

**SIGNATURE DOCUMENT FOR
HEALTH AND HUMAN SERVICES COMMISSION CONTRACT NO.
HHS000733300001**

The Health and Human Services Commission (“System Agency”), an administrative agency within the executive branch of the state of Texas, and **IMAGE API, LLC** (“Contractor”), having its principal office at 2002 Old St. Augustine Road, Bldg. D Tallahassee, FL 32301, (each a “Party” and collectively the “Parties”), enter into the following agreement (“Contract”) for Document Processing Services.

LEGAL AUTHORITY

This Contract is entered into pursuant to Texas Government Code Title 4, Subtitle 1, Chapter 531, Sub Chapter A:

Section 531.002 of the Government Code directs System Agency to be responsible for ensuring the delivery of state health and human services in a manner that:

1. Uses an integrated system to determine client eligibility;
2. Maximizes the use of federal, state, and local funds; and
3. Emphasizes coordination, flexibility, and decision-making at the local level.

Section 531.003 (2) of the Government Code describes System Agency’s goals are to provide a system that delivers prompt, comprehensive, effective services to the people of this state by:

- A. Improving access to health and human services at the local level; and
- B. Eliminating architectural, communications, programmatic, and transportation barriers.

Section 531.0055 (b)(2) of the Government Code perform information systems planning and management for the health and human services system under Section [531.0273](#), with:

- A. The provision of information technology services for the health and human services system considered to be a centralized administrative support service either performed by commission personnel or performed under a contract with the commission; and
- B. An emphasis on research and implementation on a demonstration or pilot basis of appropriate and efficient uses of new and existing technology to improve the operation of the health and human services system and delivery of health and human services.

DURATION

The Contract is effective on February 1, 2022 and terminates on January 31, 2025 unless sooner terminated or renewed or extended. System Agency, at its sole discretion, may renew or extend this Contract. However, in no event may the Contract term, including all renewals and extensions, exceed five (5) years. Notwithstanding the limitation in the preceding sentence, System Agency, at its sole discretion, also may extend the Contract beyond five (5) years as necessary to ensure continuity of service, for purposes of

transition, or as otherwise determined by System Agency to serve the best interest of the State.

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

STATEMENT OF WORK

The Statement of Work to which Contractor is bound is incorporated into and made a part of this Contract for all purposes and included as Attachment A.

BUDGET

The total amount of this Contract will not exceed **\$12,714,539.25**. By executing this Contract, Contractor agrees to the contracted rates and budget for the Contract term, including the initial term, and all renewals and extensions exercised. However, at System Agency's sole discretion or by mutual agreement of the Parties as authorized under the Contract, the budget or contract amounts may be amended. All expenditures under the Contract will be in accordance with **ATTACHMENT G, CONTRACTOR'S COST PROPOSAL**.

CONTRACT REPRESENTATIVES

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

System Agency Contract Representative

Jodie Edwards, CTCM
Health and Human Services Commission
909 W 45th Street; Mail Code 2099
Austin, Texas 78751
(512) 206-5536
Jodie.Edwards@hhs.texas.gov

Contractor Contract Representative

Aaron Hall
Image API, LLC
2002 Old St. Augustine Road Bldg D
Tallahassee, FL 32301
Aaron.Hall@imageapi.com

NOTICE REQUIREMENTS

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

Health and Human Services Commission
Attn: Office of Chief Counsel
4601 W Guadalupe St. I Mail Code: 1100
Austin, TX 78751

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

CONTRACT DOCUMENTS

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

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

ATTACHMENT A – STATEMENT OF WORK

ATTACHMENT B – KEY PERFORMANCE REQUIREMENTS

ATTACHMENT C – DELIVERABLES

ATTACHMENT D – HHS CONTRACT AFFIRMATIONS - v.2.0

ATTACHMENT E – HHS UNIFORM TERMS AND CONDITIONS - v.3.2

ATTACHMENT F – DATA USE AGREEMENT (v.8.5 WITH SPI)

ATTACHMENT G – CONTRACTOR'S COST PROPOSAL (INCLUDES ACCOUNTING POLICIES AND DISCLOSURE STATEMENT, REASONABLE AND ALLOCABLE COSTS FOR THE PROPOSED FIDELITY BOND ARE DEEMED ALLOWABLE)

ATTACHMENT H – FEDERAL ASSURANCES

ATTACHMENT I – CERTIFICATION REGARDING LOBBYING

ATTACHMENT J – INSURANCE COVERAGE

ATTACHMENT K – SYSTEM AGENCY SOLICITATION NO. HHS0007333 v.2

ATTACHMENT L – CONTRACTOR'S SOLICITATION RESPONSE (CONTRACTOR'S COST PROPOSAL REMOVED AND INCLUDED IN ATTACHMENT G)

SIGNATURE AUTHORITY

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

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000733300001

SYSTEM AGENCY

DocuSigned by:
Wayne Salter
00A85E643959459...

Wayne Salter

Deputy Executive Commissioner
October 1, 2021

Date of execution: _____

IMAGE API, LLC

DocuSigned by:
Aaron Hall
52D6F53B1A8C494...

Name: Aaron Hall

Chief Financial Officer
October 1, 2021

Date of execution: _____

ATTACHMENT A
STATEMENT OF WORK

1. PROGRAM REQUIREMENTS

- A. Contractor shall obtain program and operational optimization of eligibility determination for Health and Human Services programs. The Contractor shall:
- a. Ensure continuous service in the performance and improvement of document processing functions;
 - b. Ensure all inbound correspondence is properly imaged within timeframes and correctly uploaded to appropriate systems;
 - c. Leverage State investments in facilities, equipment, telephony infrastructure and automation capabilities by providing a solution that uses and improves utilization of resources available to the State; and
 - d. Support System Agency's modernization efforts to continuously improve business processes and take advantage of emerging technologies that promote efficiency and improved service delivery.
- B. Additionally, the Contractor must perform all requirements outlined in this Contract, including but not limited to the numbered items beginning with item number DP 001 below and continuing throughout this Contract. Requirements that call for the Contractor to submit tangible or intangible products to System Agency ("Deliverables") as part of this Contract include the letter "D" at the end of the item number (for example, see item DP 005-D).

2. MANAGEMENT REQUIREMENTS

2.1. Formal Communication Requirements

The Contractor must establish formal communication with System Agency for receipt and response to requests for information, high level estimates of costs, work products, ad hoc reports, deliverables, updates and other required correspondence related to performance of contract requirements. System Agency will issue State Action Requests (SARs) to the Contractor following established procedures and timelines. The Contractor will issue Vendor Action Requests (VARs) to System Agency following established procedures and timelines, inclusive of the submission of the Contract Deliverables and Key Performance Requirements (KPRs), template to be provided to Contractor upon award.

In addition to the requirements stated above, the Contractor must:

- DP 001 Submit complete and accurate responses to any SAR or VAR memos no later than ten calendar days after the Contractor's receipt of the request or by the date specified in the memo.

- DP 002 Submit written request for extension of a SAR or VAR deadline that specifies the estimated date of completion and reasons for the extension no later than three business days prior to the response due date.
- DP 003 The Contractor must provide ad hoc reports and respond to Legislative inquiries and other high priority requests within 36 hours from the time of the request or by the date and/or time specified by System Agency.
- DP 004 If the Contractor is late in responding, or does not provide adequate information, System Agency will assess non-compliance remedies.

System Agency's formal communication process will be utilized for the submission of all KPRs and Deliverable reports. System Agency provides comments and approval of each report provided in support of this agreement.

2.1.1 System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

1. Provide SAR and VAR related communication procedural requirements, template to be provided to Contractor upon award.
2. Define the criteria for data elements to be included in ad hoc reports and the information which will be included in the executed reports or other high priority requests.

At its discretion, System Agency may:

1. Review, approve, or require modification to the Contractor's proposed formal communication process.

2.2. Performance Measures and Associated Remedies

System Agency will monitor the performance of the contract. All services and deliverables under the contract shall be provided at or above a level acceptable by System Agency as defined by the requirements. Failure to comply may, at the discretion of System Agency, result in the assessment of Liquidated Damages.

System Agency has identified the KPRs in this contract. System Agency will review KPRs to ensure the Contractor is achieving the desired outcome. Reviews will be completed upon submission of KPRs on the established reporting date.

KPRs will be used to gauge the Contractor's commitment to successful performance, its willingness to stand behind its products and services during the contract, as well as, its confidence in its ability to perform. However, all areas of responsibility and all requirements in the Contract will be subject to performance

evaluation by System Agency. All responsibilities or requirements not fulfilled may have remedies applied and either actual or liquidated damages assessed, as determined by System Agency.

System Agency will include standard remedies in the contract. Examples of remedies include but are not limited to:

1. Pass-through of a proportional share of Federal disallowances and sanctions/penalties imposed on the State and resulting from the Contractor's performance or non-performance under the contract;
2. Written corrective action plan(s) approved by System Agency that details the specified performance issues, as well as steps and timelines for the Contractor to respond and correct;
3. Additional or ad hoc reporting by the Contractor, at no cost to System Agency, to address performance issues;
4. Accelerated monitoring of the Contractor's performance by System Agency or its designee, including access to the Contractor's facilities, records, data, information systems and personnel;
5. Withholding or set-off of payments to the Contractor;
6. The assessment of liquidated damages in accordance with Texas law;
7. Termination or suspension of the contract; and
8. Equitable remedies as provided by Texas law.

2.3. Contract Retention Requirement

The Contractor must comply with contract retention requirements described in **ATTACHMENT E, HHS UNIFORM TERMS AND CONDITIONS**.

2.4. Contract Monitoring Requirements and Questionnaire

The Contractor must comply with all applicable cost principles, audit and contract monitoring, and administrative requirements in accordance with the Contract, contract management guidelines, and state and federal regulations. To ensure compliance with these requirements, System Agency utilizes a risk-based contract monitoring process. The Contract Monitoring Questionnaire (**CMQ**) is part of the risk-based contract monitoring process and provides System Agency with detailed and ongoing information regarding the Contractor's internal and financial controls and other general contracting processes.

In addition to the requirements stated above, the Contractor must:

- DP 005-D Submit an initial CMQ within 30 calendar days after Contract effective date and annually thereafter within 60 calendar days prior to the end of each State Fiscal Year.

3. OPERATIONAL REQUIREMENTS

The Contractor shall provide Document Processing Services using State provided imaging solution. The Contractor must provide a comprehensive business solution for managing inbound documents received from System Agency offices, applicants and existing Consumers such as, but not limited to, applications for assistance, requests for recertification for assistance, verification documents, reported changes, Enrollment Broker (**EB**) documents, requests for verification forms, or other Consumer correspondence.

The Contractor is expected to utilize System Agency equipment while performing the services to conserve System Agency resources and minimize cost Contractor may propose an alternative imaging solution that would involve the use of other equipment in lieu of System Agency equipment. System Agency may consider such an alternative if (i) it yields the best value, (ii) is in the best interest of the State, and (iii) the Contractor's proposal of an alternative solution fully addresses all System Agency's contractual requirements. Similarly, the Contractor may propose a location other than Austin, Texas within the State of Texas for a primary Document Processing Center (**DPC**) location.

If the Contractor chooses to submit an alternative imaging solution or location, the Contractor is encouraged but is not required to submit a proposal utilizing System Agency equipment. An alternative imaging solution or location may be submitted in addition to or independent of a submission that utilizes the State provided imaging solution. Submissions proposing an alternative solution must address the same pricing, transition, readiness, operation, and turnover requirements as stated in this Contract. Additionally, the Contractor must operate the proposed solution within the State of Texas.¹

The Contractor shall provide a comprehensive inbound document processing services and a detailed processing timeframe; retention and real-time retrieval strategy for documents received; and associated cost implications in compliance with System Agency requirements. The document processing services must include imaging of inbound documents, which is defined as the process of scanning and saving documents as electronic images in the system for online access and viewing, as well as document handling and retention according to System Agency requirements. One existing site to be assumed by the Contractor is the DPC currently operating in Austin, Texas. The disaster recovery site available to be assumed by the Contractor, if necessary, is in Athens, Texas.

As part of the agreement for managing documents, the Contractor must include a process for accepting System Agency paper documentation from System Agency offices and staff in accordance with System Agency-defined procedures. The process must be consistent

¹ **PLEASE NOTE** that wherever in the Contract the Contractor is required to utilize System Agency equipment, the System Agency, in its discretion may nevertheless consider alternative imaging solutions that involve the use of equipment other than the System Agency's equipment.

with System Agency document processing procedures and integrated with System Agency's process for image capture and must include performance standards and reporting mechanisms that are acceptable to System Agency.

In addition to the requirements stated above, the Contractor must:

DP 006 Assist System Agency with implementation of initiatives that help the agency meet State and Federal timeliness requirements for processing Consumer/applicant requests.

DP 007 Receive and process inbound mail including, but not limited to:

1. Operate and maintain existing System Agency managed post office boxes for receipt of mail;
2. Pick up mail in a manner approved by System Agency from the United States Postal Service (USPS) facility in Austin, Texas, or other locations as required;
3. Accept delivery from other delivery services at Austin, Texas, or other locations as approved by System Agency, from all carriers including but not limited to Fed Ex Corporation, United Parcel Service, Lone Star Mailing Services, and DHL International;
4. Open incoming mail and send to imaging within defined time periods;
5. Identify and secure Federal Tax Information (FTI) according to System Agency defined method;
6. Reroute misdirected mail or payments as approved by System Agency;
7. Modify and maintain document processing procedures as defined and approved by System Agency;
8. After scanning is complete, return any original documents to the Consumer;
9. Retain received inbound documents for 30 business days then destroy accordingly;
10. Process and dispose of contaminated mail accordingly;
11. Properly and efficiently handle threatening mail;
12. Comply with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable state and federal privacy, security and breach notification laws when receiving, identifying and processing documents that may constitute an unauthorized disclosure of information and
13. In the event of a disaster, properly handle Disaster SNAP Applications as requested by System Agency.

DP 008 Scan documents front and back into imaging equipment to create an image of all information, including envelopes, which has been received from any form of mail delivery service.

- DP 009 Ensure quality of image is usable by image association and System Agency staff.
- DP 010 Conduct daily quality assurance review of images within defined time periods specified in the key performance requirements.
- DP 011 Maintain quality of service in compliance with System Agency specified service levels including:
1. Imaging/scanning equipment and operational resources,
 2. Image quality,
 3. Agency received date for documents
 4. Scanning of all agreed to documentation received by the DPC, and
 5. Escalation and corrective action/resolution processes as related to imaging (rescan, image research, etc.).
- DP 012 Design, develop, implement and maintain acceptable quality controls for ensuring accuracy of data collected from inbound documents (inclusive of agency's received date being identified, maintained, and utilized).
- DP 013 Establish a process to notify and route to System Agency those documents, not imaged, that are not appropriate for imaging but have been received by mail. These documents in accordance to KPR#6. established by System Agency other than the normal case document processing guidelines. This includes but is not limited to hazardous materials or other items received that cannot be imaged.
- DP 014 Meet all State and Federal record retention, privacy and confidentiality requirements.
- DP 015 Maintain and reconcile established reporting methods to provide end to end count transaction reconciliation to System Agency.
- DP 016-D Submit document processing procedures and business processes updates within 30 business days after contract effective date and anytime thereafter when specified by System Agency.
- DP 017-D Submit Annual Updates to the Document Processing Procedures and Business Processes no less than 30 calendar days prior to the end of each operational year of the contract.

System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

1. Provide the image capture software solution, currently Kofax.

2. Provide image routing software solution with sorting rules based upon the type of document received or another bar coding.
3. Monitor the Contractor's compliance with policy, timeliness and accuracy standards, and require corrective action plans when standards are not met.
4. Provide imaging solution for scanning.

At its discretion, System Agency may:

1. Initiate or review and approve changes, additions, deletions, and other modifications to all of the Contractor functions, business processes or workflows.
2. Review, approve, or require modification to all detailed plans associated with designing and deploying the Contractor's processes.

3.1. Equipment, Accessibility and Operations

The Contractor must leverage the current document processing equipment owned by System Agency.

The Contractor will be expected to provide sufficient and trained staffing levels to maintain and operate the mail and imaging equipment to meet System Agency requirements. This staff will use the System Agency's document processing equipment to manage, maintain and improve mail and imaging operations.

The Contractor agrees that their proposed imaging solution technology meets all of the State of Texas accessibility requirements and that the final contract will include appropriate language including warranties and representations as specified in 1 Texas Administrative Code Chapter 213, Subchapter B(b).

Rule 213.18 of the Administrative Code that the Contractor provide all that apply:

1. Credible evidence of the vendor's capability or ability to produce accessible EIR products and services. Such evidence may include, but is not limited to, a vendor's internal accessibility policy documents, contractual warranties for accessibility testing documents, and examples of prior work results.

The Contractor will utilize the two existing sites of DPC operations in Texas. The current DPC is operating in Austin and Athens, Texas. For the Austin and Athens sites, the Contractor must leverage the current document processing equipment. The Contractor may propose an additional or alternate disaster recovery site in the continental United States.

In addition to the requirements stated above, the Contractor must:

- DP 018 Utilize existing mail opening equipment.
- DP 019 Utilize existing mail sorting equipment.

- DP 020 Utilize existing document imaging/scanning equipment compliant with System Agency requirements and technical specifications.
- DP 021 Utilize existing document processing equipment to support business continuity.

System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

2. Facilitate discussions with applicable resources for the Contractor's proposal to leverage existing System Agency and State infrastructure components.
3. Provide the image capture procedure for storage of images.

At its discretion, System Agency may:

4. Initiate or review and approve changes, additions, deletions, and other modifications to all functions and processes.
5. Review, approve, or require modification to the Contractor's proposed final integration, testing and deployment strategy.

3.2. Training Requirements

System Agency will have oversight (monitor, review and approve) of all training activities. The Contractor must provide a training strategy sufficient to meet or exceed its contractual responsibilities, to comply with Federal, State and System Agency requirements and to support System Agency functions.

