND LICENSURE

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

#### 9.5 INDEMNITY

- A. GRANTEE 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 GRANTEE 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. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENCE ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Contract.**

#### 9.6 ASSIGNMENTS

- A. Grantee may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Grantee from its obligations under the Contract.
- B. Grantee understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

## 9.7 INDEPENDENT CONTRACTOR

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Should Grantee subcontract any of the services required in the Contract, Grantee expressly understands and acknowledges that in entering such subcontract(s), System Agency is in no manner liable to any Subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Grantee 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 Grantee and System Agency.

## 9.8 TECHNICAL GUIDANCE LETTERS

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

## 9.9 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.
- B. If a contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision will not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

## 9.10 GOVERNING LAW AND VENUE

The 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.

## 9.11 SEVERABILITY

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

enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

#### **9.12 SURVIVABILITY**

Expiration or termination of the Contract for any reason does not release Grantee 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.

#### **9.13 FORCE MAJEURE**

Neither Grantee 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.

#### **9.14 NO WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee 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.

#### **9.15 PUBLICITY**

- A. Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.
- B. Grantee may publish, at its sole expense, results of Grantee 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.
- C. 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.



## 9.16 PROHIBITION ON NON-COMPETE RESTRICTIONS

Grantee 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.

## 9.17 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in the Contract will 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.

## 9.18 ENTIRE CONTRACT AND MODIFICATION

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

## 9.19 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.

## 9.20 PROPER 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.

## 9.21 E-VERIFY PROGRAM

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- i. all persons employed to perform duties within Texas during the term of the Contract; and
- ii. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Contract within the United States of America.

## 9.22 CIVIL RIGHTS

- A. Grantee agrees to comply with 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. §§6101-6107);

- v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - 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 Contract.
- B. Grantee agrees to comply with all amendments to the above-referenced 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 aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal 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. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee 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. Notice provided pursuant to this section must be directed to:

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

### 9.23 SYSTEM AGENCY DATA

As between the Parties, all data and information acquired, accessed, or made available to Contractor by or through System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder, (the "**System Agency Data**"), is owned solely by System Agency. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.



# TEXAS

## Health and Human Services

Courtney N. Phillips  
EXECUTIVE COMMISSIONER

### Open Enrollment for Residential Treatment Center Private Purchase Beds

Procurement Number: HHS0006821

Addendum #1 Revised on March 9, 2020			
<u>Item</u>	<u>Purpose of Change</u>	<u>Previous</u>	<u>Revision</u>
1.	Change Point of Contact	<p>Article V, Section A, OE Point of Contact Currently States:</p> <p>For purposes of submitting questions concerning this OE, the only contact is Marilyn Obey-Punchard. All communications concerning this OE must be submitted by email to:</p> <p><a href="mailto:Marilyn.Obey-Punchard02@hhsc.state.tx.us">Marilyn.Obey-Punchard02@hhsc.state.tx.us</a> Re: Open Enrollment # HHS0006821</p>	<p>Article V, Section A, OE Point of Contact Revised to State:</p> <p>For purposes of submitting questions concerning this OE, the only contact is the Mental Health Contract Management Unit. All communications concerning this OE must be submitted by email to:</p> <p><a href="mailto:MHContracts@hhsc.state.tx.us">MHContracts@hhsc.state.tx.us</a> Re: Open Enrollment # HHS0006821</p>
2.	Change Point of Contact	<p>Article V, Section B, Submission Currently States:</p> <p>The original enrollment application must be submitted to the OE point of contact. HHSC will accept enrollment applications via email only to <a href="mailto:Marilyn.Obey-Punchard02@hhsc.state.tx.us">Marilyn.Obey-Punchard02@hhsc.state.tx.us</a>.</p> <p>Any alternative submission arrangements must be approved in writing by <a href="mailto:Marilyn.Obey-Punchard02@hhsc.state.tx.us">Marilyn.Obey-Punchard02@hhsc.state.tx.us</a>.</p>	<p>Article V, Section B, Submission Revised to State:</p> <p>The original enrollment application must be submitted to the OE point of contact. HHSC will accept enrollment applications via email only to <a href="mailto:MHContracts@hhsc.state.tx.us">MHContracts@hhsc.state.tx.us</a>.</p> <p>Any alternative submission arrangements must be approved in writing by <a href="mailto:MHContracts@hhsc.state.tx.us">MHContracts@hhsc.state.tx.us</a>.</p>

ATTACHMENT D

**Residential Treatment Center for Private Purchaser Beds**

Open Enrollment Number: **HHS0006821**



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

**NOTICE OF OPEN ENROLLMENT (OE)**

**Residential Treatment Center Private Purchase Beds**

**Health and Human Services Commission**

**OE # HHS0006821**

**Enrollment Period Opens: 10/28/2019**

**Enrollment Period Closes: 08/31/2024**

**Class/Item No.: 952/62**

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**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821****I. INTRODUCTION AND DEFINITIONS****A. Introduction**

The Health and Human Services Commission (HHSC) announces this Open Enrollment (OE) requesting applications to support the provision of Residential Treatment Center (RTC) services for children or youth between the ages of 5 to 17 years with a serious emotional disturbance. All children or youth referred for treatment will be identified by HHSC as having a medical and behavioral health need for a Residential Treatment Center level of care. HHSC will pay contracted providers the intensive residential treatment facility rate established by the Department of Family and Protective Services (DFPS) and published on the DFPS 24-Hour Residential Child Care Reimbursement Rates webpage located at the link below. Contracted providers must bill Medicaid or other third-party payors for all other services provided within the Residential Treatment Center, which includes, but is not limited to psychiatric, nursing or medication management services, or psychological, psychotherapy or counseling services.

[https://www.dfps.state.tx.us/Doing\\_Business/Purchased\\_Client\\_Services/Residential\\_Child\\_Care\\_Contracts/Rates/default.asp](https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/Rates/default.asp)

**B. Definitions****Standard Definitions**

Appendix – Additional information and/or forms that are located at the end of this document, which are part of this solicitation document.

Applicant – A person or entity that submits a response to a solicitation. For purposes of this document, “applicant” is intended to include such phrases as “offeror”, “applicant”, “bidder”, “responder”, or other similar terminology employed by HHSC to describe the person or entity that responds to a solicitation.

Contingency Contract – Also called a "contract" in this OE, a written document referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties.

Contract Term – The period during which the contract will be effective from begin date to end, or renewal date.

Cost Reimbursement – A payment mechanism in which funds are provided to carry out approved contract activities. Reimbursement is based on actual allowable costs incurred that comply with contractual requirements.

Debarment – An exclusion from contracting or subcontracting with state agencies based on cause set forth in Title 34, Texas Administrative Code, §20.581 et seq.

Deliverables – Goods or services contracted for delivery or performance.



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Due Date – Established deadline for submission of a document or deliverable.

Effective Date – The date the contract term begins.

Fee-for-Service – Payment mechanism for services that are reimbursed on an agreed rate per unit of service.

Fully Executed – A contract that is signed by all the parties to form a legal binding contractual relationship. Activities under the contract will not begin and payments to the contractor will not be made until the contract is fully executed.

Procurement and Contracting Services – The division within the Health and Human Services Commission (HHSC) that provides direction and support of purchasing, contracting and HUB services. PCS oversees, coordinates, and assists the Mental Health & Substance Abuse Division with procurement needs, issues open enrollments and competitive procurements. PCS maintains the official contract file from procurement to contract closeout.