The Contractor must allow adequate time for the review and approval process. System Agency reserves the right to require the Contractor to revise any training material.

3.2.1 Training Plan

The Contractor must provide a training plan which describes processes that include training activities for Contractor and System Agency staff and subcontractors. The Contractor must develop procedures for maintaining and updating the training plan and training materials throughout the contract term.

- DP 022-D Submit a Training Plan including but not limited to all of the requirements listed below, no less than 60 calendar days prior to the operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency.

The training plan must include the following requirements:

A. Staffing

1. The Contractor will propose an administrative organizational training structure that meets or exceeds contractual responsibilities.
2. The Contractor must include a description of the different types of instructor-led training and intended instructor to student ratio.
3. The Contractor will identify all levels of training staff knowledge, experience, skills and abilities.
4. The Contractor will provide a plan for monitoring training staff, including but not limited to corrective action planning, to ensure quality products are developed and delivered.
5. The Contractor will explain how staffing plan accommodates potential need for increases/decreases in work volumes and staff turnover.

B. Curriculum Development

1. The Contractor will outline appropriate curricula and training delivery method.
2. The Contractor will include a plan for designing, developing, implementing and maintaining curriculum that supports System Agency functions, fulfills contractual responsibilities, and utilizes appropriate adult learning methodologies.
3. The Contractor will design new hires, existing, and supervisor/management training plans for initial, remedial, and corrective action, refresher/reinforcement, and continuous improvement training.
4. The Contractor will design curricula that captures expected results (measurable and repeatable) for students.
5. The Contractor must describe how curricula will capture expected results (measurable and repeatable) for students and trainers to measure successful completion of training.
6. System Agency reserves the right to observe and participate in training sessions.

DP 023-D Submit all initial curricula, training materials, and tools 30 calendar days prior to initial training delivery dates to System Agency for review and approval. System Agency reserves the right to request training material and tools at its discretion.

C. Training Delivery

1. The Contractor will outline a plan for timely, effective training delivery and knowledge transfer.

2. The Contractor will design student assessments that measure successful achievement of class competencies.

D. Continuous Improvement

1. The Contractor will describe processes that support ongoing employee and business process excellence, growth and development.
2. The Contractor will provide detailed description of internal evaluation processes; including corrective actions and monitoring that ensure successful training.

E. Training Automation Support

1. The Contractor will include strategies for training staff on all equipment required for all levels of staff to effectively perform job tasks.
2. The Contractor must provide a plan for tracking staff training, including but not limited to completion, student assessment scores, and evaluations in a learning management system. System Agency must have full access to learning management data to validate, monitor and review training progress and training outcomes.

F. Facilities/Equipment/Materials

The Contractor will outline a plan that provides the best value in either training being available within a reasonable distance of the facility, or training being centralized.

G. Costing Methodology

The Contractor must include methodologies and all metrics/formulas used to determine initial, additional, and ongoing training costs.

H. Single Point of Contact

The Contractor will provide a single point of contact for all training activities to facilitate communication, help resolve issues and complaints, escalate problems, and share successes.

I. Accessibility and Diversity

The Training Plan must include specific training approaches to address training for persons with disabilities.

In addition to the requirements stated above, the Contractor must:

- | | |
|--------|---|
| DP 024 | Design, develop, implement and maintain a training plan that ensures the Contractor staff effectively performs job tasks that support System Agency functions and is in accordance with contractual responsibilities. |
| DP 025 | Design, develop and maintain curricula, training materials and tools. The Contractor must describe how curricula will |

capture expected results (measurable and repeatable) for student and trainers to measure successful completions of training.

- DP 026 Deliver initial, ongoing, refresher/reinforcement training to all Contractor and designated System Agency staff (on a schedule agreed upon by System Agency) as required to meet or exceed its contractual responsibilities and to support System Agency functions.
- DP 027 Design, develop, implement and maintain a continuous improvement process (internal quality assurance process) that demonstrates The Contractor must commit to quality improvement in training curriculum and delivery.
- DP 028-D Submit a quarterly Training Delivery Completion and Status Report by the tenth (10th) business day of each calendar quarter (i.e. Jan – March due by the 10th business day of April) which includes the following Training Deliverable Reports specified below:
1. A Training Delivery Completion and Status Report which outlines, but is not limited to, classes delivered, number of pass/fail participants by class, class name, delivery dates, trainer name, type of training, remediation plan and follow up plan on subsequent reports; and
 2. A Training Calendar of all classes scheduled including but not limited to class title, class size, course dates, audience, and type of training for the upcoming three months with an explanation for any changes on the prior submissions.
- DP 029 The Contractor must provide fully accessible training facilities in Texas which are sufficiently equipped for initial and ongoing continuous improvement training.
- DP 030 The Contractor will provide and maintain training repository and learning management system and ensure System Agency access.

3.2.2 System Agency Responsibilities

At its discretion, System Agency may:

1. Have oversight of all Contractor training activities.
2. Audit (monitor, observe and evaluate) Contractor delivered training.

3. Review and approve Contractor curricula and training related materials and require additions or deletions.
4. Review training plan and require additions, deletions, or use of System Agency developed curricula.
5. Provide training contacts to facilitate communication and resolve issues.

3.3. Key Personnel and Organizational Requirements

To establish strong accountability controls, the Contractor must provide for System Agency approval ongoing reporting of organizational structure and identification of key personnel, including resumes and references.

The Contractor must identify the key personnel and allocate them 100% to this contract (i.e. not permitted to manage, oversee, or participate in other projects, contracts, etc.). Key Personnel is defined as all executive, director or management level positions assigned to this contract. Resumes and references for key personnel must be provided to System Agency for evaluation and approval as part of the Contract. Additionally, the Contractor must provide for System Agency approval prior notice of any changes in key personnel during the term of the contract and any extension.

The Contractor may not reduce the agreed upon organizational staffing levels without prior written approval by System Agency. The Contractor must not replace any key personnel without System Agency's prior written approval. System Agency reserves the right to approve or reject any staff and replacement staff proposed by the Contractor.

After contract award, the Contractor must propose for System Agency approval all organizational changes that result in a restructure of the organization or redirection of key personnel to perform functions other than the responsibilities of their current positions, either temporarily or permanently.

In addition to the requirements stated above, the Contractor must:

- | | |
|--------|---|
| DP 031 | Maintain a core staff sufficient for successful fulfillment of contract and performance requirements with experience in systems, operations, policy and procedures, and in the functional areas in which they work. |
| DP 032 | Propose key personnel in their response and provide resumes and references for System Agency approval. |
| DP 033 | Allocate key personnel 100% to this contract. |

- DP 034-D Submit notification to System Agency in writing 14 calendar days prior to a key personnel vacancy for any reason or prior to making any changes in key personnel other than changes due to resignation, death, or military recall. Notification must include a plan to recruit Key Personnel.
- DP 035 Remove key personnel or any Contractor's employee or subcontractor employee found unacceptable to System Agency, including any system access they may have, immediately upon request of removal by System Agency.
- DP 036-D Replace any key personnel with System Agency approved personnel within 14 days of the approval with personnel of equal or greater ability and qualifications.
- DP 037-D Submit resumes and references of proposed replacement key personnel for System Agency review prior to making a job offer no later than seven calendar days from notification of a resignation or request for removal.
- DP 038-D Submit an initial organizational chart within 30 calendar days after the operational start date, including the names and positions of all personnel assigned to this contract. The organizational chart must designate who are key personnel.
- DP 039-D Submit an updated organizational chart on a quarterly basis within ten calendar days after the end of the calendar quarter identifying the names and positions of all personnel assigned to this contract. The organizational chart must designate who are key personnel. The quarters for reporting are listed below:
1. January – March due by the 10th of April;
 2. April – June due by the 10th of July;
 3. July – September due by the 10th of October; and
 4. October – December due by the 10th of January.
- DP 040-D Submit notification to System Agency in writing and request approval ten calendar days prior to whenever key personnel are temporarily redirected to perform functions other than the responsibilities of their current position, unless previously approved by System Agency.
- DP 041 Obtain appropriate background checks for all personnel and, on System Agency's request, for subcontractors who by virtue of their access to information or facilities may, in System Agency's sole discretion, present a risk to the safety or security of Consumers and

other persons or the integrity, confidentiality or security of System Agency information. The Contractor must represent and warrant to System Agency, that continued employment of such personnel by the Contractor is contingent upon the Contractor's compliance with these and other appropriate security measures that may be required by System Agency.

System Agency Responsibilities

At its discretion, System Agency may:

1. Review, approve or require modification to the Contractor's proposed key personnel.
2. Review, approve, or require modification to any changes in key personnel.
3. Reserve the right to require replacement of key personnel or any of the Contractor's employee or subcontractor employee found unacceptable to System Agency.
4. Reserve the right to request a rebate or price reduction for key personnel positions that remain vacant longer than 30 calendar days.
5. Review, approve, or require modification to the Contractor's proposed, initial and quarterly organizational charts and organizational changes.

3.4. Transition Phase Requirements

System Agency must ensure that the process of transition to a new Contractor from the incumbent Contractor upon contract award, results in a predictable and, seamless transition where services to Consumers continue to be delivered in a timely and accurate manner.

The transition will be determined successful if Consumers and System Agency do not experience any degradation in service levels. The transition should not impede the delivery of eligibility determination by System Agency or negatively impact the accuracy and timeliness of those determinations.

The following presents the scope of work for the Transition Phase of the contract. The primary objectives of the Transition Phase are to meet the following with an emphasis on cost, schedule, and quality:

1. Ensure a smooth transition and implementation of business operations and systems;
2. Perform readiness assessment thoroughly and timely for implementation;
3. Establish strong Contractor accountability controls;
4. Ensure comprehensive knowledge transfer;
5. Ensure cost effectiveness; and
6. Mitigate risk to Consumers and System Agency.

The work activities and requirements outlined in this section are applicable to the Contractor. For each contract component, “Transition Phase” is defined as those activities that the Contractor must conduct between the effective date of the contract and the Contractor’s operational start date. This includes all of the project management activities required to successfully support eligibility support services, and other components as determined by System Agency.

3.4.1 Transition Phase Project Management

To ensure a successful transition of current operations to the Contractor, the Contractor must include a comprehensive project management approach including but not limited to the following:

1. Project Management Office (PMO) Organization,
2. Transition Phase Work Plan (with schedule and resource allocations),
3. Facility and Business Structure Transition Plan,
4. Transition operations,
5. Staffing,
6. Training,
7. System equipment and testing,
8. Systems and operations readiness assessment,
9. Implementation,
10. Coordination and communication,
11. Risk management and issue resolution,
12. Change management,
13. Systems integrations where applicable,
14. Security management,
15. Disaster recovery and business continuity, and
16. Integration of business operations.

System Agency reserves the right to waive the review and approval of any the Contractor’s work product. Neither the waiver of review nor approval by System Agency will relieve the Contractor of liability for errors and omissions in the work product.

3.4.2 Transition Phase - Project Management Office Organization

To ensure a smooth transition and implementation, the Contractor must establish a Transition Phase Project Management Office (**PMO**) in Texas with an organizational structure that is responsible for managing the transition project tasks, deliverables, and risks.

The Contractor must work with System Agency and the incumbent vendor/contractor during the initial Transition Phase to define specific project management and reporting standards, establish communication protocols, and establish specific work products and tasks the Contractor’s

PMO will perform. The Contractor must outline communication protocols, including the Contractor's approach to progress tracking and status reporting.

The Contractor must also include a PMO organization outlining individual roles and responsibilities. Additionally, the Contractor must establish the specific skill requirements for each of the roles identified in the PMO organization proposed. The proposal must include resumes and references for key positions of the PMO organization proposed, unless staff is approved by System Agency. The Contractor must establish specific tasks and work products to be performed by the PMO for the Transition Phase of the contract and for operations under the contract throughout the life cycle of the contract (only if the Contractor intends to continue to maintain a PMO until termination of the contract).

DP 042 Implement PMO organization structure contained in the proposal no later than fifteen business days after contract effective date.

If the Contractor intends to continue to maintain a PMO after the Transition Phase is concluded, then the Contractor must include the specific functions that will be performed by the operations PMO for System Agency to review and approve.

3.4.3 Transition Phase Work Plan

To ensure the mitigation of risk to System Agency and Consumer services/access, the Contractor must establish a comprehensive Transition Phase Work Plan to track the project team's progress regarding project tasks, deliverables, management of risks and progress towards readiness for operations assumption.

System Agency and the Contractor must work together throughout the Transition Phase to establish a detailed schedule for all activities and define expectations for the content and format of the contract deliverables. This detailed schedule must address continued business operations for all transition functions and requirements.

The Contractor must include a work plan and examples of reports that support the progress on the work plan for the transition components including, but not limited to due dates and tasks associated with:

1. Transition operations;
2. Staffing;
3. Training;
4. Quality assurance and quality control activities;
5. System equipment and testing;

6. Systems and operations readiness assessment;
7. Implementation; and
8. Coordination and communication.

For each of the above components, include the following data elements within the work plan that the Contractor is required to report on:

1. A logical sequence of tasks and progress reports;
2. A clear definition of each task and progress report;
3. Staff loading for each task and progress report;
4. A specific target completion date for each task and progress report;
5. Track and report completion of tasks within work plan; and
6. Task and progress report relationships and dependencies.

In addition to the requirements stated above, the Contractor must:

- DP 043-D Submit a Transition Phase Work Plan within 45 calendar days after contract effective date. The Plan must address the business requirements detailed in this Contract and describe how the Contractor will fulfill each of those requirements.
- DP 044 Upon final approval from System Agency on the Transition Phase Work Plan, the Contractor is expected to begin performing work under the plan.
- DP 045 Coordinate with incumbent vendor/contractor as needed.
- DP 046-D Submit a weekly Transition Phase Status Report by 5:00 p.m. the Monday following the last day of the week covered by the report. System Agency will inform the Contractor when the weekly transition phase status report submission period begins and ends. The weekly status report must include but is not limited to the following:
1. Accurate reflection of the status of work completed against the Transition Phase Work Plan and Facilities and Business Structure Transition Plan;
 2. Status of meeting activities and due dates;
 3. Status of identified risks, mitigation strategies and activities, and contingency plan;
 4. Issues and resolution of issues, including the length of time from discovery to resolution; and
 5. Requested corrective actions by System Agency and the status.
- DP 047 Monitor, track and update Transition Phase Work Plan.

DP 048 Meet all due dates contained within Transition Phase Work Plan.

The Transition Phase Work Plan will be evaluated at the close of transition for the Contractor's compliance and subsequently retired as a deliverable.

The Business Operations Plan is a separate plan from the Transition Phase Work Plan and will be submitted according to the requirements outlined in this Contract.

3.4.4 Facility and Business Structure Transition Plan

The Contractor must submit a Facility and Business Structure Transition Plan that documents the approach for transition and implementation, and describes how the assets, facilities, and support operations will transition from the current incumbent. This plan must also document the approach for transition and implementation of assets, facilities, and support operations at the conclusion of the contract to either System Agency or at System Agency's discretion to a future Contractor.

The Contractor is to assume the existing DPC in Austin, Texas, under a sub-lease arrangement from the incumbent contractor, unless an alternative site is approved by System Agency. Currently, the Disaster Recovery (DR) site is in Athens, Texas. System Agency requires a DR site for the DPC. The Contractor may propose an additional or alternate DR site in the continental United States. The Contractor must indicate the location of the disaster recovery site and the proximity to Contractor's central site and provide a description of backup and recovery procedures specifying timeframes for restoring service and whether the service restored is full or partial.

The existing DPC in Austin, Texas, and the DR site contain State owned assets. The Contractor will be expected to use existing State assets until the end of the assets' recommended life cycle. All Contractor acquired equipment must be supported by the Contractor.

The Transition Plan must describe how the transition of functions, facilities, assets, and processes will transition from the incumbent Contractor to the Contractor. The Contractor will be the lead during transition.

In addition to the requirements stated above, the Contractor must:

DP 049-D Submit a Facility and Business Structure Transition Plan within 60 calendar days after contract effective date or by

the date specified by System Agency. The Plan must include but is not limited to the following:

1. The overall approach for transitioning control and management of the current assets (i.e. leverage of current investments);
2. The process and procedures to shift responsibility and control of facilities identified under the proposal that are operated by the incumbent Contractor to the Contractor and detail the structure under which those facilities will be managed and operated;
3. A plan for transitioning facilities, including operational management;
4. List of all subcontracts, including functions performed by each subcontractor;
5. Key contacts with subcontractors;
6. The processes to be used during transition period;
7. The Project Schedule with key milestones;
8. Outline of procedures to be followed during the implementation period, including the plan for managing the period of concurrent operations with the incumbent Contractor;
9. Identification of issues that need to be addressed during the implementation period, including, but not limited to:
 - a. meeting performance standards;
 - b. operations of the facilities and who directs the support of operations;
 - c. how disputes and issues between the Contractor and incumbent Contractors will be resolved; and
 - d. liability;
10. The method of identifying, documenting and transferring assets developed by the Contractor (nature, type, stage of delivery, location, etc.) during the course of the contract that are subject to transition to a new incoming Contractor at the termination of the contract to the System Agency or its designee;
11. Identification of roles and responsibilities for the Contractor, the incumbent Contractor, System Agency, and additional stakeholders; and
12. Point of contact and procedures for managing problems or issues during the transition period.

3.5 Risk Management & Issue Resolution Plan

To ensure the mitigation of risk to System Agency and Consumers, the Contractor must establish a comprehensive Risk Management and Issue Resolution Plan. The

Risk Management and Issue Resolution Plan must include the methodology and approach to risk management and issue resolution through the Transition Phase and after refinement during transition to describe the process by which the Contractor detects, manages, resolves and notifies System Agency of problems during the remainder of the contract life cycle.

System Agency requires that where the Contractor identifies risk, the Contractor identify actions to mitigate the risk and/or resolve the issue. The Contractor must describe processes and procedures requiring approval by System Agency, for reporting, tracking, monitoring, prioritizing, resolving, and escalating problems.

The Contractor must develop, implement, and maintain a comprehensive risk management process that identifies potential risks associated with each service component proposed.

The Risk Management Plan must include:

1. Risk identification methodology that identifies and classifies risk by severity, impact, and probability of occurrence;
2. Operational and system implementation risks, including any that may pose a risk to the successful fulfillment of the contract;
3. Process for communicating and updating System Agency; and
4. A mitigation methodology, including examples of how the assessed risks will be managed, reported, monitored, and how any new risks will be identified, assessed, and mitigated.

In addition to the requirements stated above, the Contractor must:

- | | |
|----------|--|
| DP 050 | Develop a comprehensive risk management and issue resolution plan. |
| DP 051-D | Submit a Risk Management Process, including an issue resolution and notification process, within 30 calendar days <u>prior to operational start date</u> or by the date specified by System Agency and anytime thereafter when specified by System Agency. |
| DP 052 | Implement and maintain the process upon receipt of System Agency approval and revise as needed or at System Agency's direction. |
| DP 053 | Report progress of identified risks and mitigation activities throughout the transition phase within the weekly Transition Phase Status Report (DP 046-D) and Monthly Status Report (DP 074-D) after transition. |

- DP 054 Develop risk mitigation strategies and contingency plans for any identified risks that may impact business operations in sufficient time to prevent an adverse impact to current operations.
- DP 055 Document issue resolution and closures to the satisfaction and approval of System Agency.
- DP 056 Report resolution of issues to System Agency, including the length of time from discovery to resolution.
- DP 057 Develop and seek implementation approval from System Agency of the steps to prevent recurrence of issues.
- DP 058 Provide access for System Agency and its designees to the Contractor's issues and risks tracking system and/or logs.

3.6 Readiness Assessment Process

To ensure the mitigation of risk to System Agency and Consumers and assure a smooth transition, the Contractor must prepare a comprehensive Readiness Assessment Plan for all components of their proposal. The Readiness Assessment Plan must specify how the Contractor will prepare and test its staff, business practices, systems, and required system interfaces for the performance of business functions prior to the formal readiness review.

The Contractor's readiness assessment process must detail how the readiness assessment will be conducted and how the results of the assessment will be collected, presented, and if problems are identified, how they will be addressed.

As part of the Readiness Assessment process, it is required that the Contractor plan, prepare, and conduct rigorous system(s) testing in a tightly controlled and fully production-ready environment. Operationally, it is required that the Contractor plan, prepare and determine the readiness of the Contractor's personnel and business practices, at the onset of the Operational Phase, or at any time the Contractor initiates a new business processes, technology, systems, and facilities upon request by System Agency.

Expected outcomes from readiness assessment include, but not limited to the following:

1. a full end-to-end demonstration of all functions;
2. All contracted functions and contractual requirements (including manual processes if appropriate);
3. All system processes and staff functions, including System Agency staff and other subcontracted Contractors; and

4. All physical security, data security, and fire/disaster prevention and recovery procedures.

The Contractor must include a high-level Readiness Assessment Plan defining:

1. The proposed methodology for testing the operational and system readiness;
2. Recommended approaches to resolve any identified problems;
3. The proposed readiness result tracking, reporting, and communication strategy; and
4. The proposed readiness assessment schedule, activities, and resource allocation requirements.

In addition to the requirements stated above, the Contractor must:

- DP 059-D Submit a Readiness Assessment Plan for the operations and systems within 45 calendar days after contract effective date or by the date specified by System Agency. The Plan must include but is not limited to the following:
1. How the Contractor will prepare and test its staff, business practices and systems, and required system interfaces for the performance of business functions prior to the formal readiness review;
 2. How the readiness assessment will be conducted;
 3. How the results will be collected and presented; and
 4. How problems will be addressed, if identified.
- DP 060 Conduct full end-to-end readiness assessment.
- DP 061 Demonstrate knowledge of the State's system(s) and connectivity pathways.
- DP 062 Demonstrate that all components of the proposed business process function in accordance with the requirements of the contract and State and Federal laws and policy.
- DP 063 Participate in periodic readiness walkthroughs and assessments conducted by System Agency.
- DP 064 Participate in meetings with System Agency and other Contractors to define the details of the readiness assessment and develop the assessment schedule.
- DP 065 Conduct any necessary training sessions for individuals that will participate in the Readiness Assessment process including those designated by System Agency.

- DP 066 Demonstrate that all staff, business practices and systems are in place and ready for implementation.
- DP 067-D Submit the results of the Readiness Assessment in a Readiness Assessment Report within 15 business days after the readiness assessment process has been completed. The Report must identify problems uncovered and indicate how and when the Contractor will address and resolve the problems identified.
- DP 068 Maintain the readiness test outcomes or result files as directed and approved by System Agency.
- DP 069 Execute readiness test cycles to include all external data interfaces.

System Agency Responsibilities

At its discretion, System Agency may:

1. Provide a project management oversight team to review the performance and progress of the Transition Phase Work Plan and Facility and Business Structure Transition Work Plan tasks.
2. Review, approve, or require modification to the Transition Phase Work Plan and Facility and Business Structure Transition Work Plan.
3. Research and respond to the Contractor's questions or requests for information to promote a smooth transition.
4. Review, approve, or require modification to the Contractor's proposed key personnel and PMO organizational structure.
5. Review, approve, or require modification to the work products of the PMO.
6. Perform overall monitoring and management overview of the project to ensure timely progress and satisfactory completion of tasks and activities.
7. Review and comment on written status reports and work plan/task schedule updates.
8. Provide notice to the Contractor of inadequate performance; request review and approve plans for corrective action.
9. Monitor progress toward achievement of project milestones and key dates, and request status updates as needed.
10. Review, approve, or require modification to the Contractor's proposed risk management process including the identified risks, severity ratings, and probability evaluation.
11. Review, approve, or require modification of the Contractor's proposed readiness assessment process and readiness result report including the schedule of activities and assessment review cycle.
12. Review, approve, or require modification of the Contractor's readiness review result report and provide approval to begin implementation.
13. Conduct operational readiness tests and require the Contractor to correct all deficiencies in the manner and time specified by System Agency.

3.7 Operational Phase Requirements

During the life of the contract, the Contractor will be required to carry out daily operational activities related to implementing comprehensive document processing services. As part of these responsibilities, the Contractor will be required to develop, implement and maintain plans, processes, systems, and procedures for the management and reporting practices that support the daily operational activities.

3.7.1 System Agency and the Contractor must work together throughout the Operational Phase to establish a detailed schedule for all activities and define expectations for the content and format of the contract deliverables. This detailed schedule must address continued business operations for all operational functions and requirements. **Business Operations Plan**

To create strong accountability controls, and to ensure effective on-going operations with an emphasis on continuous improvement, the Contractor must have strong management practices and an administrative and staffing structure sufficient to meet contractual responsibilities. Therefore, the Contractor must submit a Business Operations Plan to System Agency for review and approval prior to the operational start date. The Business Operations Plan will not be implemented prior to System Agency approval.

- DP 070-D Submit an initial Business Operations Plan 30 calendar days prior to the scheduled operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency. The Plan must include but is not limited to the following:
1. An outline (i.e. work plan) of all component activities (tasks, due dates, completion dates, timelines and deliverables) planned for the upcoming year;
 - a. Operations;
 - b. Staffing;
 - c. Training;
 - d. Quality assurance and quality control; and
 - e. Coordination and communication.
 2. The business improvement objectives, priorities, and outcomes for the upcoming year;
 3. The methodology for performing activities and meeting objectives;
 4. Customer service performance measures and targets that ensure timeliness, accuracy, availability and access to services; and
 5. Plans for developing and implementing any necessary corrective actions.

A key component of the Business Operations Plan is an operational work plan. The operational work plan must be used to track the progress regarding tasks, timelines, deliverables, and the management of risk.

The Business Operations Plan must be an interactive and flexible working document to be revised and updated as business workflows, processes, procedures, structures, and/or organization changes occur. As a result, the Contractor will be required to provide a detailed six-month evaluation report. The six-month evaluation serves as the primary basis for revisions, if any, to the business operations plan to reflect updated goals, activities, and processes. Therefore, the Contractor is required to evaluate the actual activities performed as compared to System Agency approved Business Operations Plan.

- DP 071 Implement the Business Operations Plan after approval is obtained by System Agency.
- DP 072-D Submit a detailed six-month evaluation report of the Business Operations Plan within 30 calendar days after the end of the six-month reporting period covered by the report beginning six-months after operational start date.
- DP 073-D Provide a daily reconciliation report via e-mail providing an end-to-end count of transactions.
- DP 074-D Submit a Monthly Status Report within ten business days following the last day covered by the report. System Agency will inform the Contractor when the monthly status report submission period begins. The monthly status report must include but is not limited to the following:
1. Accurate reflection of the status of work completed against the Business Operations Work Plan;
 2. Status of meeting tasks/activities and due dates;
 3. Operational impacts and plans to complete tasks/activities where the due dates were missed without causing an adverse effect on operations;
 4. Trend analysis;
 5. Equipment maintenance status and issues;
 6. Security system issues, status, impacts and corrective measures;
 7. Performance data and metrics;
 8. Status of identified risks, mitigation strategies and activities, and contingency plans;

9. Issues, resolution of issues, including the length of time from discovery to resolution; and
10. Requested corrective actions by System Agency and the status.

System Agency Responsibilities

At its discretion, System Agency may:

1. Establish the minimum requirements for the Business Operations Plan.
2. Review, approve, or require modification to the Contractor's proposed Business Operations Plan.

3.8 Facility Acquisition and Equipment Requirements

The Contractor must address the following facility acquisition and equipment requirements and provide maximum leverage of current asset investments as described below:

3.8.1 Leverage of Current Investment

Maximum Leverage of Current Asset Investment

The Contractor must utilize assets in which System Agency has already made a significant investment for document processing. The intent is to ensure System Agency's investments in facilities, hardware, and software for operations covered under this Contract are utilized to full advantage as a way to reduce start up and operating costs. The Contractor must utilize the existing DPC located in Austin, Texas, and is expected to arrange to sub lease the existing DPC space. Currently, the DR site for the DPC operations is in the Athens Call Center within the Eligibility Support Services (ESS) Contractor's lease.

The Contractor will be expected to use existing State assets currently in use in the DPC until the end of the assets recommended life cycle. Assets and equipment acquired by the Contractor, as approved by System Agency, must be maintained and supported by the Contractor.

To ensure facility, leasehold improvements, furniture and fixtures, technology and equipment already acquired is utilized to the best value for System Agency, the Contractor will obtain and be responsible for sustaining facility, leasehold improvements, furniture and fixtures, imaging equipment, other technology and software to support the Austin facility under a sub-lease arrangement.

In addition to the requirements stated above, the Contractor must:

- DP 075 Design, implement, and maintain an implementation plan for the overall approach for transitioning control and management of current assets that leverages the assets already in place.
- DP 076 Implement approved plan within 60 calendar days after contract effective date or by the date specified by System Agency.
- DP 077 Develop an overall approach for acquisition of any additional assets to ensure interoperability with assets acquired from System Agency to support these operations, and to maintain future interoperability.
- DP 078 Develop an approach that implements ongoing technology to refresh and maintain operations at current or (n-1) levels.

3.8.2 Configuration Management

The Contractor must develop and implement a Configuration Management process that includes procedures to track hardware and software inventories installed and the combination of hardware and software residing on each component of equipment. This applies to any hardware and software assigned from System Agency as well as any expansion or replacement hardware and software.

In addition to the requirements stated above, the Contractor must:

- DP 079-D Submit a Configuration Management Plan including an overall approach for tracking and managing hardware and software inventories including version control within 30 calendar days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.
- DP 080 Develop an overall approach for tracking and managing hardware and software that resides on each component of equipment.

3.8.3 Facility Acquisition, Management and Operation

The Facility and Business Structure Transition Plan must include processes and procedures to shift responsibility and control of facilities identified under the Contract that are operated by the incumbent Contractor to the Contractor through a sub-lease arrangement with the ESS Contractor (for the DR site in Athens, Texas). The Contractor must also provide a plan for transitioning

facilities, including operational management, to System Agency or its designee at the end of this award.

In addition to the requirements stated above, the Contractor must:

- DP 081 Propose and describe the Document Processing Services operations in two locations in Texas. The Austin, Texas, DPC is the only site used for operations and must be assumed by the Contractor. The current DR site in Athens, Texas, must be assumed and maintained by the Contractor. The Contractor may propose an additional or alternate disaster recovery site within the continental United States.
- DP 082 Procure, equip, furnish, operate and maintain facilities appropriate to support the proposed document processing services and describe how the sub leasing arrangement fulfills the requirements.
- DP 083 Provide directly as a part of a core business operation, through the landlord, or through a subcontractor, all facility maintenance, managerial and administrative functions including but not limited to:
1. Facilities day-to-day management;
 2. Operation and maintenance of electrical, mechanical and Heating, Ventilation, and Air Conditioning (**HVAC**) equipment;
 3. Architectural, structural and mechanical maintenance of building including doors, windows and gate systems;
 4. Floor repair;
 5. Physical security including security guards;
 6. Lock and locksmith services including security locks and electronic locks;
 7. Intrusion alarm systems;
 8. Office supplies;
 9. Document output (copies, printers, faxes);
 10. Postage meters;
 11. Document pick up & destruction;
 12. USPS, UPS, FedEx, Lone Star, DHL; etc.;
 13. Break room supplies;
 14. Appliance repair including repair of kitchen and break room equipment;
 15. Janitorial services;
 16. Elevators and vertical transportation systems;
 17. Landscape maintenance;
 18. Radio system;

19. Repairs to vandalism;
20. Fire extinguishers;
21. Fire alarm and fire suppression system, including fire sprinklers; and
22. Exterior lighting including lighting in the parking lot.

3.9 Security Management

The Contractor will be responsible for providing security for each component of the contract. To ensure consistency in Consumers' access to services statewide and mitigate risks to System Agency and taxpayers, the Contractor must provide a **Security Management Process Plan** for both the implementation and transition phase and continuing business operations. The Contractor must develop and implement a Security Management Process Plan that includes methods for resolving the following major security concerns for business operations and transition: environmental security, physical site security, computer hardware security, computer software security, data access and storage, Consumer/user security, telecommunications security, and network security.

In addition to the requirements stated above, the Contractor must:

- DP 084-D Submit a Security Management Process Plan within 35 business days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.
- DP 085 The Security Management Process Plan must include an overall approach for establishing and maintaining security that meets all State and Federal requirements (including FTI, HIPAA and those set forth in the DUA) and protects against unauthorized access.
- DP 086 Develop and implement methods that ensure security for all components of the system including:
1. Environmental security;
 2. Physical site security;
 3. Computer hardware security;
 4. Computer software security;
 5. Data access and storage;
 6. Consumer/user security;
 7. Telecommunications security; and
 8. Network security.
- DP 087 Develop and implement a process for documenting, tracking, monitoring and reporting security issues to System Agency.

DP 088-D Submit a report of security systems issues within one calendar day of discovery detailing the security violation, when and how it was discovered, operational impacts, and corrective measures to detect and prevent future violations.

3.10 IT Disaster Recovery and Business Continuity

To ensure the mitigation of risk to System Agency and Consumers, the Contractor must provide an Information Technology (IT) Disaster Recovery Plan and a Business Continuity Plan specific to the Transition Phase as a part of their response and during ongoing operations. It is critical that the IT Disaster Recovery Plan and Business Continuity Plan provide for service delivery to the citizens of Texas upon receipt of the mail, and as such the Contractor shall continue to be expected to meet all conditions of the contract.

The Contractor must develop, implement, exercise, and maintain an IT Disaster Recovery Plan and a Business Continuity Plan to reestablish operations and service delivery in the event of an unplanned system outage (scanning equipment, telephony or otherwise) and/or in the event, a catastrophe occurs, or a facility is no longer available. The Contractor must submit an IT Disaster Recovery Plan and a Business Continuity Plan as part of the Transition Phase Work Plan. The location(s) of all IT Disaster Recovery operations must also be identified and approved by System Agency.

Recovery Time Objective (RTO)

The Contractor must reestablish the Document Processing Center infrastructure and processing capabilities within 24 hours from the date and time of a disaster declaration and identify risk and risk mitigation options.

In its plan, the Contractor must provide what problems should be anticipated and how the Contractor would plan to address and resolve these problems. System Agency is interested in a realistic assessment of where potential problems are likely to occur during the Transition Phase and in ongoing operations.

In addition to the requirements stated above, the Contractor must:

DP 089-D Submit an IT Disaster Recovery Plan and a Business Continuity Plan specific to the transition and on-going operations within 45 calendar days after contract effective date or by the date specified by System Agency and within 30 calendar days following an annual IT disaster recovery exercise or anytime thereafter when specified by System Agency.

The IT Disaster Recovery Plan must include but may not be limited to the following:

1. A detailed approach for reestablishing IT operations and service delivery in the event of an unplanned system outage (e.g. hardware or software outages) and/or in the event a catastrophe occurs affecting performance of:
 - a. Host operations;
 - b. Telecommunications network; and
 - c. Any other systems required for operations.
2. A description of potential issues that may realistically occur, including, but not limited to instances such as natural disasters, unplanned system outages, a facility is no longer available, etc., during the operations phase of a project and an outline of courses of action to address and resolve the anticipated problems;
3. A description of backup and recovery procedures specifying timeframes for restoring service and whether the service restored is full or partial;
4. A contingency plan addressing interruption to the established training plan and outlining communication processes, short and/or long-term resolutions, action steps, and response time frames;
5. A proposed reporting mechanism specific to IT Disaster Recovery and Contingency Operations;
6. The process for informing State contacts of major system outages immediately but no later than five minutes of occurrence and providing documented Incident Reports within 24 hours; and
7. A commitment to host and participate in an enterprise-wide exercise of the IT disaster recovery solution annually or more frequently if required by System Agency.