Program – Depending upon the context, either a coordinated group of activities carried out by HHSC, as authorized by state or federal law, for a specific purpose (“program”) or HHSC staff located in a program, region, or hospital that identify and request procurement needs (“Program”). The Program partners with PCS on procurements.

Scope or Statement of Work (SOW) – A description of the services and/or goods to be delivered by the HHSC contractor specifying the type, level and quality of service, that directly relate to program objectives within this solicitation.

Section 504 -- Section 504 of the Rehabilitation act of 1973

Solicitation – The process of notifying prospective contractors of an opportunity to provide goods or services to the state (e.g., this OE).

Special Provisions – Modifications or additions to the General Provisions for a funded program activity, which are usually customized for the Program’s requirements and contain provisions specific to the Program Attachment.

Subcontractor – A written agreement between the HHSC contractor and a third party to provide all or a specified part of the services, goods, work, and materials required in the original contract. The contractor remains entirely responsible to HHSC for performance of all requirements of the contract with HHSC. The contractor must closely monitor the subcontractor’s performance. Subcontracting can be done only when expressly allowed in the program attachment.

Taxpayer Identification Number (TIN) – Eleven-digit identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. It is issued either by the Social Security Administration (SSA) or by the IRS.

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Vendor Identification Number (Vendor ID No. or VIN) – Fourteen-digit number needed for any entity to contract with the State of Texas and which must be set up with the State Comptroller’s Office. It consists of a ten-digit identification number (IRS number, state agency number, or social security number) + check digit + three-digit mail code. The VIN includes all the numbers in the TINs (defined above), including a three-digit mail code for a total of 14 digits.

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ATTACHMENT D

***Residential Treatment Center for Private Purchaser Beds***

Open Enrollment Number: ***HHS0006821***

**II. PROCUREMENT TERM**

Grant contracts will be awarded only for the purposes specifically defined in this OE, and applications will be reviewed in the order in which they are received. Grant contracts awarded under this OE will begin on the effective date defined in the contract and will terminate August 31, 2024. HHSC, at its own discretion, may renew contracts up to one additional five-year term.

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## ATTACHMENT D

**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821****III. ELIGIBLE APPLICANTS**

Respondents must be established as a legal entity and have the authority to do business in Texas. In addition, Respondents must meet and comply with the criteria listed below at the time the application is submitted and continue to meet the eligibility conditions throughout the procurement term.

1. The address at which the RTC operated must be within the State of Texas.
2. The RTC must be licensed by DFPS as a General Residential Operations (GRO) RTC, and be in good standing with DFPS based on GRO inspection results documented on the following DFPS GRO website:  
[http://www.dfps.state.tx.us/Child\\_Care/Search\\_Texas\\_Child\\_Care/ppFacilitySearchInvoluntarilySuspendedRevoked.asp](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchInvoluntarilySuspendedRevoked.asp).
3. HHSC will perform a check for debarment/suspension through the Federal System for Award Management (SAM) and the Comptroller of Public Accounts (CPA). In compliance with CPA's rules, HHSC's verification of eligibility will also conduct a name search of applicants during the contract award phase using the websites listed in this section. A Respondent will be considered ineligible to contract with HHSC, regardless of the funding source, if a name match is found on any of the following lists:
  - a. CPA's list of Vendors Debarred from doing business with the State of Texas;
  - b. CPA Franchise Tax Check (for status of good standing);
  - c. CPA's Divestment Statute Lists
    - i. list of companies that boycott Israel;
    - ii. list of Scrutinized Companies with Ties to Sudan;
    - iii. list of Scrutinized Companies with Ties to Iran;
    - iv. list of Designated Foreign Terrorist Organization, and
    - v. list of Scrutinized Companies with Ties to Foreign Terrorist Organizations.
  - d. The System of Award Management (SAM) for parties excluded from receiving federal contracts, certain subcontracts and from certain types of federal financial and non-financial assistance and benefits at <https://www.sam.gov/SAM/>; and
  - e. The Office of the Inspector General (OIG) List of Excluded Individuals/Entities.

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**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821****IV. PROGRAM INFORMATION****A. Scope of Work**

1. HHSC/DFPS will refer children or youth for RTC services based on the following variables:
  - a. geographic proximity to the family's county of residence;
  - b. age and gender of the child or youth;
  - c. family choice of provider;
  - d. clinical needs of the child or youth;
  - e. Grantee's available treatment protocols;
  - f. Grantee's availability of a bed; and
  - g. Grantee's willingness to admit the child or youth based on face-to-face interviews with the child or youth and family and/or a thorough review of all assessment and treatment documents submitted as part of a standard referral packet.
2. HHSC will provide Grantee with the following information to make an admission determination:
  - a. DFPS Referral Form 2037;
  - b. A completed common application for RTC placement;
  - c. A psychological assessment completed within the past year;
  - d. Any additional requested behavioral health treatment history not included in the common application for RTC placement;
  - e. A copy of the most recent Child and Adolescent Needs and Strengths (CANS) assessment completed by the LMHA; and
  - f. A Relinquishment of Avoidance Understanding form indicating parent's/guardian's/Legally Authorized Representative (LAR)'s commitment to reunification and engagement throughout treatment.
3. Grantee's admitting psychiatrist and office of admissions shall make the final determination of the Child/Youth's eligibility for admission to the RTC.
4. Grantee shall admit the Child/Youth for treatment if the admitting psychiatrist recommends the Child/Youth is an appropriate clinical match with the RTC.
  - a. Grantee shall review the referral packet and make the determination of service eligibility. Grantee must be able to meet the acute clinical needs of the referred Child/Youth. Grantee shall notify HHSC of said eligibility determination within 2 business days.
  - b. Upon determination of appropriateness for admission, Grantee shall notify HHSC and an admission date will be established. An authorization form for admission will be signed by the Children's Mental Health Manager for bed payment and forwarded to Grantee.
  - c. Throughout the Child's/Youth's treatment, the Grantee shall work with HHSC and the respective Local Mental Health Authority (LMHA) to ensure continuity of care, discharge planning and follow-up treatment services are available to the Child/Youth upon discharge from the RTC. The Grantee's Case Manager and the LMHA's Case Manager shall have at least weekly communication regarding progress toward discharge and reunification of the Child/Youth and parent/guardian/LAR.
  - d. Should the Grantee determine at any point throughout treatment that the referred Child/Youth is not appropriate for the RTC, Grantee shall notify HHSC and the

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LMHA by phone or email and provide written documentation to the RTC Coordinator no later than the following business day. An emergency staffing shall occur by phone or in person to include the LAR, Clinical Staff of the RTC, Case managers, and other relevant participants to ensure appropriate notification and after-care planning. Refer to Section *Transition and Discharge Planning* of this document regarding procedures for planned/unplanned discharge.