The Business Continuity Plan must include but may not be limited to:

1. A detailed approach for reestablishing operations and service delivery in the event of an unplanned system outage (e.g. hardware or software outages) and/or in the event a catastrophe occurs affecting performance of:
 - a. Host operations;
 - b. Telecommunications network; and
 - c. Any other systems required for operations.
2. A description of potential issues that may realistically occur, including, but not limited to instances such as natural disasters, unplanned system outages, a facility is no longer available, etc., during the operations phase of a project and an outline of courses of action to address and resolve the anticipated problems;
3. A description of personnel seat management, hiring practices and relocation to a recovery site following a disaster. This description must include specifying timeframes for restoring service and whether the service restored is full or partial;
4. A contingency plan addressing interruption to the established training plan and outlining communication processes, short and/or long-term resolutions, action steps, and response time frames;
5. A proposed reporting mechanism specific to contingency operations;

6. The process for informing State contacts of major system outages immediately but no later than five minutes of occurrence and providing documented Incident Reports within 24 hours; and
7. A commitment to host and participate in an enterprise-wide exercise of the IT Disaster Recovery and Business Continuity solutions on an annual basis or more frequently if required by System Agency.

DP 090-D Submit annual updates to the IT Disaster Recovery Plan and the Business Continuity Plan 30 calendar days prior to the end of the operational year of the contract or within 30 calendar days following an IT Disaster Recovery exercise and/or Business Continuity exercise;

DP 091 Develop, implement, test and maintain an IT Disaster Recovery and a Business Continuity Plan during the Transition Phase and Operational Phase of the project ensuring service delivery once operations commence upon receipt of the mail. The approved IT Disaster Recovery and Business Continuity Plan must be in place prior to operations for each functional area.

DP 092 Proactively identify potential issues that are realistic during a Transition Phase of a project and outline courses of action to address and resolve the anticipated problems.

DP 093-D All major system outages must be reported to System Agency via e-mail or telephone if e-mail is unavailable within five minutes after the Contractor determines a major system outage has occurred.

DP 094-D Submit an Incident Report to System Agency via the official correspondence process within 24 hours of reported system outages detailing the incident, when and how it was discovered, system and operational impacts, and corrective measures to detect and prevent future incidents.

System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

1. Ensure the provision and maintenance of System Agency automated systems.

At its discretion, System Agency may:

1. Review, approve, or require modification to the Contractor's proposal.
2. Initiate or review and approve changes, additions, deletions, and other modifications to all system functions.

3. Facilitate discussions with applicable resources for the Contractor's proposal to leverage existing System Agency and State infrastructure components, including but not limited to facilities.
4. Review, approve, or require modification to the Contractor's proposed final integration, testing and deployment strategy.
5. Review, approve, or require modification to the Contractor's proposed Facility Acquisition, Management and Operation Plan.
6. Review, approve, or require modification to the Contractor's proposed Configuration Management Plan.
7. Review, approve, or require modification to the Contractor's proposed Security Management Process Plan.
8. Review, approve, or require modification to the Contractor's proposed IT Disaster Recovery Plan.
9. Review, approve, or require modification to the Contractor's proposed Business Continuity Plan.

3.11 Quality Assurance Program Requirements

System Agency seeks a complete and comprehensive solution in the design, development, implementation, and maintenance of the Contractor's Quality Assurance (QA) program.

The Contractor must have a comprehensive, continuous, measurable, and auditable QA program to achieve total quality management. The program must embody the Contractor's endorsement of the fundamental importance of quality by promoting, reinforcing, and acknowledging quality management activities.

Regular self-assessments should be conducted to identify and report compliance with requirements, rules, laws and regulations throughout the agreement period, as well as reporting the extent to which the desired results and benefits established by the contract are being achieved.

The QA program must be designed to ensure that outcomes, products and services delivered are of the highest quality and meet or exceed Federal, State, and System Agency requirements.

All QA activities performed by the Contractor will be subject to ongoing, periodic, and random inspection by System Agency. The Contractor will make all QA systems, processes, reports, and data available to System Agency and provide the necessary hardware, software, tools, and training as appropriate to System Agency as necessary in order to review the QA program.

Core components of the QA program are described in sections the following sections.

3.11.1 Quality Management Plan

The Quality Management (QM) plan is a comprehensive collection of the following related components

1. Quality Assurance Areas – Functional Contractor areas subject to QA.
2. Performance Measurement Plans – A collection of performance measures for activities, tasks, events, processes, systems, etc. associated to a QA Area.
3. Assessment Plans – A collection of one or more plans associated to each individual performance measure and used to evaluate the performance standard(s) for the performance measure.
4. Corrective Action and Continuous Improvement Plans – A collection of one or more plans designed and implemented to meet performance standards or prevent quality issues.

The QM plan is a dynamic plan subject to reviews and updates frequently by the Contractor and System Agency. It must also be available to authorized System Agency staff at all times.

DP 095-D Submit an initial Quality Management Plan, 45 calendar days prior to the scheduled operational start date. The Plan must consist of, but is not limited to, the following:

1. Quality Assurance Areas – identify and provide a comprehensive report listing areas subject to quality assurance with an area description and reason for selection;
2. Performance Measurement Plan – identify all performance measures and standards for each quality assurance area; and
3. Assessment Plans – evaluate a performance measure against the established standards for each performance measure.

DP 096-D Submit an Annual Quality Management Plan 45 calendar days prior to the end of each operational year of the contract.

DP 097-D Submit a monthly Quality Management Report, in a form acceptable to System Agency within 15 business days following the end of the reporting month. The report must consist of, but not be limited to, the following:

1. Modifications and updates to the Quality Management Plan as applicable;
2. Identified a comprehensive list of areas subject to QA with an area description and reason for selection;

3. Corrective action and continuous improvement plans as applicable; and
4. Reports for each assessment conducted, timeframes assessment completed, and findings as a result of the assessment.

3.11.2 Quality Assurance Areas

The Contractor is expected to maintain a high level of quality performance across all areas and throughout its systems, activities, functions, and processes.

The Contractor's response must identify areas of operation that require a defined QA component. Broad areas subject to quality assurance include but are not limited to DPS as follows:

1. Opening and sorting of documents
2. Maintaining and ensuring data integrity of documents
3. Scanning of documents and image quality

In addition to the requirements stated above, the Contractor must:

DP 098 Identify and provide a comprehensive report listing areas subject to QA with an area description and reason for selection.

3.11.3 Performance Measurement Plans

To identify all performance measures associated with QA areas, a performance measurement plan identifying all performance measures and standards is needed for each QA area. Performance measures are used to evaluate the level of quality and service provided to Consumers/applicants and other users of the solution.

For each QA Area, the Contractor's response must include a performance measurement plan with information including but not limited to the following for each performance measure on the plan:

1. Description of the activities, tasks, events, processes, or systems being measured.
2. QA area associated with the measure.
3. Performance standard(s), calculation methodology, and recommended industry standards (where applicable).
4. Applicable metrics.
5. Reporting frequency.
6. Identification of Assessment Plans.
7. Monitoring frequency.

8. Auditing frequency.
9. Impact statement(s) of not meeting the standard.
10. Corrective action and continuous improvement plans.
11. Impacts and dependencies on other processes, performance measures, or areas.
12. Description of how the measure will be met or exceeded.
13. Applicable System Agency programs associated with the measure.

In addition to the requirements stated above, the Contractor must:

DP 099 Design, develop, implement and maintain comprehensive performance measurement plans for each QA area and include processes on reviewing, amending, and modifying the plan on an on-going basis.

DP 100 Adhere to performance measures and performance standards.

3.11.4 Assessment Plans

Each performance measure on the performance measurement plan must have an accompanying assessment plan or plans.

The purpose of an assessment plan is to evaluate a performance measure against the established standards for the performance measure. Assessment plans should be executed on a periodic schedule to:

1. Accurately measure standards,
2. Provide for actions and remedies to meet or achieve standards not being met or at risk of not being met,
3. Identify trends in performance, and
4. Prevent quality issues before they occur.

The Contractor's response must include an assessment plan for each performance measure and must have at least one or more of the following components and applicable sub-components:

1. Monitoring Components - with information on:
 - a. Online (real-time) or other processes for tracking and monitoring automated, system, or manual workflows to capture metrics on timeliness, workflow, and other items.
 - b. Early detection and warning systems designed to provide the earliest possible notification of trends that may cause performance or quality issues.
 - c. Other solutions to monitor performance or quality.
 - d. Mitigation options to immediately correct timeliness or quality issues.

- e. Reports with the outcome of the assessment and the performance standard achieved.
- 2. Auditing Components - with information on:
 - a. Sampling methodology
 - i. Confidence interval
 - ii. Confidence level
 - iii. Sample size determination
 - iv. Statistical validity
 - b. Sample frame/universe selection criteria
 - i. Source of data
 - ii. Time period
 - iii. Population size
 - iv. Stratification
 - c. Review instruments
 - i. Questions/elements to be reviewed
 - ii. Known responses to questions/elements when applicable
 - iii. Designed to collect, summarize, and report findings
 - d. Data, systems, or items necessary to perform the assessment
 - e. Reports with the outcome of the assessment and the performance standard achieved.

System Agency may require the Contractor to use System Agency designed review instruments for defined QA processes in an System Agency data entry system. The Contractor may propose their own QA system allowing System Agency full and complete access to the system using System Agency review instruments for data collection.

- 1. Other Components – with information on:
 - a. Other Contractor proposed solutions to evaluate the performance measure.

In addition to the requirements stated above, the Contractor must:

- DP 101 Design, develop, and implement a detailed and descriptive assessment plan or plans for each performance measure on the performance measurement plan including processes on updating the assessment plan on an ongoing basis.
- DP 102 Produce and send reports to System Agency according to agree upon timeframes.
- DP 103 Implement System Agency designed review instruments when required.

3.11.5 Corrective Action and Continuous Improvement Plans

The Contractor must utilize all available information from assessment plans and other sources as part of continuous improvement to prevent issues with quality, improve services provided, and take corrective action when necessary to achieve performance standards.

For performance standards that are at risk of or are not being met, the Contractor must:

1. Implement prevention measures and corrective actions designated by System Agency.
2. Analyze and utilize all assessment findings to design, develop, and implement correction action plans to improve and meet performance standards.
3. Utilize early warning and detection information and implement necessary measures to improve and meet performance standards.
4. Implement Contractor designed activities to monitor and achieve quality results and meet performance standards.
5. Immediately notify System Agency of any and all findings and or early warning and detection information that will adversely impact quality or performance.

In addition to the requirements stated above, the Contractor must:

DP 104 Design, develop, and implement correction action plans.

DP 105 Submit corrective action plans to System Agency for approval.

DP 106 Report on corrective action plan progress according to timeframes, format, and frequency.

3.11.6 Reporting Requirements

Timely, accurate, and meaningful reporting of activities is an essential component across the QA spectrum to provide System Agency, Contractor Management, and other stakeholders with necessary information to identify issues, problems and successes.

The Contractor must include information on a reporting solution that:

1. Is accessible within the System Agency Intranet to authorized System Agency users even if on the Contractor's internal network;
2. Is accessible by multiple concurrent users;
3. Delivers on-demand, ad-hoc, periodic, and scheduled reports;
4. Uses standardized report formats across like activities; and
5. Contains a catalogue of reports to include definitions on format, content, and search and filter parameter with identification of, or references to, applicable reports in other systems and/or reporting tools.

To ensure cost effectiveness, the reporting solution may be separate from, part of, or integrated into an overall reporting solution for the Contract.

In addition to the requirements stated above, the Contractor must:

DP 107 Design, develop, implement, and maintain a reporting solution to deliver, manage, maintain, and catalogue reports across all QA functions with a description of the proposed QA reporting technology and tools.

3.11.7 Data Access Requirements

All inputs, outputs, and data used to perform QA activities and functions must be subject to inspection, validation, and sub-sampling by System Agency on demand.

The Contractor must include information on providing authorized System Agency staff open and unlimited access to, but not limited to, the following:

1. All automated systems, databases, and data therein;
2. Reporting repositories and tools;
3. Tracking systems;
4. Reports;
5. Records;
6. Electronic call records;
7. Data warehouses; and
8. Historical and/or archived data.

3.11.8 Repository Requirements

The QA function comprises a collection of artifacts (data, documents, reports, etc.) that must be secured, stored, maintained, and made accessible to authorized Contractor and System Agency staff.

The Contractor's response must include information on how all QA artifacts will be maintained, accessed, or referenced within a central electronic repository or system and be available to System Agency staff at all times within the System Agency network and to System Agency even if on the Contractor's internal network.

In addition to the above requirements, the Contractor must:

DP 108 Design, develop, implement, and maintain a repository or other solution to catalogue, store, secure all QA artifacts. The solution must be online and accessible by System Agency staff within the

System Agency network and to System Agency even if on the Contractor's internal network.

3.11.9 Single Point of Contact

A single point of contact for all QA Contractor Activities will facilitate communication, help resolve issues and complaints, escalate problems and share successes.

The Contractor's response must include a designated QA contact to:

1. Participate in Federal and/or State audits, as required, including maintaining records, systems, documents, and tracking systems open and accessible to designated State and Federal officials.
2. Cooperate with State and Federal Quality Control Examiners by providing information or assistance as needed.
3. Attend System Agency meeting and make presentations as requested.
4. Participate in System Agency workgroups or other activities related to QA.

3.11.10 Contractor Practices Requirements

Contractor practices are those activities that currently exist in the Contractor's organization(s) in order to achieve quality.

The Contractor's response must include a detailed statement describing the Contractor's approach to quality in its current organization to include but not limited to best practices, industry standards, self-audits, awards, etc. at or above a quality level acceptable by System Agency and as defined by the requirements specified in the Contract.

System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

1. Monitor the Contractor's performance against the performance measures agreed upon.
2. Monitor and audit the Contractor's performance against the assessment plans.
3. Recommend and require prevention and corrective action measures.

At its discretion, System Agency may:

1. Review, approve, or require modification to the Contractor's proposed QA Areas.

2. Review, approve, or require modification to the Contractor's proposed Performance Measurement Plans.
3. Review the Contractor's performance measurement plans on an ongoing basis.
4. Review, approve or require modification to the data access plan
5. Review, approve, or require modification to the Contractor's proposed assessment plans.
6. Review the Contractor's assessment plans on an ongoing basis.
7. Require corrective action plans from the Contractor.
8. Approve the Contractor's corrective action plans.
9. Approve the QA component of the reporting solution devised by the Contractor.
10. Request and require the removal and replacement of the QA contact as deemed necessary.
11. Review and approve the Contractor's QA repository solution.

3.12 Communication and Coordination Requirements

DP 109-D Submit an initial Communication and Coordination Plan within 30 calendar days after contract effective date or by the date specified by System Agency; updates may be requested anytime thereafter when specified by System Agency. The plan must be submitted annually thereafter describing the processes and procedures used by the Contractor and its subcontractors to manage communications responsibilities. The plan should delineate the responsibilities for each function under its purview, including approval processes, internal and external communications, and contractual obligations.

The plan should also describe:

1. Who will perform each specified task? The client and Contractors should be specified where necessary;
2. When will each task be performed and with what frequency including deadlines as necessary; and
3. What distinct actions are required to accomplish each task? The goal is to provide a level of detail such that if the person normally responsible for the task is unavailable, a person with a similar background or skill set but unfamiliar with the specific task could complete the task effectively and efficiently.

DP 110-D The Contractor shall submit an annual Communications and Coordination Plan twelve months following System Agency approval of the initial plan.

3.13 Turnover Requirements

The following presents the turnover requirements to which the Contractor must agree. Turnover is defined as those activities that are required for the Contractor to perform in order to transition contract operations to a subsequent Contractor or System Agency.

System Agency reserves the right to review and approval of the Contractor's work products. System Agency's approval of the Contractor's work product will not relieve the Contractor of liability for errors and omissions in the work product.

3.13.1 Turnover Phases

At the commencement and during turnover, the Contractor must ensure that System Agency and the Consumers do not experience any adverse impact from the transfer of services to another entity or to System Agency. Six months prior to the end of the contract term or a date specified by System Agency, the Contractor must develop and implement an System Agency approved, comprehensive Turnover Plan that details the processes to be followed, the proposed scheduled, activities including knowledge transfer, and resource requirements associated with the turnover tasks identified.

Turnover activities include, but are not limited to:

1. Transfer of information including data and reference tables (if applicable); data entry software (if utilized); third-party software and all applicable licenses and modifications; documentation relating to software and interfaces; functional business process flows; and operational information concerning subcontractors;
2. Transfer of all written (electronic format) documentation, including work in progress pertaining to the business processes including but not limited to: work instructions, business use cases, work process flows, system user instructions, process memos, and any other materials used in the business process;
3. Transfer of all training materials in electronic format including but not limited to: development methodology including software package if used, curriculum materials, training class statistics, outcomes and documentation, materials in development and supporting documentation, best practice materials, all other training and curriculum development documentation and data;
4. Process and components of comprehensive and complete knowledge transfer to System Agency or to another entity of all components in the Contract and the contract;
5. The implementation of a quality assurance process to monitor turnover activities;

6. Training System Agency and/or its designated agent's staff in the operation of business processes and any supporting processes related to the Contract and the contract; and
7. Post-turnover services including a Turnover Results Report and access to the Contractor's staff with technical and operational expertise for up to 90 days after the transition date for defect resolution and turnover component, including software maintenance.

The Contractor must not execute contracts and licensing agreements under the contract that are not transferable to another entity or System Agency upon Turnover.

System Agency will make the final determination regarding completion of knowledge transfer.

3.13.2 Turnover Plan

To ensure smooth transition of turnover and mitigate risk to System Agency and Consumers, the Contractor must prepare a comprehensive Turnover Plan. The Contractor must provide a high-level turnover strategy including the methodologies and approaches that will be used to proactively ensure a successful turnover.

The Contractor must develop and implement a Turnover Plan approved by System Agency that covers the turnover of the operational activities, equipment, and systems to either System Agency or a successor Contractor. The approved plan must be provided to System Agency no less than six months prior to the end of the contract or date specified by System Agency, including any extension. The Turnover Plan must be a comprehensive document detailing the processes, proposed schedule, activities and systems, and resource requirements associated with the turnover tasks. Additionally, the Turnover Plan, must be provided in a format and media specified by System Agency.