- e. Grantee shall send follow-up notification to HHSC and the LMHA describing the issues preventing the Child/Youth from continuing in treatment at the RTC.
5. Grantee shall provide comprehensive residential treatment services to the Child/Youth admitted to the RTC for treatment. Required elements of comprehensive residential treatment services include but are not limited to:
    - a. Assessment and evaluation:
      - i. Grantee shall assess and plan treatment for the Child/Youth using professional, trained, skilled, and competent staff. Such assessment and treatment planning shall take into consideration:
        - 1) The child's/youth's and parent's/guardian's/LAR's values;
        - 2) Religious affiliations;
        - 3) Motivation;
        - 4) Disabilities (physical and cognitive);
        - 5) Developmental level;
        - 6) Literacy;
        - 7) Language;
        - 8) Culture;
        - 9) Age;
        - 10) Medical conditions;
        - 11) Substance use history;
        - 12) Trauma history;
        - 13) Child's/youth's/family's strengths; and
        - 14) Transition plans with family's reunification goals.
      - ii. Grantee shall assess the Child/Youth for treatment needs through a Recovery Team. The Recovery Team shall include:
        - 1) Clinical Director;
        - 2) Program Director;
        - 3) Administrator;
        - 4) Therapist;
        - 5) Case Manager;
        - 6) Parent/Guardian/LAR;
        - 7) Child/Youth; and
        - 8) House Manager.
      - iii. The Recovery Team may also include:
        - 1) Natural Supports;
        - 2) Community Supports; and
        - 3) Other Medical Professional(s), if warranted.
      - iv. Grantee's supervising psychiatrist shall provide the Child/Youth with an initial psychiatric evaluation upon admission. This must describe the reason for admission and must support the admission diagnosis given based on the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

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- v. The Recovery Team and the psychiatrist, shall identify the Child's/Youth's current health status to determine if referral to other providers (i.e., consultant medical staff, psychologist, speech/hearing therapist, physical therapy, etc.) for additional assessment is indicated during treatment. The Child/Youth admitted to the RTC must be medically stable and not require 24 hour medical/nursing care.
  - vi. Grantee shall provide the Child/Youth with immediate access to medical care throughout the course of treatment.
  - vii. Grantee shall provide psychotropic medications to the Child/Youth as prescribed.
  - viii. The Child's/Youth's educational level and needs shall be assessed to determine grade level and appropriate methods of instruction. Grantee shall provide appropriate grade level educational services based on the results of the educational assessment. The Child's/Youth's primary teacher shall complete a current Individual Education Plan (IEP) that conforms to local school district IEP requirements. Grantee shall place the IEP in the chart and review it quarterly to ensure the IEP remains current.
  - ix. Grantee shall assess the need for, and provide social, recreational, and habilitation services throughout treatment. These services should be provided during after school/evening and weekend hours, and when education classes are not in session. Grantee shall provide both on and off-campus socialization events to promote integration into the community. Grantee shall determine the Child's/Youth's eligibility to participate in various programs based on their level of treatment progress and approval by the attending Recovery Team.
  - x. Grantee shall administer a nutritional assessment to the Child/Youth and, based on the assessment results, Grantee shall provide the Child/Youth with well-balanced, nutritious meals. Food allergies must be considered.
6. Clinical Treatment Services:
- a. Grantee shall provide individualized and strength-based, child/youth guided, and family driven clinical treatment services to the Child/Youth. These services shall be provided with cultural and linguistic competency. Clinical treatment services shall ensure that a trauma-informed approach is used when assessing a child/youth for treatment. Services shall link residential treatment services with community services. Services shall be research-based, and evidence and practice-informed. Grantee's attending psychiatrist, (on-staff psychiatrist or consulting psychiatrist) shall provide direct treatment of the Child/Youth as well as the following services:
    - i. Supervise Recovery Team staff in the development and implementation of the Individual Treatment Plan (ITP) for the Child/Youth. The ITP will be conducted according to the following clinical schedule:
      - 1) The initial ITP shall be conducted at the 14<sup>th</sup> day after admission;
      - 2) The ITP update shall be conducted at the 3<sup>rd</sup> month post-admission;
      - 3) The Transition Plan and Discharge Summary and/or ITP update shall be conducted at the 6<sup>th</sup> month post admission. A Transition Plan must be developed and included at this stage to measure preparedness of the family for the child/youth to return to the community and ensure community resources are in place;
      - 4) The Transition Plan and Discharge Summary and/or ITP update shall be conducted at the 9<sup>th</sup> month post admission; and

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- 5) Where applicable, the Transition Plan, Discharge Summary, and ITP update shall be conducted at the final month services are provided.
  - ii. Evaluate for and, when indicated, prescribe the appropriate psychotropic medication and monitoring for response and adverse reaction(s) with indicated adjustment of medications. Provide psychiatric consults monthly at a minimum.
  - iii. Order and follow-up on indicated laboratory tests for medication(s) prescribed.
  - iv. Maintain contact with parent/guardian/LAR and community treatment and support staff and obtain consent for prescribing medication from the parent/guardian/LAR.
  - v. At time of discharge, complete or review and approve the transition and discharge summary to provide meaningful treatment information for continuity of care purposes.
- b. The Recovery Team Coordinator shall perform the following services:
- i. Under the direction of the Director of Treatment Services, provide therapeutic services to the Child/Youth and serve as a member of the Recovery Team
  - ii. Consult with the Recovery Team and facility staff regarding daily programs, individual and group dynamics of residential living, treatment of high risk behaviors, special interventions and training on various aspects of the behavioral health treatment of the Child/Youth.
  - iii. Develop the ITP in conjunction with the Recovery Team, and under direction of the psychiatrist. The ITP shall include, but is not limited to:
    - 1) Brief description of the Child/Youth;
    - 2) Summary of child/youth and family strengths;
    - 3) Summary of psychosocial history;
    - 4) Health and developmental history;
    - 5) Treatment history to-date;
    - 6) Presenting problems and needs;
    - 7) Diagnostic formulation (data substantiating the diagnosis);
    - 8) Diagnosis based on the current DSM;
    - 9) Case formulation (the clinician's hypotheses about underlying dynamics/issues that drive and maintain problematic behaviors, emotions and/or cognitions);
    - 10) Criteria for completing treatment; and
    - 11) Objectives and measurable treatment goals that focus on skill building, family involvement, and community integration.
  - iv. Conduct Recovery Team conference calls at least once a month that involve HHSC, the LMHA, and the LAR. During this time, the RTC shall provide updates on measurable treatment goals and objectives, and communication regarding treatment of the Child/Youth.
- c. Grantee shall provide the following required elements of comprehensive treatment services:
- i. Psychopharmacological Therapy (if indicated based on psychiatric evaluation): The treatment of psychiatric illness with psychotropic medication on an ongoing basis.
  - ii. Psychotherapy and counseling: Individual, family, and group therapy focused on the reduction or elimination of a Child's/Youth's symptoms of serious



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emotional disturbance and increasing the individual's ability to perform activities of daily living must be provided.

- 1) Grantee shall engage the Child/Youth and the parent/guardian/LAR in family therapy no later than six weeks after the Child/Youth has been admitted to the RTC. This process shall be coordinated by the RTC Case Manager.
  - 2) Grantee shall provide the following sessions for the Child/Youth:
    - a) Individual;
    - b) Family; and
    - c) Group (Optional).
  - 3) All sessions should be enacted on a weekly basis by the 6<sup>th</sup> week after the Child/Youth has been admitted to the RTC.
  - 4) Grantee shall give preference to treatment interventions considered evidence-based practices.
  - 5) Grantee shall provide all counseling services to the Child/Youth by a Licensed Professional of the Healing Arts (LPHA) practicing within the scope of their own license or by an individual with a master's degree in a human services field pursuing licensure under the direct supervision of an LPHA, if not billed to Medicaid.
- iii. Behavior Management: The Grantee shall provide a Child/Youth-centered, evidence-based, and Trauma-Informed Care treatment approach. Behavior management treatment approaches shall be provided with a focus on reinforcement and prevention methods while using the least restrictive procedures likely to be effective. The grantee shall use evidence-based practices to prevent, reduce or eliminate the use of punishment procedures, seclusion, and restraint.
- iv. Recreation: Therapeutic Recreation is a planned process which utilizes techniques to assess, prescribe, treat, and evaluate the success of treatment for the Child/Youth who experiences significant barriers to leisure fulfillment. These barriers include the lack of physiological, psychological, and/or social skills. Recreational and other leisure-time activity services provide for the development, maintenance, and expression of an appropriate leisure/social lifestyle for Child's/Youth's with mental, physical, emotional, or social limitations.
- v. Habilitation: This includes training in competencies and skills that Children/Youth will need in the specific environments where they will reside when they leave the facility. Vocational evaluation and prevocational training shall be made available to Children/Youth for whom those services are clinically indicated.
- vi. Educational Requirements: Children/Youth who are determined to meet eligibility criteria to receive Section 504 or special education services shall receive those services at the RTC or in partnership with the local independent school district in accordance with federal and state rules and regulations. The education team shall complete an IEP or Section 504 plan for each Child/Youth under their direction. This does not preclude a Child/Youth from being enrolled in regular education classes if that setting meets the identified education needs

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of the Child/Youth and the Child/Youth has the social skills to adequately learn in that setting. The school calendar may be based on the year-round attendance model.

- vii. **Family/Youth Engagement and Inclusion:** The Grantee shall extend efforts to provide clinical strategies for engaging families to ensure treatment is Child/Youth guided; Family-driven; and Culturally Competent. Evidence-based practices should be used to meet the needs of the youth and family that is strength based and includes the child/youth, parent/guardian, natural supports, community supports, and clinical/therapeutic staff. The child/youth should be permitted to have access to parents/guardians via phone calls upon admission and throughout the duration of their participation in services at the RTC, notwithstanding punishment or denial of access due to reasons of adjustment from initial separation from the parent/guardian. Parents shall engage in Family Therapy on a weekly basis after enacted by the RTC upon the 6<sup>th</sup> week after the Child/Youth has been admitted. In cases where transportation is a barrier for the parent(s)/guardian(s) to attend family therapy in person, the Grantee shall provide alternative ways to include them. Parents shall be active participants in the recovery process and reunification goals/strategies shall be assessed at each ITP meeting. (Please refer to section I,C.,2. *Clinical Treatment Services*, a.,1) of this document for schedule of ITP Meetings)
- viii. **Transition and Discharge Planning:** Planning for discharge starts at the time of the initial assessments by the Recovery Team and shall be coordinated with HHSC and respective LMHA. Discharge planning should be youth and family driven, as families decide which services and supports they will need from the residential program and from the community for the youth to return home. Transition of the child/youth shall be assessed at each ITP update to determine child/youth's readiness to return home and to the community. Prior to discharge, a "Continuity of Care" conference shall be held with participation by the Child's/Youth's Recovery Team, RTC Coordinator, referring LMHA, and any other relevant designated parties. The attending psychiatrist (or other psychiatrist providing coverage) must write the discharge order. Grantee shall document this process and provide the discharge summary assessment to the parent/guardian/LAR at discharge. An additional written copy of the discharge summary shall be provided to HHSC within two business days. If there are unforeseen circumstances that prompt an immediate discharge, the Grantee shall communicate with the parent/guardian/LAR, HHSC and all parties involved in the Child's/Youth's treatment. If there are geographical constraints involving an unplanned discharge, the Grantee and the parent/guardian/LAR shall come to an agreement regarding transportation at the time of discharge. Grantee shall maintain physical custody of the Child/Youth until such point that a safe transfer is scheduled. After date of discharge, HHSC will no longer be responsible for payment of bed through the RTC Project.
- ix. **Chaplaincy Services:** Chaplaincy services include but are not limited to:
- 1) Regularly scheduled worship based on the Child's/Youth's religious affiliation;
  - 2) Pastoral care if requested by the Child/Youth; and
  - 3) Special religious activities for the Child's/Youth's religious development and spiritual formation which include but are not limited to:

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- a) Bible studies;
  - b) Religious movies;
  - c) Community gospel music events;
  - d) Youth participation in chapel music; and
  - e) Other religious activities as needed and requested.
7. Grantee's Documentation Requirements
- a. Treatment records shall be filed in the Child's/Youth's on-site chart (hard copy or electronic) including:
    - i. Copies of all referral documents;
    - ii. Copies of all assessments, evaluations, and treatment summaries performed by the Grantee;
    - iii. A copy of the Child's/Youth's ITP, including documentation of treatment plan reviews and Recovery Team staffing related to the Child/Youth;
    - iv. Copies of progress notes for all treatment modalities (individual therapy, group therapy, family therapy, recreational therapy, psychiatric consultation, case management activity, etc.);
    - v. A copy of the transition and discharge plan;
    - vi. A copy of the Child's/Youth's IEP or Section 504 plan;
    - vii. Medical progress notes; and
    - viii. A copy of the reunification agreement signed by the parent/guardian/LAR.
  - b. The Child's/Youth's charts and all records relating to the care of the Child/Youth shall be made available to HHSC and the referring LMHA upon request.
  - c. While the Child/Youth is receiving services from Grantee and post-discharge, Grantee shall provide copies of Child's/Youth's medical records to the Child's/Youth's parent/guardian/LAR upon request. Grantee shall provide medical records directly to the Child's/Youth's parent/guardian/LAR.
8. Additional Grantee Requirements
- a. Grantee shall deliver all services by appropriately licensed/certified/trained staff. Personnel records must reflect current licenses/certifications/training records for all staff.
  - b. Grantee shall comply with Health Information Portability and Accountability Act (HIPAA) requirements and all other applicable laws at all times.
  - c. Grantee shall supply the Child/Youth and parent/guardian/LAR with a list of residents' rights and responsibilities as well as a formal complaint process while a resident of the RTC.
  - d. Grantee shall provide families with a clear system for communicating with the Child/Youth. In accordance with this section, nothing herein shall be construed as prohibiting or penalizing communication between Grantee and the Child/Youth and parent/guardian/LAR regarding available treatments options, including Medically Necessary or appropriate care for the Child/Youth. The Grantee shall facilitate access to the Child/Youth so long as it is not interfering with the course of treatment.
  - e. Grantee shall ensure physical safety of all RTC residents at all times.
  - f. Grantee shall maintain an inventory of the Child's/Youth's clothing and personal items that are of substantial medical, monetary, or sentimental value by:
    - i. Completing an inventory of clothing and personal items at admission; and
    - ii. Updating the inventory of clothing and personal items at least quarterly and at time of discharge.
  - g. Regarding room, board and furnishings, Grantee shall:

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- i. Provide the Child/Youth with a bed, sheets, towels, blankets, bedspreads, pillows, mattresses, and other furnishings necessary to meet the Child's/Youth's needs. Grantee shall ensure that items are kept clean and in good repair.
  - ii. Ensure the Child/Youth has personal storage space for their clothing and personal items.
  - iii. Ensure the Child/Youth wears clothing that is clean, in good repair, and appropriate to the weather and/or activity in which the Child/Youth is participating.
  - iv. Provide behavioral, gender and age appropriate living arrangements for the Child/Youth.
- h. Grantee shall conduct and document in personnel files DFPS background checks, found at: [https://www.dfps.state.tx.us/Background\\_Checks/default.asp](https://www.dfps.state.tx.us/Background_Checks/default.asp), on the Grantee's employees, subcontractors, volunteers, and all individuals who have direct contact with the Child/Youth or direct access to their records.
  - i. Grantee shall maintain at all times a written disaster and emergency response plan, policies and procedures to address internal and external emergencies. Disasters may include but are not limited to acts of nature (such as floods, hurricanes, fires or tornadoes), chemical or hazardous material spills, critical equipment failure, weapons of mass destruction events, and acts of terrorism. In the event of an emergency requiring evacuation or quarantine, the Grantee is responsible for maintaining the safety and placement of the Child/Youth resident in its care. All staff and subcontractor of the Grantee must be aware of the disaster plan requirements and be prepared to fulfill their role in executing the plan.
  - j. Grantee shall at all times, permit access to all Children/Youth placed by HHSC, to the respective LMHA Continuity of Care Officer and parent/guardian/LAR.
  - k. Grantee shall communicate disaster plans to HHSC and parent/guardian/LAR in the case of a disaster response initiative.
  - l. Grantee shall ensure the family remains connected to the LMHA throughout the duration of residential services. If LAR chooses not to participate in LMHA services, RTC services may be at risk.
  - m. It is recommended that the Grantee should engage in ongoing training and technical assistance as recommended or provided by HHSC or seek training opportunities independently.
  - n. Grantee shall report number of available beds to HHSC's RTC subject matter expert on a bi-weekly basis via email. If Grantee is aware of vacancies prior to the standard two-week notification, such information should be provided immediately.
9. Additional Grantee Services
    - a. Grantee shall refer the Child/Youth to other resources when the Child/Youth has special needs the facility cannot provide for or when another resource may be more appropriate to provide for those needs. These resources, where applicable, will abide by the Joint Commission (formerly the Joint Commission on Accreditation of Healthcare Organizations) standards concerning confidentiality of client information. Referrals may include but are not limited to:
      - i. Computerized Tomography (CT) Scans, magnetic resonance imaging (MRIs), and other radiographic assessments;
      - ii. Clinical examinations, assessments, and consultations that are not within the professional domain of the RTC staff;
      - iii. All procedures (elective and non-elective);

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- iv. Dental care; and
    - v. The prescription and preparation of appropriate hearing aids, eyeglasses, and other prosthetic devices.
  - b. Grantee shall make referrals for medical/dental services only to appropriately licensed facilities or clinicians that have been approved by the RTC Director of Medical Services.
  - c. Grantee shall provide emergency first aid at the RTC. More definitive and comprehensive emergency services shall be provided by licensed emergency transports and a Joint Commission accredited hospital/facility.
10. Appeals of Clinical Necessity:
  - a. Appeals: In the event that HHSC notifies Grantee that (i) proposed treatment or services for a referred Child/Youth will not be Certified; or (ii) treatment or services for a referred Child/Youth which had previously been Certified will no longer be Certified, Grantee shall not be entitled to an appeal of such non-Certification.
  - b. Section Survival: The terms of this Article shall survive the termination of this Agreement and shall supersede any oral or written agreement entered into by any Child/Youth or other person acting on the Child's/Youth's behalf that is contrary to this Article.
11. Records and Information:
  - a. Maintaining Records: Grantee shall retain all records and information related to services provided pursuant to this Agreement for seven years from the date of service, except records relating to matters in litigation must be retained for seven years or five years following the termination or resolution of such litigation, whichever is longer. Grantee's obligations to retain records and provide information hereunder shall survive the termination of this Agreement. The records maintained by Grantee with respect to the Child/Youth shall be and remain the property of Grantee.
  - b. Access to Records: HHSC shall have access during all hours of program operation to the clinical information, books, records and papers of Grantee regardless of the media in which they are maintained relating to: (i) treatment or services provided to any referred Child/Youth, (ii) payments received from referred Child/Youth Members or from others on their behalf (hereinafter collectively referred to as "Documentation"). Upon five (5) days prior notice and without any cost to HHSC, Grantee shall allow HHSC to conduct an on-site audit of such Documentation. At Grantee's discretion, Grantee may send HHSC copies of the Documentation with the letter of request, so that HHSC may conduct such audit in HHSC's office.
  - c. Transferred Records: Upon request of HHSC, Grantee shall, at its own expense, promptly provide HHSC with electronic or paper copies of all clinical records and information in specific to a referred Child/Youth in accordance with such request.
  - d. Record Confidentiality: The obligations set forth in this Article shall be subject to applicable law pertaining to the confidentiality of medical, mental health or substance abuse records and shall survive the termination of this Agreement. Grantee will be responsible for obtaining any necessary referred Child/Youth consent to release such records to HHSC.
  - e. Incident Reports: Grantee shall complete incident report forms and submit them to the RTC Coordinator within 24 hours of the incident or upon knowledge of when the incident occurred. A system of incident reporting will be made available through HHSC.

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## 12. Extension of Services:

Grantee shall assess the Child/Youth's progress in treatment at the 7<sup>th</sup> month. If the Child/Youth does not meet the expected progress in treatment, Grantee shall submit to HHSC, a written request to extend the length of stay for the Child/Youth. Based on review of progress in treatment by HHSC, the length of stay may be extended if clinically indicated.

**B. Performance Measures**

1. Grantee shall provide HHSC with 24-hour phone and email contact information.
2. Grantee shall provide focused, intensive treatment services as outlined in the Scope of Work with an expected length of stay of six to nine months.
3. Grantee shall submit to HHSC by the 7th month, and where applicable, a written request to extend the length of stay for the Child/Youth based on progress in treatment. Grantee shall include updated progress note(s) to support the request. This extension shall be approved by HHSC.
4. Grantee shall, at the time of discharge, document in the goal reviews contained in the discharge summary the percentage of goals and objectives on which the Child/Youth made improvement and shall describe the course of treatment. , In the description of the course of treatment, documentation of the specific treatment plan adjustments made each time the individual's behavior or psychological condition deteriorated or plateaued, as well as, the individual's response to the changes, should be included.
5. Grantee shall inform HHSC no later than the following business day should the Child/Youth experience a change in status which includes but is not limited to hospitalization or juvenile detention placement.
6. Contractor shall submit all ITPs within 5 days of completing an ITP.
7. Contractor shall submit all progress notes and supporting clinical documentation on a bi-weekly basis.
8. Contractor shall submit all monthly Recovery Team meeting notes by the 30th of each month.
9. Grantee shall timely submit all reports, documentation, and other information required by this Contract electronically to mhcontracts@hhsc.state.tx.us, with a copy to the assigned Contract Manager and HHSC RTC Subject Matter Expert. Alternative submission arrangements must be approved by the assigned Contract Manager.

**C. Invoice and Payment**

1. HHSC will pay contracted providers the intense residential treatment facility rate established by the DFPS and published on the DFPS 24-Hour Residential Child Care Reimbursement Rates webpage located at the link below. Contracted providers must bill Medicaid or other third-party payors for all clinical services provided with the Residential Treatment Center (e.g., psychiatric, psychological, psychotherapy and psychotropic medication services, etc.).

[https://www.dfps.state.tx.us/Doing\\_Business/Purchased\\_Client\\_Services/Residential Child\\_Care\\_Contracts/Rates/default.asp](https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/Rates/default.asp)

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2. Grantee will request payment monthly on or before the 15<sup>th</sup> of the following month, using the State of Texas Purchase Voucher Form 4116, which is incorporated by reference and can be downloaded at: <https://hhs.texas.gov/laws-regulations/forms/4000-4999/form-4116-state-texas-purchase-voucher> and which is incorporated by reference. At a minimum, Form 4116 shall include:
  - a. Name, address, and telephone number of Grantee;
  - b. System Agency Contract Number and/or Purchase Order Number;
  - c. The System Agency assigned identifying number of each Child/Youth receiving services;
  - d. The total number of days and associated amount invoiced; and
  - e. Any additional supporting documentation required by this Contract, or as requested by System Agency.
3. Grantee shall electronically submit monthly invoices with any required or requested supporting documentation to the Claims Processing Unit at [hhsc\\_ap@hhsc.state.tx.us](mailto:hhsc_ap@hhsc.state.tx.us) with a copy to [mhcontracts@hhsc.state.tx.us](mailto:mhcontracts@hhsc.state.tx.us), the assigned Contract Manager and the Program Liaison. Alternative submission arrangements must be approved by the assigned HHSC Contract Manager.