As part of the Turnover Plan and in addition to those requirements listed in this section as stated above, the Contractor must provide System Agency with:

1. Copies of all relevant data and reference tables, documentation, or other pertinent information necessary to take over and successfully assume operational activities; including all works in progress;
2. Current inventories, correspondence, documentation of outstanding issues, and other operations support documentation;
3. A description of the Contractor's approach and schedule for transfer of inventories and operational support information;

4. All information and systems required to continue operations by the date specified in the System Agency approved Turnover Plan; and
5. All information necessary for turnover of the facilities including leases, list of all assets and inventory within the facility, and operation of the facilities to System Agency or its designee.

In addition to the requirements stated above, the Contractor must:

- DP 111-D Submit an Operations Turnover Plan within 60 calendar days after the Transition Phase is complete or date specified by System Agency, detailing the processes to be followed, the proposed schedule, tasks, and resources requirements associated with the turnover activities documented in Section 3.13.1. (Turnover Phases) and Section 3.13.2. (Turnover Plan).
- DP 112-D Submit an Annual Operations Turnover Plan 60 calendar days prior to the end of each operational year of the contract. Submit a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.
- DP 113 Appoint, with System Agency approval, a manager to manage and coordinate all turnover activities outlined in the Turnover Plan approved by System Agency.
- DP 114 Not reduce operational staffing levels during the turnover period without prior approval by System Agency.
- DP 115 Not restrict or prevent Contractor’s staff from accepting employment with any successor Contractor or System Agency. System Agency will work with the incumbent and successor Contractors on the timing of any transition of incumbent staff.
- DP 116 Provide to System Agency or its designee, within 20 business days of the request, all updated computer programs, data and reference tables, scripts, and other documentation and records required by System Agency or its designees.
- DP 117 Turn over the operation and management of all business functions to System Agency or its designee. This turnover must be planned and managed in an orderly fashion so that no disruption of service to users, Consumers and/or beneficiaries takes place.

- DP 118-D Submit a comprehensive Knowledge Transfer Plan, including training products and subject matter experts no less than 60 calendar days prior to the end of the contract.
- DP 119 Provide training to the successor Contractor and System Agency prior to completion of turnover.
- DP 120 Work closely with System Agency to ensure that this turnover of responsibilities and the necessary knowledge transfer is completed by the end of the contract period.

3.13.3 Facilities and Business Structure Turnover Plan

The Facilities and Business Structure Turnover Plan must describe the Contractor's role and responsibilities during the turnover period to a new Contractor; such as the expiration of the term of the contract awarded pursuant to a future Contract, or termination due to contract default. The incoming Contractor will be the lead in coordinating activities. The Contractor pursuant to this Contract is designated as the incumbent Contractor for purposes of the Turnover Plan. The plan must acknowledge that the outgoing Contractor will be responsive to the incoming Contractor.

In addition to the requirements stated above, the Contractor must:

- DP 121-D Submit a Facilities and Business Structure Turnover Plan within 60 calendar days after the Transition Phase is complete that includes but is not limited to the following:
1. List of all subcontracts;
 2. Key contacts with subcontractors;
 3. Schedule with milestones and due dates;
 4. Issues that need to be addressed during a transition period;
 5. Identification of cost impacts to System Agency (i.e. lease termination fee, employee headcount, salary impacts, etc.);
 6. Description of procedures to be followed during the implementation period, including the plan for managing the period of concurrent operations with the Contractor, as the current (outgoing) Contractor;
 7. Identification of issues that need to be addressed during the implementation period (including, but not limited to, meeting performance standards; which Contractor operates the facilities, and directs support operations; how disputes and issues between the incoming and outgoing Contractors will be resolved; liability);

8. Identification of roles and responsibilities for the incoming Contractor and subcontractor, the outgoing Contractor, System Agency and additional stakeholders;
9. Point of contact and procedures for managing problems or issues during the turnover period;
10. A report of progress of milestones during the turnover period;
11. The method of identifying, documenting and transferring assets developed by the Contractor (nature, type, stage of delivery, location, etc.) during the course of the contract that are subject to turnover to a new (incoming) Contractor; and
12. A contact person and procedures for managing problems or issues during the turnover period.

DP 122 Begin turnover activities 60 calendar days prior to contract termination and execution must be complete within 60 calendar days post contract termination.

DP 123-D Submit an Annual Facilities and Business Structure Turnover Plan 60 calendar days prior to the end of each operational year of the contract. Submit a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.

3.13.4 Turnover Results

To ensure smooth transition of turnover and mitigate risk to System Agency and Consumers, the Contractor must provide a comprehensive turnover results report.

Following turnover of operations, the Contractor must provide System Agency with a turnover results report documenting the completion and outcomes of each step of the Turnover Plan previously approved by System Agency. Turnover will not be considered complete and final payment will not be made until the Turnover Results Report is received and approved by System Agency.

In addition to the requirements stated above, the Contractor must:

DP 124-D Submit a Turnover Results Report within 45 calendar days after the completion of turnover activities or by the date specified by System Agency.

DP 125 Respond in a timely manner to all System Agency requests regarding turnover information.

3.13.5 Post-Turnover Support

To ensure smooth transition of turnover and mitigate risk to System Agency and Consumers, the Contractor must provide post-turnover support.

The Contractor must describe the methodology and approach that will be used to provide System Agency with post-turnover support. The Contractor must include a provision for the Contractor to provide a manager-level employee with significant experience with the contract and access to other technical and operational experts to remain on-site for at least 90 calendar days following contract termination. Additionally, the Contractor must agree that the contract termination will not be complete until the post-turnover support required is completed, with payment due 30 days after completion of the obligations.

In addition to the requirements stated above, the Contractor must:

DP 126 Be responsible for any malfunctions that existed in the equipment or technology prior to turnover or that were caused by lack of the Contractor's support during turnover, as may be determined by System Agency.

DP 127 Propose and provide experienced personnel to support System Agency during the entire post-turnover support period.

System Agency Responsibilities

To fulfill the requirements of this Contract, System Agency will:

1. Closely monitor the Contractor's activities and evaluate the Contractor's readiness for turnover.

At its discretion, System Agency may:

1. Review, approve, or require modification to the Contractor's proposed post-turnover support resources.
2. Provide working space for the post-turnover support resources.
3. Assign work to be done on a full-time basis to support post-turnover activities.
4. Review, approve, or require modification to the Contractor's proposed Turnover Results Report including the data components and format.
5. Review, approve, or require modification to the Turnover Plan.

4. FINANCIAL REQUIREMENTS

3.14 Overview of Financial Approach

The financial approach described below documents the various System Agency and Contractor's responsibilities required under this Contract. The objective of the Financial Approach is to describe the financial components that will enable System Agency and the State programs included in this Contract to achieve the Mission Objectives of the Contract and to ensure that all services required of the Contractor are provided as efficiently and effectively as possible to assist System Agency in its responsibility for the efficient and effective administration of State and Federal funds through the application of sound management practices.

3.15 Financial Accounting and Reporting Requirements

3.15.1 Overview of Financial Accounting and Reporting Requirements

This section presents System Agency and the Contractor's responsibilities for recording and reporting Contract transactions.

The need for greater public and financial accountability in the administration of critical taxpayer-funded programs has led to a demand for more information regarding government programs and services. Public officials, legislators, and citizens want and need to know whether government funds are handled properly and in compliance with laws and regulations. They also want and need to know whether government organizations, programs, services and Contractors (including any subcontractors) retained to provide contracted services are achieving their purposes and whether these organizations, programs, services and Contractors (including any subcontractors) are operating economically and efficiently.

Any expenses incurred by the Contractor or any of its subcontractors for the completion of any contractual requirement that are deemed by System Agency or any auditors to be inefficient or uneconomical will be deemed unallowable under the contract. System Agency reserves the right to withhold or reduce the Contractor's administrative payments for the duration of the contract for any contractual requirement not met.

3.15.2 Business Objectives of Financial Accounting and Reporting Requirements

The business objectives relating to Accounting and Reporting requirements include, but are not limited to the following:

1. Accumulating and reporting accounting data in accordance with the following standards (as they may be amended during the term of the Contract):
 - a. Generally Accepted Accounting Principles (**GAAP**);
 - b. Title 48 CFR, Chapter 1, Parts 30 and 31 and Chapter 99;
 - c. Federal guidelines, rules and regulations applicable to programs within the scope of the Contract;
 - d. System Agency guidelines, rules, regulations and provisions applicable to programs within scope of this Contract. Where System Agency guidelines, rules, regulations and provisions of this Contract are in conflict with GAAP, Title 48 CFR Chapter 99, Title 48 CFR, Chapter 1, Part 30 or Title 48 CFR Chapter 1, Part 31, then the System Agency guidelines, rules, regulations and provisions of this Contract will prevail; and
 - e. Providing authorized governmental representatives of the State and the Federal government full access to all information needed to conduct financial reviews and audits required by law or by the contract in accordance with applicable standards.
2. Effectively regulating costs. To this end, allowable costs are costs that are:
 - a. Necessary and reasonable for the proper and efficient performance and administration of applicable Federal awards;
 - b. Allocable to applicable Federal awards under the provisions of the Federal standards or any other accounting provisions included in the contract;
 - c. Authorized or not prohibited under State laws, State regulations, System Agency policies, or any provision included in the contract;
 - d. In conformity with any limitations or exclusions set forth in applicable accounting principles, Federal laws, terms and conditions of the Federal award(s) to System Agency and/or the Contract;
 - e. Consistent with policies, regulations and procedures that apply uniformly to Federal awards impacting the Contract;
 - f. Determined in accordance with GAAP; and
 - g. Adequately documented.

3.15.3 Financial Accounting Requirements

The Contractor's accounting records and procedures are subject to System Agency approval. Accruals of expenses or liabilities are subject to System Agency review and approval. System Agency will not recognize as valid costs any accruals that it deems inappropriate. For example, lease agreement costs beyond the effective date of termination or completion of a resulting contract, or lease cancellation expenses resulting from termination or completion of the contract, are not valid, allowable costs. System Agency will not recognize as valid costs any excessive charges or fees from the

Contractor or any of the Contractor's subcontractors that System Agency deems inappropriate.

Allowable and non-allowable direct and indirect costs, wherever applicable to any payments to the Contractor, will be governed by the principles set forth in the following regulations (as may be amended during the term of the contract) and documents:

1. Title 48 CFR, Chapter 1, Part 31, Contract Cost Principles and Procedures.
2. Title 48 CFR, Chapter 1, Part 30, Cost Accounting Standards Administration.
3. Title 48 CFR Chapter 99–Cost Accounting Standards.

In addition to costs that are unallowable pursuant to the above accounting principles, System Agency has deemed certain items within the allowable costs to be specifically unallowable for the contract. The list of additional unallowable costs is as follows:

1. Local and State taxes paid to local or State governments outside of Texas (other than hotel, airline and sales taxes expended specifically for the contract);
2. Federal taxes (other than hotel and airline taxes expended specifically for the contract);
3. Bid and Proposal costs of any type;
4. Employee bonuses of any type;
5. Tuition fees;
6. Employee or facility relocation costs, except as allowed through contract amendment;
7. Travel costs not in compliance with System Agency Travel Policy (i.e. unallowable travel expenses applicable to System Agency staff are also applicable to the Contractor staff);
8. Professional or technical society's annual dues or relevant fees;
9. Professional conferences, meetings or symposiums, inclusive of training or professional development activities unless specifically authorized by System Agency or through the approved Training Plan (DP 022-D);
10. Professional licenses annual dues or relevant fees;
11. Social activities or luncheons of any type/purpose;
12. Break room and/or refreshment supplies or services of any type;
13. Immigration or visa fees of any type;
14. Public Relations and Selling costs;
15. Actual costs, remedies and/or damages due to System Agency for the Contractor not meeting System Agency performance requirements;
16. Any monies owed to the Federal government due to the Contractor not meeting Federal performance requirements;
17. Dispute resolution and arbitration costs;
18. Contingency funding costs;

19. Pre-contract costs;
20. Indirect expenses (Overhead, General and Administrative charges, etc.) and administrative service fees related to pass-through items; and
21. Inter-company profits and margins related to all transactions with any parent, affiliate, or subsidiary organization, including inter-company profits and margins related to all transactions the Contractor or the Contractor's subsidiary has with any parent, affiliate, or subsidiary organization.

In addition to the requirements stated above, the Contractor must:

- DP 128 Establish and maintain an accounting system in accordance with the following standards (as they may be amended during the term of the contract):
1. Title 48 CFR, Chapter 1, Parts 30 and 31 and Chapter 99;
 2. Applicable Federal guidelines, rules, and regulations;
 3. System Agency guidelines, rules, regulations and provisions of this Contract;
 4. GAAP (Where System Agency guidelines, rules, regulations and provisions of this Contract are in conflict with GAAP, Title 48 CFR, Chapter 1 Part 30, Title 48 CFR, Chapter 1, Part 31 and/or Title 48 CFR, Chapter 99, then the System Agency guidelines, rules, regulations and provisions of this Contract will prevail);
 5. The Contractor's accounting system must (1) maintain accounting records related directly to the performance of the contract and (2) maintain accounting records related to the contract this Contract separate and apart from other corporate accounting records; and
 6. Part 9904.401 relates to cost accounting standards regarding the consistency in estimating, accumulating and reporting costs. The Contractor's methods used in estimating costs must be consistent with the cost accounting practices used in accumulating and reporting actual costs.
- DP 129 Maintain an accounting system that provides an audit trail containing sufficient financial documentation to allow for the reconciliation of billings, reports, and financial statements with all general ledger accounts and specific business functional areas.
- DP 130 Maintain, document, and submit operations cost data in accordance with System Agency requirements and Federal manuals and directives.

Documentation must support and differentiate between functional operational costs for services provided by the Contractor for any of the programs supported by the contract. As required by Federal regulations or as may be required by System Agency guidelines, documentation must differentiate between IT and non-IT. Such cost allocation reports must be in a format and content approved by System Agency. The format of these reports must allow System Agency to comply with Federal reporting requirements and to compare operations cost data to the Cost Proposal and Price Summary information for each applicable business functional area administered under the contract.

DP 131-D Submit a final Accounting Policy Manual and Disclosure Statement within 45 calendar days after contract effective date which includes any modifications necessary due to contract negotiations and all of the proposed accounting policies and procedures the Contractor must follow during the duration of any contract resulting from the Contract.

Any modifications to the final accounting policy manual approved by System Agency must be approved in writing by System Agency prior to implementation of any change. System Agency reserves the right to require revisions to the Successful Contractor's accounting policy manual at any time during the contract.

System Agency Responsibilities

At its discretion, System Agency may:

1. Monitor the Contractor's performance and compliance with the Financial Accounting Requirements.
2. Require the Contractor to provide any information necessary to monitor their performance.

3.15.4 General Access to Accounting Records

The Contractor must provide authorized governmental representatives of System Agency and the Federal government full access to all financial and accounting records related to the performance of the contract, including all requested subcontractor financial and accounting records. The financial and accounting records shall be provided to the authorized governmental representatives of System Agency and the Federal government in an electronic format by the due date provided by System Agency.

In addition to the requirements stated above, the Contractor and its subcontractors must:

- DP 132 Cooperate with System Agency, System Agency auditors, Texas State Auditor's Office (SAO) and the Federal government in their inspections, audits, and/or review, and provide all necessary records and information. As required by Title 48 CFR, Chapter 1, Part 30, Title 48 CFR, Chapter 1, Part 31 and Title 48 CFR, Chapter 99, it is the responsibility of the Contractor to provide adequate documentation and justification to the authorized representatives of System Agency, System Agency auditors, SAO and the Federal government during the inspection, audit and/or review process for all expenses included in the Contractor's accounting records.
- DP 133 Permit authorized governmental representatives of System Agency and the Federal government full access, both on-line (on a read-only basis) and in person, during normal business hours, to the accounting records that System Agency, System Agency auditors, SAO and/or the Federal government determine are relevant to the contract. Such access is guaranteed at all times during the performance and retention period of the contract, and will include both announced and unannounced inspections, on-site audits, and the review, analysis, and/or reproduction of reports produced by the Contractor.
- DP 134 Make all accounting records or supporting documentation relevant to the resulting contract available to System Agency or its agents within ten business days of receiving a written request from System Agency for specified records or information. At the request of System Agency or its agents, provide copies of any accounting records or supporting documentation System Agency determines is relevant to a resulting contract within ten business days of receiving a written request from System Agency for copies of the specified records or information. If such documentation is not made available as requested, the Contractor agrees to reimburse System Agency for all costs incurred by System Agency including, but not limited to wages, fringe benefits, payroll taxes, transportation, lodging, and subsistence for all State representatives, or their agents, to carry out their inspection, audit, review, analysis, and/or reproduction functions at the location(s) of such accounting records.

- DP 135 Pay any and all additional costs, including but not limited to any applicable professional fees, incurred by System Agency resulting from the Contractor's failure to provide the requested accounting records or financial information within the specified ten business days of receiving a written request from System Agency for specified accounting records or information.
- DP 136 Deliver to System Agency any reports or records that cannot be accessed on-line by System Agency personnel within ten business days of receiving a written request for such information, or by the due date provided by System Agency.
- DP 137 Provide authorized governmental representatives of System Agency, System Agency auditors, Texas SAO and the Federal government with access to accounting and financial records of any and all subcontractors, suppliers, or other parties the Contractor hires, retains, or otherwise employs or pays for goods or services related to the performance of the contract. This requirement is limited to those records that relate to the performance of any applicable functions of the contract. The Contractor must include this requirement in any contract(s) it enters into with subcontractors, suppliers, or other parties.
- DP 138 Provide authorized governmental representatives of System Agency, System Agency auditors, Texas SAO and the Federal government with access to the accounting and financial records of the Contractor's parent company, affiliates, subsidiaries and to any individual, partnership, firm, subsidiary, affiliate, or corporation of the Contractor or parent company of the Contractor that transacts business with any department, board, commission, institution or other System Agency or Federal agency connected with the contract. This requirement is limited to those records that relate to the performance of the contract.

3.15.5 Financial Report Requirements

System Agency will require the Contractor to provide financial reports to support contract monitoring and support any System Agency and Federal reporting requirements.

In addition to the requirements stated above, the Contractor must:

DP 139-D Submit an expense summary, detailing operations under the contract for each of the applicable business functional areas of the contract, no later than 20 calendar days after the end of each reporting month. Each summary will include accounts in conformance with GAAP and any applicable provisions included in this Contract. The Contractor must identify and eliminate any expenses not allowed by State or Federal laws and regulations and any applicable provisions included in this Contract.

In addition to an expense account listing, the report will also identify total expenditures by business functional area, cost center, line of business, and specific component of the contract.

Reported salary expenses must identify the Contractor's staff by their name and role.

The report must also include a comparison between allowable expenses and the projected expenses as provided by the Contractor. A narrative must also be included, detailing the reason(s) for any discrepancies.

System Agency reserves the right to request modifications to monthly financial reports if, in System Agency's sole determination, such changes are in System Agency's best interest. Requested modifications to monthly financial reports will be completed by the Contractor and/or any subcontractor with no additional charges due from System Agency.

The expense summary will fully disclose the financial impact of all transactions with any parent, affiliated, or subsidiary organization either under a formal or informal arrangement that relates to the performance under the contract. These transactions must be reported in a manner such that inter-company profits and margins are eliminated. The methodologies and assumptions supporting cost allocations must be disclosed, including cost allocations from home and/or central offices; and must follow the prescribed methodologies included in the accounting policy manual approved by System Agency.

DP 140-D

Submit, no later than 90 calendar days after the end of each operational contract period or after the termination of a contract, annual financial statements for the preceding operational contract period that depict the financial position of the Contractor and the result of operations (including administrative service fees) for each applicable business functional area under the contract, as well as the result of operations under all contracts for the State of Texas for the period.

The Contractor must identify and eliminate any expenses not allowed by State or Federal laws and regulations and any applicable provisions included in this Contract and must provide all documentation necessary for System Agency to validate the absence of unallowable expenses. Additionally, supportive documentation for actual direct, indirect, fringe, and franchise tax expenses must be included in the submission of this financial statement. The Contractor must reimburse System Agency for any expenses that System Agency determines to be unallowable under the terms of the contract.

System Agency will consider this financial statement (report of Allowable Costs) as “FINAL” for the applicable operational contract period and will not recognize any additional direct expense(s) not included in the financial report as allowable for the Retrospective Cost Settlement element of the contract.

However, System Agency’s approval of the Contractor’s reported allowable costs does not relieve the Contractor from revisions required by System Agency or System Agency’s representatives at any point during the term of the contract, nor does it relieve the Contractor from any costs associated with or resulting from any revisions required.

DP 141-D

Submit an income statement for each applicable business functional area that includes all revenue and expenses incurred in the yearly operation of the Contractor no later than 90 calendar days after the end of each operational contract period or after the termination of the contract. Each applicable statement must include accounts in conformance to GAAP and any applicable provisions included in this Contract.

The Contractor must clearly identify and eliminate any expenses not allowed by System Agency or by State or Federal laws and regulations. The income statement must fully disclose the financial impact of all transactions with any parent, affiliated, or subsidiary organization either under a formal or informal arrangement in supplying or receiving any service, supplies, or equipment to/from the Contractor that relate to the performance under the contract. Revenues and expenses associated with these transactions will be reported in a manner to ensure that inter-company profits and margins are eliminated.

DP 142-D Submit a certified public accountant's statement of tangible net worth as of the most recent State Fiscal Year end, and for each State Fiscal Year during the term of the contract.

The Contractor must submit tangible net worth statements during the term of the contract between September 1 and September 30 of each State Fiscal Year. Included in the statement must be a description of any uncertainties and the potential impact of such uncertainties on tangible net worth.

Tangible net worth is defined as net worth less intangible assets. Net worth can include a parent company's assets if these assets have been pledged if a subsidiary is the Contractor.

DP 143-D Submit a list of all nonexpendable capital items acquired under the contract no later than 30 calendar days after the end of the transition period and within 15 calendar days after the end of each State Fiscal quarter thereafter when nonexpendable capital items are acquired.

This report is only required if nonexpendable capital items are purchased during the quarter. The list of the nonexpendable capital items will include, at a minimum:

A description of each capital item;

1. Model number;
2. Manufacturer's serial number where applicable,
3. Funding source;
4. Information needed to calculate the Federal and State share of the acquisition cost;
5. Date of acquisition;
6. Unit cost; and

7. Information on the location of the capital item.

The Contractor must obtain prior approval from System Agency before purchasing any nonexpendable capital equipment items and/or any commercially available off the shelf software for the Contract.

DP 144-D Submit the Primary Subcontractor's Quarterly report of Allowable Costs within 15 calendar days after the end of the calendar quarter. The report must include the sum of Allowable Costs incurred by the Contractor, plus the allowable administrative service fee applicable for the Primary Subcontractor during the subjected State Fiscal Quarter.

The Primary Subcontractor's Allowable Costs will be subject to the financial terms and conditions contained in the contract between the Contractor and System Agency.

DP 145-D Submit formal notification affirming total maximum cost for the following operational year no less than 60 calendar days prior to the end of each operational year. In the absence of concurrence by the Parties, negotiation of costs for the following year will begin on December 1st.

The total maximum cost of the Services and Deliverables supplied by the Contractor to System Agency during each Operational Contract Year will not exceed the lesser of (a) the Contractor's Fees (Fee Ceiling) or (b) the sum of the Allowable Costs incurred by the Contractor plus the allowable administrative service fee during the subject Operational Contract Year.

For the submission of this deliverable to be considered complete, the Contractor must update and provide the following:

1. Appendix A-2 Operational Pricing (Schedules 1 – 11);
and
2. Appendix A-3 Summary Pricing (Summary Sheets 2 – 4).

The updated Appendix A-2 Operational Pricing and Appendix A-3 Summary Pricing will not be in effect until written approval from System Agency is provided.

3.15.6 System Agency Responsibilities

At its discretion, System Agency may:

1. Monitor the Contractor's compliance for providing the specified financial reports on or before the specified times.
2. Review financial reports provided by the Contractor for accuracy and completeness.
3. Assess applicable remedies/liquidated damages for any late reports, incorrect reports, or additional expenses incurred by System Agency, authorized representatives, or agents of System Agency.

3.16 Financial Payment Structure and Provisions

The financial payment structure for the DPS contract relates to the Administrative Payments. The following sections describe the anticipated pricing structures contemplated by System Agency and the major variables affecting the administrative payments:

3.16.1 Overview of Financial Payment Structures

Payment for the contractual services described in this Contract will be based on several pricing structures, depending on the specific service and/or deliverable required and whether the Contractor correctly performed the required service and/or deliverable. The Contractor will receive payments monthly as compensation for correctly and appropriately performing the services required in the contract.

The methods by which the Contractor will be paid for services under the Contract include Administrative Costs; Nonrecurring Maintenance, Modifications, and Additional Periodic Activities; Additional Recurring Activities; and Transition Costs.

3.16.2 Payment for Administrative Services

Payment to the Contractor for administrative services will be based on a combination of one or more fixed administrative fee(s) plus one or more variable administrative fee(s). The costs for administrative services will be subject to the Retrospective Cost Settlement provisions documented in **Section 3.16.7** of these **Contract Requirements**.

System Agency requires that no more than 40% of the administrative fees for DPS will be paid utilizing fixed fees and a minimum of 60% of the administrative fees for DPS will be paid utilizing variable fees. System

Agency reserves the right to determine the final percentage of fixed fees and variable fees in the contract for DPS.

Any expenses incurred by the Contractor after the commencement of the operational phase of the contract to complete transition activities or correct any defects from the Transition Phase must not be recorded as an operational expense and will not be considered an allowable expense for the respective contract.

System Agency will reduce the fixed and/or variable payments for any services that become obsolete or no longer necessary during the contract.

System Agency will not recognize as valid costs any excessive charges or fees from the Contractor or any of the Contractor's subcontractors that System Agency deems inappropriate. By the due date specified by System Agency, the Contractor shall repay all costs determined by System Agency to be unallowable.

System Agency will reduce the fixed and/or variable payments in any optional year exercised by System Agency for any expenses that will not be applicable during the optional year, such as, but not limited to, depreciation and amortization expenses for capital items fully expensed during the initial base contract period.

System Agency reserves the right to modify the fixed and variable fee payment methodologies to include fewer variable payment elements and/or additional variable payment elements in the administrative payment structure at any time during the contract resulting from the Contract.

The Contractor's Cost Proposal and Price Summary Sheet(s) must be based on the Contractor's proposed costs and an administrative service fee that will be included as part of each proposed Fixed Fee, each proposed Variable Fee and each proposed Periodic Activity Fee. The final administrative service fee included in the contract will remain unchanged and be applicable for all fixed fees, variable fees, periodic activity fees, recurring activity fees and any change orders executed during the term of the contract, unless mutually agreed to by the parties by a contract amendment.

3.16.3 Fixed Administrative Fees

Fixed administrative fees will be proposed for the first 36-month operational period of a resulting contract, and for the optional 24-month extension period. The final annual fixed administrative fees included in the resulting contract will be paid in 12 equal monthly payments. Fixed administrative fees for operational period less than 12 months will be paid in equal monthly

payments based on the total number of applicable months included in the final operational period. Operational costs in excess of the final fixed price amount(s) included in the contract will not be paid by System Agency. Fixed administrative fees will be paid to the Contractor retrospectively.

A Contractor must submit one or more monthly invoice(s) following the month in which the Contractor provides administrative services. System Agency will process and pay monthly fixed administrative fees in accordance with Chapter 2251, Texas Government Code. Separate invoices for each service function must be submitted by the Contractor to System Agency in the format specified by System Agency. Each invoice will be processed and paid separately.

The Contractor will supply detailed information with the invoice(s) as directed by System Agency to enable System Agency to allocate costs for the services according to the various State and Federal funding sources that support the contract for specific Document Processing Services within the contract. The Contractor must also provide supporting documentation for fixed administrative cost invoices, in an electronic format, subject to approval by System Agency, according to the various State and/or Federal funding sources that support the contract.

System Agency, at its sole discretion, may at any time reject or choose to process only a portion of a fixed administrative fee invoice, as allowable by statute, law, or the Texas Prompt Payment Act (PPA). If System Agency decides to process an invoice in this manner, an adjustment will be made by System Agency and only that portion of the fixed administrative invoice that can be verified and validated will be paid.

To be paid for the fixed administrative fees previously denied or not processed by System Agency, the Contractor must submit supplemental invoice(s) along with any and all necessary corrections. System Agency will process and pay fixed administrative fees billed on supplemental invoices in accordance with Chapter 2251, Texas Government Code. Each invoice will be processed and paid separately.

3.16.4 Variable Administrative Fees

Separate variable administrative fees will be proposed for the first 36-month operational period of the resulting Contract, and for the optional 24-month extension period. Variable administrative fees will be paid to the Contractor retrospectively.

The Contractor must submit monthly variable administrative payment invoices based on the determination of the separate fees and costs as stated

below. System Agency will process and pay monthly variable administrative fee(s) in accordance with Chapter 2251, Texas Government Code. Separate variable payment invoices for each program type must be submitted by the Contractor to System Agency in the format specified by System Agency. Each invoice will be processed and paid separately.

As directed by System Agency, the Contractor will separate the variable payment invoices according to the various State and Federal funding sources that support the applicable contract that have responsibilities for specific segments of the respective service functions. The Contractor must also provide supporting documentation for variable administrative cost invoices, in an electronic format, subject to approval by System Agency, according to the various State and Federal funding sources that support the applicable contract that have responsibilities for specific segments of the respective service functions.

System Agency, at its sole discretion, may at any time reject or choose to process only a portion of the variable administrative fee invoice, as allowable by statute, law, or the Texas PPA. If System Agency decides to process the invoice in this manner, an adjustment will be made by System Agency and only that portion of the variable administrative invoice that can be verified and validated will be paid.

To be paid for the variable administrative fees previously denied or not processed by System Agency, the Contractor must submit supplemental invoice(s) along with any and all necessary corrections. System Agency will process and pay variable administrative fees billed on supplemental invoices in accordance with Chapter 2251, Texas Government Code. Each invoice will be processed and paid separately.

3.16.5 Determination of Variable Fees

Variable Administrative Fees will be paid utilizing the variable billing elements described below.

Inbound Documents Processed

Incoming mail received by the DPC are appropriately processed by the Contractor. The inbound documents are measured by counting the document sets (as defined by an envelope that contains multiple documents related to

a single program application or case file) received as opposed to the number of pages, images and/or documents contained in the single client submission.

Document sets received from the Consumer are appropriately processed and uploaded to the applicable system and are ready for processing by the next business day are process in a usable complete electronic format.

Consumers may send the same document(s) multiple times. Each instance of the document initiated by the Consumer will be treated as a separate billable event. Duplicate inbound document sets received as a result of the Contractor not processing or not appropriately processing documents pursuant to terms of the contract will not be counted as a billable transaction.

Inbound document sets will be billable as the transactions are processed in a usable complete electronic format in the applicable system.

A "billable transaction" means a transaction documented in a manner that allows System Agency to determine by audit that the transaction (i) was expressly required by the final contract, (ii) was fully completed (no partially performed transactions); (iii) was actually performed by the Contractor, (iv) was a valid, single and unique transaction and not a duplicate of a previously billed transaction; (v) was accurately calculated by the Contractor, and (vi) complies with all quality requirements of the contract. Additionally, transactions generated as a result of errors or not processed in a timely manner by the Contractor shall not be billable.

The process is described in the workflow diagram.

3.16.6 Payment for Implementation and Modifications

Transition Costs

Transition costs to meet Contract requirements will be paid on a fixed fee basis. Transition costs in excess of the final fixed price amount(s) included in the contract will not be paid by System Agency.

Transition costs will be proposed to allow the Contractor to assume the responsibilities of each Key Milestone included in the Contract effective with the operational start date included in this Contract applicable to the specific Key Milestone. Transition costs will not be paid as an element of operational administrative costs. Transition costs will be paid to the Contractor retrospectively.

Any expenses incurred by the Contractor after the operational start date of a specific Key Milestone to complete transition activities or correct any defects from the Transition Phase of that specific Key Milestone must not be

recorded as an operational expense and will not be considered an allowable expense for the Retrospective Cost Settlement element of the contract.

System Agency intends to process and pay the transition costs in accordance with Chapter 2251, Texas Government Code. Separate invoices for each completed Key Milestone must be submitted by the Contractor to System Agency in the format specified by System Agency. Each invoice will be processed and paid separately. As directed by System Agency, the Contractor will separate the invoices according to the various State and Federal funding sources that support the applicable contract that have responsibilities for specific Key Milestones and/or segments of the respective service functions.

System Agency, at its sole discretion, may at any time reject or choose to process only a portion of a Key Milestone transition invoice, as allowed by statute, law, or the Texas PPA. If System Agency decides to process an invoice in this manner, an adjustment will be made by System Agency and only that portion of the Key Milestone transition invoice that can be verified and validated will be paid.

The Contractor must submit supplemental invoice(s) along with any and all necessary corrections to be paid for the Key Milestone transition fees previously denied or not processed by System Agency. System Agency will process and pay Key Milestone transition fee(s) billed on supplemental invoices in accordance with Chapter 2251, Texas Government Code. Each invoice will be processed and paid separately.

Proposed transition costs will be included in the pricing evaluation for each Key Milestone. Actual transition costs in excess of the amount included in the Contract for each Key Milestone will not be paid by System Agency. Transition requirements for each Key Milestone will be subjected to one or more performance measurement(s). Performance remedies, either liquidated damages and/or actual damages, may apply to each Key Milestone if the Contractor is not able to provide all of the necessary services and/or deliverables on the specified operational start date for the specific Key Milestone.

Additional Periodic Activities

System Agency anticipates that, during the life of the Contract, implementation of Federal and State mandates and other State initiatives will require additions or changes to the activities performed under the contract. If applicable, payment for costs associated with non-recurring modifications and additional periodic activities required after the Operational Start Date will be negotiated with the Contractor. The costs for such non-recurring modifications will be based on the explicit fixed hourly rates proposed by

the Contractor as described in the instructions for completion of the pricing proposal forms (payment for additional activities - catalog pricing/all-inclusive hourly labor rates) and the actual number of hours worked on the specific modification by the Contractor's staff or the staff of the Contractor's subcontractor. The costs for such non-recurring modifications will be subject to the Retrospective Cost Settlement provisions.

The Contractor must specify all-inclusive hourly labor rates for:

- A. **Non-Technical Operations** (including but not limited to the following types of service levels: Service Management Team Lead, Consultant, Associate Consultant and Service Management Representative.
- B. **Other Administrative Services** (including but not limited to the following types of service levels: Project/Task Manager, Quality Assurance Representative and Project Control Specialist).

The costs for such non-recurring modifications will be subject to the Retrospective Cost Settlement provisions.

The Contractor will employ the all-inclusive hourly labor rates proposed in developing pricing proposals for the performance of non-recurring modifications and additional periodic activities required after the Operational Start Date. Additional periodic activities are defined as the provision of any service(s), deliverable(s), or product(s) that will not be performed on a regular recurring basis. The all-inclusive hourly labor rates will be proposed for the first 12 months of the resulting contract. Rates for subsequent 12-month operational periods and for periods less than 12 months following the first 12 months of the contract will be determined by the application of a fixed annual price inflator/deflator proposed by the Contractor and accepted by System Agency.