**D. Legal Authority**

HHSC has statutory authority to contract for services described in this OE pursuant to Health and Safety Code Section § 12.051 as transferred under Texas Government Code § 531.005(k).

**E. Civil Rights Requirements**

Contractors shall conduct their activities in accordance with federal and state laws prohibiting discrimination. Guidance for adhering to non-discrimination requirements can be found on the Health and Human Services Commission (HHSC) Civil Rights Office website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/your-civil-rights>

Upon request, a contractor must provide the HHSC Civil Rights Office with copies of all the contractor's civil rights policies and procedures. Contractors must notify HHSC's Civil Rights Office of any civil rights complaints received relating to performance under the contract no more than 10 calendar days after receipt of the complaint. Notice must be directed to:

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

A contractor must ensure its policies do not have the effect of excluding or limiting the participation of persons in the contractor's programs, benefits or activities on the basis of national origin, and must take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with

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limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

Contractors must comply with Executive Order 13279, and its implementing regulations at 45 CFR Part 87 or 7 CFR Part 16<sub>2</sub>, which provide that any organization that participates in programs funded by direct financial assistance from the U.S. Dept. of Agriculture or U.S. Dept. of Health and Human Services must not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

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**V. PROCUREMENT AND ADMINISTRATIVE REQUIREMENTS**

**A. OE Point of Contact**

For purposes of **submitting questions** concerning this OE, the only contact is the ***Mental Health Contract Management Unit***. All communications concerning this OE must be submitted by email to:

**MHContracts@hhsc.state.tx.us**  
**Re: Open Enrollment # HHS0006821**

Other employees and representatives of HHSC are not permitted to answer questions or otherwise discuss the contents of this OE with any applicants or potential applicants or their representatives. Failure to observe this restriction may result in disqualification of this or other subsequent enrollment applications. This restriction does not preclude discussions between affected parties to conducting business unrelated to this OE.

Questions will not be answered verbally. Questions must be submitted by email to the address above.

**B. Submission**

The original enrollment application must be submitted to the OE point of contact. HHSC will accept enrollment applications via email only to MHContracts@hhsc.state.tx.us.

Any alternative submission arrangements must be approved in writing by MHContracts@hhsc.state.tx.us.

**C. Screening and Evaluation Process**

Enrollment applications will be screened and evaluated according to the criteria below. All enrollment applications will be retained by HHSC and will not be returned to the applicant. Enrollment applications are evaluated for eligibility and completeness, as well as programmatic readiness. The eligibility criteria requirements include the following:

1. The original enrollment application Form A. Respondent Information and enrollment application bears an original signature of the authorized official of the applicant organization.
2. All required forms are present and are numbered sequentially.
3. Applicant meets the OE outlined in Article III and can provide all services included in Article IV.

In conducting the evaluation process, HHSC at its sole discretion may give applicants an opportunity to submit missing information or correct identified areas of noncompliance within two weeks of written notification by HHSC.

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**Residential Treatment Center for Private Purchaser Beds**

Open Enrollment Number: **HHS0006821**

**D. Rejection of OE Applications**

1. HHSC reserves the right to reject any or all enrollment applications and is not liable for any costs incurred by the applicant in the development or submission of the enrollment application.
2. Any attempt by an employee, officer, or agent of the applicant to influence the outcome of HHSC's review through contact with any Commissioner or staff member of HHSC or other Texas Health and Human Services agency will result in rejection of the enrollment application.
3. Any material misrepresentation in an enrollment application submitted to HHSC will result in rejection of the enrollment application.
4. Enrollment applications may be rejected for failure to meet applicant eligibility criteria or inability to perform required activities.

**E. Right to Amend or Withdraw OE**

HHSC reserves the rights to alter, amend, or modify any provisions of this OE or to withdraw this OE at any time prior to the execution of a contract if it is in the best interest of HHSC and the State of Texas. The decision of HHSC is administratively final. If this OE is amended or withdrawn notice will be posted to the ESBD.

**F. Administrative Requirements**

Applicant is not required to return the HHSC Uniform Terms and Conditions (i.e., Appendix B), or the HHSC Data Use Agreement (i.e., Appendix C) with the application, but by signing the Form A: Respondent Information, Applicant agrees to be bound by these documents. Applicant must complete and return the HHSC Assurances - Non-Construction Programs (i.e., Appendix A) and the Contract Affirmations (i.e., Appendix D) with the application.

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ATTACHMENT D

**Residential Treatment Center for Private Purchaser Beds**

Open Enrollment Number: **HHS0006821**

**VI. APPLICATION INSTRUCTIONS AND CRITERIA FOR ACCEPTANCE**

Applicant must submit all documents required by this OE. An application must be complete to be considered. HHSC expressly reserves the right to review and analyze the documentation submitted and determine the applicant's eligibility. Applications must contain original signatures on all forms requiring signatures, and Applicant must submit one original application. A complete application consists of responses to all required forms. Applicant must place the Respondent Information (FORM A) at the front of the application packet. Beginning with the Form A, Respondent Information, Applicant must number every page of the application consecutively in the lower righthand corner.

The following application documents are required for Respondents who have not contracted with HHSC (formerly the Department of State Health Services) for the provision of RTC services under Open Enrollment # 53700-5-0000142756.

- FORM A: Respondent Information
- FORM B: Contact Person Information Form
- FORM C: Description of RTC
- APPENDIX A: Federal Forms APPENDIX D: Contract Affirmations

The following application documents are required for Respondents who have contracted with HHSC (formerly the Department of State Health Services) for the provision of RTC services under Open Enrollment # 53700-5-0000142756.

- FORM A: Respondent Information
- FORM D: RTC Re-Enrollment
- APPENDIX A: Federal Forms APPENDIX D: Contract Affirmations

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***Residential Treatment Center for Private Purchaser Beds***

Open Enrollment Number: ***HHS0006821***

**VII. BLANK FORMS AND INSTRUCTIONS**

Contractor must abide by the requirements contained in the following exhibits, as applicable:

FORM A: Respondent Information

FORM B: Contact Person Information Form

FORM C: Description of RTC

APPENDIX A: Federal Forms

APPENDIX B: HHSC Uniform Terms and Conditions – Grant

APPENDIX C: HHSC Data Use Agreement

APPENDIX D: Contract Affirmations

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***Residential Treatment Center for Private Purchaser Beds***

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**FORM C: Description of RTC Services**

The RTC must provide all programmatic activities and clinical services required by DFPS General Residential Operations licensure. List all services provided to a child/youth placed in the RTC and who will provide the services.

# ATTACHMENT D

## Residential Treatment Center for Private Purchaser Beds

Open Enrollment Number: **HHS0006821**

### APPENDIX A: HHSC Assurances - Non-Construction Programs

[View Burden Statement](#)

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

#### ASSURANCES - NON-CONSTRUCTION PROGRAMS

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

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

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

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

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.</li> <li>2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.</li> <li>3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.</li> <li>4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.</li> <li>5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).</li> <li>6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation</li> </ol> | <p>Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps, (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.</p> <ol style="list-style-type: none"> <li>7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.</li> <li>8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.</li> </ol> |
|---|---|

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

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

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**Residential Treatment Center for Private Purchaser Beds**

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**CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION [Redacted]	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: [Redacted]	* First Name: [Redacted] Middle Name: [Redacted]
* Last Name: [Redacted]	Suffix: [Redacted]
* Title: [Redacted]	
* SIGNATURE: [Redacted]	* DATE: [Redacted]



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**APPENDIX B: HHSC Uniform Terms and Conditions**

HHSC Uniform Terms and Conditions Version 2.16  
Published and Effective: March 26, 2019  
Responsible Office: Chief Counsel



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

**Health and Human Services Commission**  
**HHSC Uniform Terms and Conditions - Grant**  
**Version 2.16.1**

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**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821****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 or Technical Guidance Letters.

“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, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference for all purposes.

“Deliverable” means the work product(s), including all reports and project documentation, required to be submitted by Grantee to the System Agency.

“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.

“Grantee” means the Party receiving funds under this Contract. May also be referred to as “Contractor” in certain attachments.

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

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

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right 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.

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

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

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

“Program” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

“Project” means specific activities of the Grantee that are supported by funds provided under this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

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

“Solicitation” or “Request for Applications (RFA)” means the document (including all amendments and attachments) issued by the System Agency under which applications for Program funds were requested, which is incorporated by reference for all purposes in its entirety.

“Solicitation Response” or “Application” means Grantee’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 Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“Statement of Work” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

“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.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

“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 Grantee in connection with Grantee’s performance of its duties under the Contract or through use of any funding provided under this Contract.

“Uniform Grant Management Standards” or “UGMS” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas

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**Residential Treatment Center for Private Purchaser Beds**

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Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

**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 METHODS AND RESTRICTIONS**

**2.1 PAYMENT METHODS**

- A. Except as otherwise provided by this Contract, the payment method will be one or more of the following:
  - i. Cost Reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
  - ii. Unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
  - iii. Advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has

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**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821**

implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law, state and federal regulations, and at the sole discretion of the System Agency.

- B. Grantee shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

**2.2 FINAL BILLING SUBMISSION**

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received after the deadline may not be paid.

**2.3 FINANCIAL STATUS REPORTS (FSRs)**

Except as otherwise provided, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to System Agency by the last business day of the month following the end of each quarter for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

**2.4 USE OF FUNDS**

Grantee shall expend funds under this Contract only for approved services and for reasonable and allowable expenses directly related to those services.

**2.5 USE FOR MATCH PROHIBITED**

Grantee shall not use funds provided under this Contract for matching purposes in securing other funding without the written approval of the System Agency.

**2.6 PROGRAM INCOME**

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use Program Income, as provided in UGMS Section III, Subpart C, .25(g)(2), to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Contract.

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**2.7 NONSUPPLANTING**

Grant funds may be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds in place to support current programs and related activities.

**2.8 ALLOWABLE COSTS**

Allowable Costs are restricted to costs that comply with the Texas Uniform Grant Management Standards (UGMS) and applicable state and federal rules and law. The Parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.

**2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable contracts. Grantee will provide the necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and Uniform Grant Management Standards (UGMS).

**ARTICLE III. STATE AND FEDERAL FUNDING**

**3.1 FUNDING**

This Contract is subject to termination or cancellation, without penalty to 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 Grantee'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 Grantee 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**

Grantee 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 RECAPTURE OF FUNDS**

A. At its sole discretion, the System Agency may i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s), or ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice -



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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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

**ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS****4.1 ALLOWABLE COSTS**

- A. System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include, but are not limited to:

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local, and Tribal Governments	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

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For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or Uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
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- B. OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

**4.2 AUDITS AND FINANCIAL STATEMENTS**

A. Audits

- i. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee will be subject to the sanctions and remedies for non-compliance with this Contract.
- ii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.
- iii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS.
- iv. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits.
- v. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

B. Financial Statements

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements.

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**4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS**

**A. Audits**

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically one copy of the single audit or program-specific audit to the System Agency via:

- i. HHS portal at: or,  
<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

**B. Financial Statements**

Due no later than nine months after the Grantee's fiscal year end, Grantees which are not required to submit an audit, shall submit electronically financial statements via:

- i. HHS portal at:  
<https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

**ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS**

**5.1 GENERAL AFFIRMATIONS**

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

**5.2 FEDERAL ASSURANCES**

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Assurances and that Grantee is in compliance with all requirements.

**5.3 FEDERAL CERTIFICATIONS**

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

**ARTICLE VI. INTELLECTUAL PROPERTY**

**6.1 OWNERSHIP OF WORK PRODUCT**

All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency. 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, Grantee 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

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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. Grantee agrees to execute all papers and to perform such other property rights as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee 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.

**6.2 GRANTEE'S PRE-EXISTING WORKS**

To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Contract ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works, and Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, 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. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

**6.3 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS**

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

**6.4 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, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Contract. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Contract without the prior written consent of System Agency.

**6.5 SURVIVAL**

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

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**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821****ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE****7.1 BOOKS AND RECORDS**

Grantee 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. Unless otherwise specified in this Contract, Grantee shall maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the Contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

**7.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS**

In addition to any right of access arising by operation of law, Grantee and any of Grantee'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 Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee 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.

**7.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS**

- A. Grantee 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 Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Contract.

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- 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. Grantee 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.

**7.5 CONFIDENTIALITY**

Grantee 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's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract.

**ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION****8.1 CONTRACT REMEDIES**

To ensure Grantee's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Grantee 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 Grantee to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Grantee found to be in error;
- iv. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
- v. imposing any other remedies, sanctions or penalties authorized under this Contract or permitted by federal or state statute, law, regulation or rule.

**8.2 TERMINATION FOR CONVENIENCE**

The System Agency may terminate the Contract at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination. The System Agency's right to terminate the Contract for convenience is cumulative of all rights and remedies which exist now or in the future.

**8.3 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:

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**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 Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any, or Grantee's addition to the Excluded Parties List System (EPLS) 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 Grantee no longer maintains the financial viability required to complete the services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

**ARTICLE IX. MISCELLANEOUS PROVISIONS**

**9.1 AMENDMENT**

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

**9.2 INSURANCE**

- A. Unless otherwise specified in this Contract, Grantee 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. Grantee 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, Grantee 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, Grantee must produce renewal certificates for each type of coverage.
- B. These and all other insurance requirements under the Contract apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

**9.3 LEGAL OBLIGATIONS**

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

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**9.4 PERMITTING AND LICENSURE**

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

**9.5 INDEMNITY**

- A. GRANTEE 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 GRANTEE 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. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Contract.**

**9.6 ASSIGNMENTS**

- A. Grantee may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Grantee from its obligations under the Contract.
- B. Grantee understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.



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Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Should Grantee subcontract any of the services required in the Contract, Grantee expressly understands and acknowledges that in entering such subcontract(s), System Agency is in no manner liable to any Subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Grantee 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 Grantee and System Agency.

**9.8 TECHNICAL GUIDANCE LETTERS**

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

**9.9 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.
- B. If a contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision will not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

**9.10 GOVERNING LAW AND VENUE**

The 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.

**9.11 SEVERABILITY**

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

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enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

**9.12 SURVIVABILITY**

Expiration or termination of the Contract for any reason does not release Grantee 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.

**9.13 FORCE MAJEURE**

Neither Grantee 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.

**9.14 NO WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee 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.

**9.15 PUBLICITY**

- A. Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.
- B. Grantee may publish, at its sole expense, results of Grantee 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.
- C. 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.