The Periodic Activity All-Inclusive Hourly Labor Rates proposed by the Contractor must contain all costs related to performing the required functions; including, but not limited to, local/long-distance travel, local/long distance telephone communications, computer depreciation and/or computer usage costs, salaries, fringe benefits, indirect overhead charges and the allowable administrative service fee. No additional costs will be paid for any other items unless System Agency, in its sole discretion, determines that any additional cost(s) requested by the Contractor are extremely unique to the specific project and that the Contractor should not have otherwise included those additional costs as part of the required all-inclusive hourly labor rates.

System Agency intends to process and pay the Periodic Activity fee(s) in accordance with Chapter 2251, Texas Government Code. If any discrepancies are determined in the information provided by the Contractor,

System Agency will notify the Contractor of the discrepancies and will not process the invoice until all information is reconciled.

System Agency, at its sole discretion, may at any time reject or choose to process only a portion of the modifications fee invoice as allowed by statute, law, or the Texas PPA. If System Agency decides to process the invoice in this manner, an adjustment will be made by System Agency and only verified and validated portions of the invoice will be paid.

The Contractor must submit supplemental invoice(s) along with any and all necessary corrections to be paid for the modification fee(s) previously denied or not processed by System Agency. System Agency intends to process and pay modification fee(s) billed on supplemental invoices in accordance with Chapter 2251, Texas Government Code. Each invoice will be processed and paid separately.

Additional Recurring Activities

System Agency anticipates that, during the life of the contract, implementation of Federal and State mandates and other State initiatives will require additions or changes to the normal recurring activities performed under the contract. All such changes will be negotiated between System Agency and the Contractor. The pricing associated with additional recurring activities will be negotiated between the Contractor and System Agency after System Agency determines that the Contractor has submitted all of the detailed cost information (including detailed supporting metrics deemed appropriate by System Agency) necessary to accurately modify the applicable fixed and/or variable formulas. Once a total cost for the additional recurring activities is agreed upon, System Agency will make the determination as to whether one or more of the fixed fee formula(s) are modified, one or more of the variable fee formula(s) are modified, or all payment elements are modified.

The fixed annual inflation/deflation factor(s) and the allowable administrative service fee included in the final contract will be applicable for any of the proposed expenses submitted by the Contractor and approved by System Agency to determine the appropriate fixed and/or variable fee adjustments included in the amendment executed to include the additional recurring activities in the applicable contract.

Payment for Pass-Through Items

Actual expenditures for Pass-Through Items will be paid without allocation of any indirect charges (general and administrative expenses, overhead, etc.) or the allowable administrative service fee. The Contractor must utilize the detailed pricing schedules to depict the amount of pass-through expenses that will be paid without indirect charges or the allowable administrative service

fee. Items designated as Pass-Through Items include, but are not limited to the following:

- A. Capital expenditures including lease and/or rental payments on capital equipment;
- B. Sales taxes on capital expenditures including lease and /or rental payments on capital equipment;
- C. All postage expenses and/or delivery expenses directly related to the operation of the contract;
- D. Software license fees and software maintenance fees;
- E. Equipment maintenance and service agreement fees;
- F. Office rent (all documented costs imposed by the lessor);
- G. All printing costs including but not limited to toner cartridges, separator sheets, client communications, client handouts, bulletins, and similar print materials;
- H. All consumable supplies;
- I. All purchases made at the behest of System Agency;
- J. All subcontract expenses, including but not limited to labor costs; and
- K. All telecommunication lines and services, including local lines, toll-free lines, electronic communications lines, fiber optic lines, cell phones, internet connections, etc.

3.16.7 Retrospective Cost Settlement

Administrative fees paid to the Contractor during each Operational Contract Year (as defined by a 12-month period or applicable number of months if less than 12 months) will consist of: (i) the Fixed Administrative Fees; (ii) the Variable Administrative Fees; (iii) the Administrative Fees for the Additional Periodic Activities; and (iv) the Administrative Fees for the Additional Recurring Activities. The sum of the four Fee components will be referred to as the “Fee Ceiling”. The total maximum cost of the Services and Deliverables supplied by the Contractor to System Agency during each Operational Contract Year will not exceed the lesser of (a) the Contractor’s Fees (Fee Ceiling) or (b) the sum of the Allowable Costs incurred by the Contractor plus the allowable administrative service fee during the subject Operational Contract Year.

If a Positive Payment Disparity exists for three consecutive months and the Positive Payment Disparity for each of those three months is at least equal to or greater than 5% of the Contractor’s fees disbursed by System Agency; then the Contractor shall agree to decrease the Fixed Pricing Components and/or the Variable Pricing Components (the “Adjusted Contractor Fees”) payable by System Agency in future months. System Agency agrees to increase the Adjusted Contractor Fees to amounts that would not exceed the Contractor’s Fees as they existed prior to the first adjustment if Allowable

Costs are projected to exceed Adjusted Contractor Fees. Nothing contained in this section shall be construed as increasing the Fee Ceiling.

(A) General Requirements

Not later than 90 days after the expiration of each Operational Contract Year, or such period as has been mutually agreed upon by System Agency and the Contractor, the Contractor will submit to System Agency a report of the Allowable Costs incurred by the Contractor during such Operational Contract Year.

The Contractor must clearly identify and eliminate any expenses not allowed by State or Federal laws and regulations, any applicable provisions included in this contract and must provide all documentation necessary for System Agency to validate the absence of unallowable expenses. Supportive documentation for actual, indirect, fringe, and franchise tax expenses must be included in the submission of this financial statement. The Contractor must reimburse System Agency for all expenses that System Agency determines to be unallowable under the terms of the contract.

System Agency will consider the report of Allowable Costs incurred as “FINAL” for the applicable Operational Contract Period and will not recognize any additional direct expense(s) not included in the financial report as allowable for the Retrospective Cost Settlement element (**DP 140-D**).

A review of the Allowable Costs pursuant to the contract will be undertaken by System Agency and the Contractor as soon as possible following System Agency’s receipt of Contractor’s report. The review by System Agency may include an audit of the Allowable Costs submitted by the Contractor. System Agency will determine the approved Allowable Costs (“Approved Allowable Costs”) and System Agency will notify the Contractor with a full explanation of any exceptions it has taken to the Contractor’s report of its Allowable Costs.

Any determination made by System Agency regarding the Approved Allowable Costs will be final and conclusive, unless within 30 days from the receipt of the written notice to the Contractor of such exceptions, the Contractor files a written objection with System Agency, which dispute will be resolved in accordance with the Dispute Resolution procedures included in **Exhibit D Uniform Terms and Conditions**. System Agency’s approval of the Contractor’s reported allowable costs does not relieve the Contractor from revisions required by System Agency or its representatives at any point

during the term of the contract, nor does it relieve the Contractor from any costs associated with or resulting from any revisions required.

System Agency and the Contractor will make all necessary adjustments as may be necessary in accordance with the provisions of the following sections:

- 1) If, for the subject Operational Contract Year (12-month period or applicable number of months if less than 12 months), the Contractor Fees (Fee Ceiling) disbursed to the Contractor are in excess of the Approved Allowable Costs plus the allowable administrative service fee, the Contractor will refund any excess to System Agency.
- 2) If, for the subject Operational Contract Year, the Contractor Fees (Fee Ceiling) disbursed to the Contractor are less than the Approved Allowable Costs plus the allowable administrative service fee, the Contractor will accept the Contractor's Fees disbursed or otherwise payable to the Contractor as payment in full for Services and Deliverables performed during the subject Operational Contract Year.

As depicted in this Contract, Payment Disparity Credits provided to System Agency during an Operational Contract Year or portion thereof will not accrue or transfer to succeeding Operational Contract Years.

(B) Monthly Reconciliations

On a monthly basis, System Agency and the Contractor shall reconcile the amounts disbursed to the Contractor in order to determine whether the Contractor Fees disbursed to the Contractor during the previous month are either in excess or less than the amount of the Contractor's Allowable Costs plus the allowable administrative service fee during that previous month (a "Payment Disparity").

- 1) A "Positive Payment Disparity" shall exist when the Contractor Fees disbursed to the Contractor during the previous month exceeds the amount of Contractor's Allowable Costs plus the allowable administrative service fee during that previous month.
- 2) A "Negative Payment Disparity" shall exist when the Contractor Fees disbursed to the Contractor during the previous month are less than the amount of Contractor's Allowable Costs plus the allowable administrative service fee incurred by the Contractor during that previous month.

In the event of a Positive Payment Disparity, the Contractor shall adjust one or more of the next month's invoice(s) to System Agency to remedy the Positive Payment Disparity by providing System Agency with a credit to the amount owed to the Contractor (the "Adjusted Invoice"). Any credits provided to System Agency by the Contractor shall be referred to as "Payment Disparity Credits." Payment Disparity Credits provided to System

Agency during the Operational Contract Year will not accrue or transfer to succeeding Operational Contract Years. The Contractor must clearly identify and detail the reasoning for all such payment adjustments.

In the event of a Negative Payment Disparity, the Contractor shall be allowed to adjust one or more of the next month's invoice(s) to System Agency to remedy the Negative Payment Disparity, if one or more previous invoices in an Operational Contract Year were adjusted due to a Positive Payment Disparity and there are Payment Disparity Credits available for application. The Contractor's adjustment will be limited to the amount of any Payment Disparity Credit balance available from previous Positive Payment Disparity adjustments retained by System Agency. In no event will the Negative Payment Disparity adjustment be applied if it would cause the amounts disbursed to the Contractor to exceed the Fee Ceiling. The Contractor will include a positive adjustment to one of the Fixed Pricing Component invoices otherwise payable, by increasing the amount invoiced for the next month on an Adjusted Invoice. The Contractor must clearly identify and detail the reasoning for all such payment adjustments.

(C) Three Month Reconciliations with Contractor

If a Positive Payment Disparity exists for three consecutive months and the Positive Payment Disparity for each of those three months is at least equal to or greater than 5% of the Contractor Fees disbursed by System Agency; then the Contractor shall agree to decrease the Fixed Pricing Components and/or the Variable Pricing Components (the "Adjusted Contractor Fees") payable by System Agency in future months.

System Agency agrees to increase the Adjusted Contractor Fees to amounts that would not exceed the Contractor Fees as they existed prior to the first adjustment if Allowable Costs are projected to exceed Adjusted Contractor Fees.

Nothing contained in this section shall be construed as increasing the Fee Ceiling.

3.17 Additional Financial Components

3.17.1 Ownership of Capital Items

Generally, ownership of all nonexpendable capital items funded by the contract will pass to System Agency at the expiration of the contract. The State shall have the option to require the Contractor to dispose of any capital

items at the expiration of the contract that the State chooses not to assume ownership of the nonexpendable capital items.

1. Nonexpendable capital items are defined as tangible and personal property of a non-consumable nature that have an acquisition cost of \$500.00 or more per unit and an expected useful life of at least one year. The term nonexpendable capital item includes, but is not limited to, office furniture, office equipment, telephone equipment, computer furniture, computer equipment, computer software and computer leases.
2. Computer software and software license(s) that fall under this definition are limited to those that transfer with equipment to System Agency upon termination of the Contract and do not require any monthly or annual fees to continue to be operational.
3. Facility of equipment repairs valued at or above \$500 that have not received advanced approval from System Agency, and that the Contractor did not provide three or more bids to perform the work are considered unallowable (willful intent to circumvent this requirement may result in the Contractor being liable for repair costs, as determined by System Agency).

All nonexpendable capital items, including nonexpendable capital items that are leased, will be depreciated on a monthly basis over the initial term of the contract, including any applicable transition months. The cost of installation (excluding in-house labor) of equipment, furniture, workstations, and other leasehold improvements required to make the space useable to meet the requirements of the contract will also be treated in the same manner as the capital item; the cost will be depreciated over the initial term of a contract, including any applicable transition months. All capital lease(s) must include the ability for the Contractor to purchase the capital items included in the lease for \$1.00 at the expiration of the initial base term of the Contract.

1. If a contract terminates before the end of the initial term, System Agency will have the option to take ownership of all, some, or none of the nonexpendable capital items.
2. If System Agency chooses to take ownership of a nonexpendable capital item, System Agency will (subject to the other limitations set forth in the contract), reimburse the Contractor for the remaining months of any nonexpendable capital item costs (depreciation), amortized capitalized lease costs, amortized operating lease costs, costs related to lease purchase options and/or installation costs related to equipment, furniture, workstations, or other leasehold improvements (capital items) acquired under a resulting contract. These costs are limited to the initial term of the resulting contract.
3. In exercising its options under the foregoing paragraph, System Agency will have the right to offset against any such reimbursements any remedies and/or damages that System Agency is entitled to assess against the Contractor.

4. If System Agency does not choose to take ownership of a nonexpendable capital item, then all costs associated with that item remain the responsibility of the Contractor without any recourse to System Agency.

The Contractor is advised not to enter into any subleases related to this contract that extend beyond the initial term of a resulting contract. In no event will System Agency reimburse the Contractor for the portion of any lease that is allocable beyond the initial term of the contract, or any fees associated with the termination of a lease that extends beyond or before the initial term of the resulting contract, if not assumable by System Agency. The Contractor will be responsible to pay any costs related to exercising any purchase option to provide System Agency with a clear title to any capital items System Agency chooses to retain. The Contractor will be responsible to pay any such costs on or before the date the contract expires or is terminated.

The funds budgeted for capital equipment cannot be used for any expenditures other than for capital items (capital equipment purchases, capital equipment leases or installation costs related to equipment, furniture, workstations, or other leasehold improvements) necessary to meet the requirements of a resulting contract.

All nonexpendable capital items acquired under a resulting contract will be recorded and a list will be provided to System Agency at the end of the transition period and each State Fiscal quarter thereafter (DP 143-D). The Contractor must use an asset tracking system, processes, procedures, and asset tracking software designed by System Agency to record all nonexpendable capital items on the required asset list. The list of the nonexpendable capital items will include, at a minimum, a description of each capital item, model number, manufacturer's serial number where applicable, funding source, information needed to calculate the Federal and State share of the acquisition cost, date of acquisition, unit cost, and information on the specific location of the capital item. System Agency reserves the right to modify the detailed information necessary that is related to this asset listing requirement.

At System Agency's option and subject to its prior written approval and acceptance, ownership of all nonexpendable capital items acquired during the term of the contract will vest in System Agency at the earliest of:

1. The date the nonexpendable capital item is no longer needed to fulfill any requirements of the contract;
2. The date the item is turned over to System Agency; or
3. Upon expiration or termination of the contract.

At no time will the Contractor dispose of nonexpendable capital items purchased for the contract without prior approval from System Agency. Within ten business days after the earliest of the events stated above, the Contractor will provide System Agency with all documentation reasonably necessary to authenticate System Agency's ownership of the items.

The Contractor must obtain prior approval from System Agency before purchasing any nonexpendable capital equipment items and/or any commercially off the shelf software for the Contract. The Contractor must obtain prior approval from System Agency before purchasing any outdoor/indoor furniture regardless of dollar amount. Any single item with a purchase price over \$500 must receive prior approval for purchase by System Agency and have no less than three bid quotes accompanying the request. Facility or equipment repairs valued at or above \$500 that have not received advanced approval from System Agency, and that the Contractor did not provide three or more bids to perform the work are considered unallowable (willful intent to circumvent this requirement may result in the Contractor being liable for repair costs, as determined by System Agency).

5. KEY PERFORMANCE REQUIREMENTS AND DELIVERABLES

System Agency will monitor the performance of the Contractor. All services and Deliverables under this Contract must be provided at an acceptable quality level and in a manner consistent with acceptable standards, customs, and practices. The Contractor must ensure services are provided at least at the level established for DPS' approved minimum goals and outcomes. The Contractor must report on key performance requirements and deliverables in accordance to the quality and performance outlined within **Attachment B**, and **Attachment C** outlined below:

- A. All services and Deliverables provided under any agreement must be provided in a manner consistent with the standards of quality and integrity as outlined in the agreement, the Solicitation, and the Contractor's proposal.
- B. All services and Deliverables must meet or exceed the required level of performance specified in or under any agreement and must meet or exceed System Agency's mission and objectives, as set forth in the Contract.
- C. The Contractor must perform the services in a quality manner, in accordance with best practices and high professional standards used in well-managed operations performing services similar to the services described in the agreement.

System Agency formal communication process will be utilized for the submission of all KPRs and Deliverable reports. System Agency provides comments and approval of each report provided in support of this agreement via the formal communication process.