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**9.16 PROHIBITION ON NON-COMPETE RESTRICTIONS**

Grantee 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.

**9.17 NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing in the Contract will 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.

**9.18 ENTIRE CONTRACT AND MODIFICATION**

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

**9.19 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.

**9.20 PROPER 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.

**9.21 E-VERIFY PROGRAM**

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- i. all persons employed to perform duties within Texas during the term of the Contract; and
- ii. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Contract within the United States of America.

**9.22 CIVIL RIGHTS**

- A. Grantee agrees to comply with 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. §§6101-6107);

## ATTACHMENT D

**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821**

- v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - 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 Contract.
- B. Grantee agrees to comply with all amendments to the above-referenced 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 aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal 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. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee 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. Notice provided pursuant to this section must be directed to:

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

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**9.23 SYSTEM AGENCY DATA**

As between the Parties, all data and information acquired, accessed, or made available to Contractor by or through System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder, (the "**System Agency Data**"), is owned solely by System Agency. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.

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**APPENDIX D: Contract Affirmations**

**CONTRACT AFFIRMATIONS**

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

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.
2. Contractor represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.
3. Contractor understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
5. Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.
6. Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation as well as terms and conditions advanced by Contractor that differ in any manner from HHSC's terms and conditions, if any, are rejected unless expressly accepted by HHSC in writing.
7. Contractor agrees that HHSC has the right to use, produce, and distribute copies of and to disclose to HHSC employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.

## ATTACHMENT D

**Residential Treatment Center for Private Purchaser Beds**Open Enrollment Number: **HHS0006821**

8. Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of HHSC.
9. Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.
10. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
11. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
12. Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.
13. Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.
14. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.
15. Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
16. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

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17. Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
18. Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
19. Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.
20. Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
21. Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
22. Contractor agrees that upon request of HHSC, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
23. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to HHSC that the technology provided to HHSC for purchase (if applicable under this Contract or any related Solicitation) is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
  - providing equivalent access for effective use by both visual and non-visual means;
  - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
  - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

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

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



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24. If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
25. If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
26. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
27. Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.
28. If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Contractor certifies that it does not employ an individual who was employed by System Agency or another agency at any time during the two years preceding the submission of any related Solicitation Response related to this Contract or, in the alternative, Contractor has disclosed in any related Solicitation Response the following: (i) the nature of the previous employment with System Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation at the time of the employment was terminated.
29. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
30. Contractor understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.

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31. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and (c) neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.
32. Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.
33. Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:
- (a) all persons employed by Contractor to perform duties within Texas; and
  - (b) all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.
34. If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.

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35. Contractor represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those who will provide services under the Contract, was an employee of an HHS Agency. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the System Agency to perform services under this Contract during the twelve (12) month period immediately following the employee's last date of employment at the System Agency.

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

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

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

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

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

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

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

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- 40. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.
- 41. Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
- 42. Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.
- 43. Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
- 44. Contractor represents and warrants that the individual signing this Contract is authorized to sign on behalf of Contractor and to bind the Contractor.

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**Residential Treatment Center for Private Purchaser Beds**

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

**Legal Name of Contractor:** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Authorized Representative**

\_\_\_\_\_  
**Date Signed**

\_\_\_\_\_  
**Printed Name and Title of Authorized Representative**

\_\_\_\_\_  
**Phone Number**

\_\_\_\_\_  
**Federal Employer Identification Number**

\_\_\_\_\_  
**Fax Number**

\_\_\_\_\_  
**DUNS Number**

\_\_\_\_\_  
**Email Address**

\_\_\_\_\_  
**Physical Street Address**

\_\_\_\_\_  
**City, State, Zip Code**

\_\_\_\_\_  
**Mailing Address, if different**

\_\_\_\_\_  
**City, State, Zip Code**

View Burden Statement

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

## ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

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

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

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

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1081-1883, and 1685-1986), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§200 d(1-3) and 280 e(1-3)), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-645) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

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9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-150) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1993 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 108(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE CEO
APPLICANT ORGANIZATION Regency Schools, Inc.	DATE SUBMITTED 01/26/2020

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**CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.


(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Statement for Loan Guarantees and Loan Insurance**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
Pegases Schools, Inc.	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input type="text"/>	* First Name: Robert Middle Name: <input type="text"/>
* Last Name: Ellis	Suffix: <input type="text"/>
* Title: CEO	
* SIGNATURE: 	* DATE: 01/06/2020



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**APPENDIX D: Contract Affirmations**

**CONTRACT AFFIRMATIONS**

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

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.
2. Contractor represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.
3. Contractor understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
5. Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.
6. Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation as well as terms and conditions advanced by Contractor that differ in any manner from HHSC's terms and conditions, if any, are rejected unless expressly accepted by HHSC in writing.
7. Contractor agrees that HHSC has the right to use, produce, and distribute copies of and to disclose to HHSC employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.

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8. Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of HHSC.
9. Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.
10. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
11. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
12. Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.
13. Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.
14. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.
15. Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
16. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

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17. Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
18. Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
19. Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.
20. Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
21. Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
22. Contractor agrees that upon request of HHSC, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
23. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to HHSC that the technology provided to HHSC for purchase (if applicable under this Contract or any related Solicitation) is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
  - providing equivalent access for effective use by both visual and non-visual means;
  - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
  - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

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

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

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24. If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
25. If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
26. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
27. Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.
28. If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Contractor certifies that it does not employ an individual who was employed by System Agency or another agency at any time during the two years preceding the submission of any related Solicitation Response related to this Contract or, in the alternative, Contractor has disclosed in any related Solicitation Response the following: (i) the nature of the previous employment with System Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation at the time of the employment was terminated.
29. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
30. Contractor understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.

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31. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and (c) neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.
32. Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.
33. Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:
- (a) all persons employed by Contractor to perform duties within Texas; and
  - (b) all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.
34. If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.

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35. Contractor represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those who will provide services under the Contract, was an employee of an HHS Agency. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the System Agency to perform services under this Contract during the twelve (12) month period immediately following the employee's last date of employment at the System Agency.
36. If this Contract is for consulting services,
- (A). In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, HHSC or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
- (1) Name of individual(s) (Respondent or employee(s));
  - (2) Status;
  - (3) The nature of the previous employment with HHSC or the other State of Texas agency;
  - (4) The date the employment was terminated and the reason for the termination; and
  - (5) The annual rate of compensation for the employment at the time of its termination.
- (B). If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by HHSC or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.
37. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Respondent refuses to make that certification, Respondent shall state here any facts that make it exempt from the boycott certification:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
38. Contractor understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act: (i) performs an abortion procedure that is not reimbursable under the state's Medicaid program; (ii) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or (iii) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the

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

39. Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Contractor refuses to make that certification, Contractor shall state here any facts that make it exempt from the certification:
- 
- 
40. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.
41. Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
42. Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.
43. Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
44. Contractor represents and warrants that the individual signing this Contract is authorized to sign on behalf of Contractor and to bind the Contractor.

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

Legal Name of Contractor: Pegasus Schools, Inc.

  
Signature of Authorized Representative

01/06/2020  
Date Signed

Robert Ellis, CEO  
Printed Name and Title of Authorized Representative

512.376-2101  
Phone Number

74-2569814  
Federal Employer Identification Number

512.398-2760  
Fax Number

832179183  
DUNS Number

robert.ellis@pegasusschool.net  
Email Address

8916 Robinhood Rd.  
Physical Street Address

Lockhart, TX 78644  
City, State, Zip Code

Po Box 577  
Mailing Address, if different

Lockhart, TX 78644  
City, State, Zip Code