ATTACHMENT B
KEY PERFORMANCE REQUIREMENTS

DPS KPR 1	
Reporting Period	As Requested
Service/Component	Official Correspondence State Action Request
Performance Standard	The Contractor shall submit complete and accurate responses to any State Action Request (SAR) or Vendor Action Request (VAR) memos no later than ten (10) calendar days after the Contractor's receipt of the request or by the date specified in the memo.
Liquidated Damages Value	\$250.00
Measurement of Noncompliance	Each calendar day for each instance of a late submission, submission being found unacceptable by System Agency, or failure to provide requested information by the due date indicated by System Agency.
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Calculation/ Reporting Process	<p>System Agency determines Contractor's compliance with this KPR by comparing the submission date of the SAR or VAR Response via the formal communication process to the established due date specified by System Agency.</p> <p>Note that for the due dates established by System Agency, the Contractor is expected to provide a response no later than 5:00 p.m. CDT (unless otherwise specified) of the due date provided to be considered compliant with this KPR.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 2	
Reporting Period	As Requested
Service/Component	Official Correspondence SAR or VAR Response
Performance Standard	The Contractor must provide ad hoc reports and respond to Legislative inquiries and other high priority requests within 36 hours from the time of the request or by the date and/or time specified by System Agency.
Liquidated Damages Value	\$500.00
Measurement of Noncompliance	Each calendar day for each instance of a late submission, response being found incomplete or inaccurate by System Agency, or failure to provide requested response by the due date indicated by System Agency.
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Calculation/ Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the response date of the SAR or VAR Response from the Contractor via the formal communication process to the established due date specified by System Agency.</p> <p>Note that for the due date established by System Agency, the Contractor is expected to provide a response no later than 5:00 p.m. CDT (unless otherwise specified) of the due date provided to be considered compliant with this KPR.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 3	
Reporting Period	As required
Service/Component	Work Plan Due Dates
Performance Standard	The Contractor must meet all due dates contained in all Work Plans: Transitions, Facility and Business Structure, and Business Operations. Failure to meet due dates for any Work Plan will be assessed separately.
Liquidated Damages Value	\$250.00
Measurement of Noncompliance	Each calendar day after each due date specified in the Work Plan
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the completion date of each individual task to the System Agency approved due date for each due date contained in any Work Plan.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 4	
Reporting Period	Semiannually
Service/Component	Six-Month Evaluation Report of the Business Operations Plan
Performance Standard	The Contractor must submit an acceptable detailed six-month evaluation report of the Business Operations Plan within 30 calendar days after the end of the six-month reporting period covered by the report.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance Calculation/Reporting Process	<p>Each calendar day after due date</p> <p>System Agency determines compliance with this KPR by comparing the submission date of the Six-Month Evaluation Report of the Business Operations Plan via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 5	
Reporting Period	Daily
Service/Component	Inbound Mail Timeliness
Performance Standard	The Contractor must process 100% of all inbound documents (returned mail, non-image only, and image only, holdover and any other mail determined by HHSC) on the next business day of receipt by the Contractor or within the timeframe otherwise specified by System Agency. Any holdover mail will be included in the next day's 100% total.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each percentage point below 100%
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the successful Inbound Mail Timeliness percentage to the Performance Standard of 100% established in this KPR. This is rounded to the nearest tenth decimal.</p> <p>The calculation of liquidated damages is based on the following formula: calculation of liquidated damages is based on the following formula:</p> <p style="text-align: center;">a = Measurement of Noncompliance b = Frequency c = LD Value</p> <p style="text-align: center;">(a)(b)(c) = LD to be assessed at System Agency's discretion</p> <p>Example</p> <p>If the Contractor is required to process 100% of inbound mail daily, and instead achieves 94.7%, then the variance from the benchmark is 5.3. Therefore, the calculation would be as follows:</p> <p style="text-align: center;">a = Each % point below 100% b = Daily c = \$1,000</p> <p style="text-align: center;">(5.3)(1)(\$1,000) = \$5,300</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 6	
Reporting Period	Daily
Service/Component	Inbound Mail Timeliness
Performance Standard	The Contractor must process 100% of all inbound documents except for returned mail and image-only on the day of receipt by the Contractor, or within the timeframe otherwise specified by System Agency. Any holdover mail will be included in the next day's 100% total.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each percentage point below 100%
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the successful Inbound Mail Timeliness percentage to the Performance Standard of 100% established in this KPR. This is rounded to the nearest tenth decimal.</p> <p>The calculation of liquidated damages is based on the following formula</p> <p style="text-align: center;">a = Measurement of Noncompliance b = Frequency c = LD Value</p> <p style="text-align: center;">(a)(b)(c) = LD to be assessed at System Agency's discretion</p> <p>Example</p> <p>If the Contractor is required to process 100% of inbound mail daily, and instead achieves 94%, then the variance from the benchmark is 6. Therefore, the calculation would be as follows:</p> <p style="text-align: center;">a = Each % point below 100% b = Daily c = \$1,000</p> <p style="text-align: center;">(6)(1)(\$1,000) = \$6,000</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 7	
Reporting Period	Daily
Service/Component	Inbound Mail - Accuracy/Quality Services
Performance Standard	The Contractor must ensure that 98% of inbound mail is processed accurately, as determined in accordance with System Agency-approved methodology and performance criteria in the Quality Management Plan.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each percentage point below 98%
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the successful Inbound Mail - Accuracy/Quality Services percentage to the Performance Standard of 98% established in this KPR. This is rounded to the nearest tenth decimal.</p> <p>The calculation of liquidated damages is based on the following formula:</p> <p style="text-align: center;">a = Measurement of Noncompliance b = Frequency c = LD Value</p> <p style="text-align: center;">(a)(b)(c) = LD to be assessed at System Agency's discretion</p> <p><i>Example</i></p> <p>If the Contractor is required to process 98% of inbound mail accurately daily, and instead achieves 94%, then the variance from the benchmark is 4. Therefore, the calculation would be as follows:</p> <p style="text-align: center;">a = Each % point below 98% b = Daily c = \$1,000</p> <p style="text-align: center;">(4)(1)(\$1,000) = \$4,000</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 8	
Reporting Period	Daily
Service/Component	Inbound Mail - Accuracy/Quality Services
Performance Standard	The Contractor must ensure that all of inbound mail is processed maintaining and ensuring data integrity of documents, as determined in accordance with System Agency-approved methodology and performance criteria in the Quality Management Plan.
Liquidated Damages Value	\$250.00 per performance measurement
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each incident of non-performance criteria unmet
Calculation/Reporting Process	System Agency determines the Contractor's compliance with this KPR by assessing the performance measurements noted within the System Agency approved Quality Management Plan.

DPS KPR 9	
Reporting Period	Daily
Service/Component	Inbound Mail
Performance Standard	The Contractor must notify and route to System Agency 100% of unimaged documents received by mail that are not appropriate for imaging, within System Agency approved timeframes.
Liquidated Damages Value	\$100.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day per document
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the successful Inbound Mail percentage to the Performance Standard of 100% established in this KPR. This is rounded to the nearest tenth decimal.</p> <p>The calculation of liquidated damages is based on the following formula:</p> <p style="text-align: center;">a = Measurement of Noncompliance b = Frequency c = LD Value</p> <p style="text-align: center;">(a)(b)(c) = LD to be assessed at System Agency's discretion</p> <p>Example</p> <p>If the Contractor is required to notify and route to System Agency 100% of unimaged documents daily, and instead achieves 94%, then the variance from the benchmark is 6. Therefore, the calculation would be as follows:</p> <p style="text-align: center;">a = Each % point below 100% b = Daily c = \$1,000</p> <p style="text-align: center;">(6)(1)(\$1,000) = \$6,000</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 10	
Reporting Period	Monthly
Service/Component	Imaging Accuracy/Quality Services
Performance Standard	The Contractor must ensure that 98% of imaging is processed accurately, as determined in accordance with System Agency-approved methodology and performance criteria in the Quality Management Plan.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each percentage point below 98%
Calculation/Reporting Process	<p>System Agency determines compliance with this KPR by comparing the successful Inbound Mail - Accuracy/Quality Services percentage to the Performance Standard of 98% established in this KPR. This is rounded to the nearest tenth decimal.</p> <p>The calculation of liquidated damages is based on the following formula:</p> <p style="text-align: center;">a = Measurement of Noncompliance b = Frequency c = LD Value</p> <p style="text-align: center;">(a)(b)(c) = LD to be assessed at System Agency's discretion</p> <p><i>Example</i></p> <p>If the Contractor is required to process 98% of images accurately monthly, and instead achieves 94%, then the variance from the benchmark is 4. Therefore, the calculation would be as follows:</p> <p style="text-align: center;">a = Each % point below 98% b = Monthly c = \$1,000</p> <p style="text-align: center;">(4)(1)(\$1,000) = \$4,000</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 11	
Reporting Period	As Requested
Service/Component	Initial Disaster Recovery and Business Continuity Plan
Performance Standard	The Contractor must prepare and submit an acceptable Disaster Recovery and Business Continuity Plan specific to the transition and on-going operations within 45 calendar days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Initial Disaster Recovery and Business Continuity Plan via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 12	
Reporting Period	Annually
Service/Component	Annual Disaster Recovery and Business Continuity Plan
Performance Standard	The Contractor must prepare and submit an acceptable Annual Disaster Recovery and Business Continuity Plan within 30 calendar days prior to end of each operational year of the contract.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Annual Disaster Recovery and Business Continuity Plan via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 13	
Reporting Period	As Required
Service/Component	Major System Outages Notification
Performance Standard	The Contractor must notify System Agency of all major system outages via e-mail or telephone if e-mail is unavailable within five minutes after the Contractor determines a major system outage has occurred. Submit an incident report to System Agency via the official correspondence process within 24 hours of reported system outage(s).
Liquidated Damages Value	\$250.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each incident that is not reported within 24 hours and/or each major system outage event
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Major System Outage Notification via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 14	
Reporting Period	As Required
Service/Component	Incident Report
Performance Standard	CONTRACTOR must submit an incident report to System Agency via the official correspondence process within 24 hours of reported system outage(s).
Liquidated Damages Value	\$250.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions in order to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each business day after 24 hours of reported system outage(s).
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Incident Report via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 15	
Reporting Period	As Required
Service/Component	Security Management Process Plan
Performance Standard	CONTRACTOR must prepare and submit an acceptable Security Management Process (Plan) within 35 business days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance Calculation/Reporting Process	<p>Each business day after due date</p> <p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Security Management Process Plan via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 16	
Reporting Period	As Required
Service/Component	Security Features Systems and Confidential Information
Performance Standard	The Contractor must maintain adequate security features for all of the Contractor's supported automation systems (voice and data) to protect the systems and all confidential information against any security breaches, unauthorized access, or other violation of state and federal regulations. Each event of a security breach, unauthorized access or other violation will be treated independently and will be subject to separate assessment of liquidated damages.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each event that results in a security breach
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by assessing compliance with the Security Management Process Plan for the protection of all confidential information against any security breaches, unauthorized access, or other violation of state and federal regulations.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 17	
Reporting Period	As Required
Service/Component	Report of Security Systems Issues
Performance Standard	The Contractor must submit a report of security systems issues within one calendar day of discovery detailing the security violation, when and how it was discovered, operational impacts, and corrective measures to detect and prevent future violations.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each Security systems issue that is not reported within one calendar day
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Security System Issue via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 18	
Reporting Period	As Required
Service/Component	Confidentiality
Performance Standard	The Contractor must report to System Agency each occurrence of unauthorized destruction, loss, alteration, or unauthorized access to, use or disclosure of System Agency's confidential information within 24 hours after the Contractor becomes aware of the occurrence.
Liquidated Damages Value	\$1,000.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each occurrence that is not reported within 24 hours and/or each event of breach of confidentiality
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the notification of an occurrence of unauthorized destruction, loss, alteration, or unauthorized access to, use or disclosure of System Agency's confidential information via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 19	
Reporting Period	As Required
Service/Component	Key Personnel Timely Notification
Performance Standard	The Contractor must submit notification to System Agency in writing within fourteen calendar days that a key personnel vacancy will occur for any reason or prior to making any changes in key personnel other than changes due to resignation, death, or military recall. Notification must include a plan to recruit Key Personnel.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the notification to System Agency that a key personnel vacancy will occur for any reason or prior to making any changes in key personnel other than changes due to resignation, death, or military recall via the formal communication process to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 20	
Reporting Period	Monthly
Service/Component	Monthly Status Report
Performance Standard	The Contractor must submit an acceptable Monthly Status Report to System Agency within ten business days following the last day covered by the previous report.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Monthly Status Report to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 21	
Reporting Period	Monthly
Service/Component	Key Performance Requirements Report
Performance Standard	The Contractor must submit an acceptable monthly Key Performance Requirements Monitoring Report acceptable to System Agency on the actual performance measures and standards results for all Key Performance Requirements within 20 calendar days after the end of each month.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Key Performance Requirements Monitoring Report to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 22	
Reporting Period	Monthly
Service/Component	Monthly Quality Management Report
Performance Standard	The Contractor must submit a monthly Quality Management Report in a form acceptable to System Agency within 15 business days following the end of the reporting month.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Quality Management Report to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 23	
Reporting Period	As Required
Service/Component	Operations Turnover Plan
Performance Standard	The Contractor must prepare and submit an acceptable Operations Turnover Plan within 60 calendar days after the Transition Phase is complete or date specified by System Agency.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Operations Turnover Plan to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 24	
Reporting Period	As Required
Service/Component	Annual Operations Turnover Plan
Performance Standard	The Contractor must prepare and submit an acceptable Annual Operations Turnover Plan no less than 60 calendar days prior to the end of each operational year of the contract. Submit a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor’s compliance with this KPR by comparing the submission date of the Annual Operations Turnover Plan to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 25	
Reporting Period	As Required
Service/Component	Annual Facilities and Business Structure Turnover Plan
Performance Standard	The Contractor must prepare and submit an acceptable Annual Facilities and Business Structure Turnover Plan no less than 60 calendar days prior to the end of each operational year of the contract. Submit a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.
Liquidated Damages Value	\$250.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Contractor to take specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor’s compliance with this KPR by comparing the submission date of the Annual Facilities and Business Structure Turnover Plan to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

DPS KPR 26	
Reporting Period	As Required
Service/Component	Turnover Results Report
Performance Standard	The Contractor must prepare and submit an acceptable Turnover Results Report within 45 calendar days after the completion of turnover activities or by the date specified by System Agency.
Liquidated Damages Value	\$500.00
Non-compliance Remedies	<p>System Agency may take the following actions in the event of non-compliance or a missed KPR:</p> <ul style="list-style-type: none"> • Suspending all or part of the Contract; • Requiring the Successful Respond specific corrective actions to remain in compliance with term of the Contract; • Recouping payments made to the Contractor found to be in error; • Suspending, limiting, or placing conditions on the continued performance of the Project; • Imposing any other remedies authorized under the Contract; and • Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.
Measurement of Noncompliance	Each calendar day after due date
Calculation/Reporting Process	<p>System Agency determines the Contractor's compliance with this KPR by comparing the submission date of the Turnover Results Report to the established due date specified by System Agency.</p> <p>All correspondence shall be sent to HHSC DPS SAR VAR. Email address to be provided after contract execution.</p>

ATTACHMENT C
DELIVERABLES

The Contractor must deliver all deliverables in accordance to the performance measures outlined below:

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
DPS 005-D	N/A	The Contractor shall submit an initial CMQ within 30 calendar days after Contract effective date and annually thereafter within 60 calendar days prior to the end of each State Fiscal Year.	Within 30 calendar days after Contract effective date and annually thereafter within 60 calendar days prior to the end of each State Fiscal Year	One-time Annually
DPS 016-D Operational Requirements	N/A	The Contractor shall submit document processing procedures and business processes updates within 30 business days after contract effective date and anytime thereafter when specified by System Agency.	Within 30 business days after contract effective date and anytime thereafter when specified by System Agency	One-Time As Required

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 017-D Operational Requirements</p>	<p>N/A</p>	<p>The Contractor shall submit annual updates to the document processing procedures and business processes no less than 30 calendar days prior to the end of each operational year of the contract.</p>	<p>No less than 30 calendar days prior to the end of each operational year of the contract</p>	<p>Annual</p>
<p>DPS 022-D Training Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a Training Plan no less than 60 calendar days prior to the operational start date or by the date specified by System Agency.</p>	<p>No less than sixty 60 calendar days prior to the operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency</p>	<p>One-Time As Requested</p>
<p>DPS 023-D Training Plan</p>	<p>N/A</p>	<p>The Contractor shall submit all initial curricula, training materials, and tools 30 calendar days prior to initial training delivery dates for review and approval. System Agency reserves the right to request training material and tools at its discretion.</p>	<p>30 calendar days prior to initial training delivery dates</p>	<p>One-Time As Requested</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
DPS 028-D Training Plan	N/A	The Contractor shall submit a quarterly Training Delivery Completion and Status Report by the tenth business day of each calendar quarter (i.e. Jan – March due by the 10th business day of April).	10 th business day of each calendar quarter	Quarterly
DPS 034-D Key Personnel & Organizational Requirements	N/A	The Contractor shall submit notification to System Agency in writing 14 calendar days prior to a key personnel vacancy for any reason or prior to making any changes in key personnel other than changes due to resignation, death, or military recall. Notification must include a plan to recruit Key Personnel.	14 calendar days that a key personnel vacancy will occur prior to making any changes in key personnel	As Required
DPS 036-D Key Personnel & Organizational Requirements	N/A	The Contractor shall replace any key personnel with System Agency approved personnel within 14 days of the approval with personnel of equal or greater ability and qualifications.	Within 14 days of the approval	As Required
DPS 037-D Key Personnel Resumes and References	N/A	The Contractor shall submit resumes and references of proposed replacement key personnel for System Agency review prior to making a job offer no later than and within seven calendar days from notification of a resignation or request for removal.	Within seven calendar days from notification of a resignation or request for removal	As Required

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 038-D Initial Organizational Chart</p>	<p>N/A</p>	<p>The Contractor shall submit an initial organizational chart within 30 calendar days after the operational start date, including the names and positions of all personnel assigned to this contract. The organizational chart must designate who are key personnel.</p>	<p>Within 30 calendar days after the operational start date</p>	<p>One-time</p>
<p>DPS 039-D Quarterly Updated Organizational Chart</p>	<p>N/A</p>	<p>The Contractor shall submit an updated organizational chart on a quarterly basis within ten calendar days after the end of the calendar quarter identifying the names and positions of all personnel assigned to this contract. The organizational chart must designate who are key personnel (i.e. Jan – March due by the 10th business day of April).</p>	<p>10th business day of each calendar quarter</p>	<p>Quarterly</p>
<p>DPS 040-D Notification of Key Personnel Being Redirected</p>	<p>N/A</p>	<p>The Contractor shall submit a 10 day advance written request for approval to System Agency any time key personnel are temporarily redirected to perform functions other than the responsibilities of their current position.</p>	<p>10 calendar days advance request any time key personnel are temporarily redirected to perform functions other than the responsibilities of their current position</p>	<p>As Required</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 043-D Transition Phase Work Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a Transition Phase Work Plan within 45 calendar days after contract effective date.</p>	<p>Within 45 calendar days after contract effective date</p>	<p>One-Time</p>
<p>DPS 046-D Weekly Transition Phase Status Report</p>	<p>N/A</p>	<p>The Contractor shall submit a weekly Transition Phase Status Report by 5:00 p.m. the Monday following the last day of the week covered by the report. System Agency will inform the Vendor when the weekly transition phase status report submission period begins and ends.</p>	<p>By 5:00 p.m. the Monday following the last day of the week covered by the report</p>	<p>Weekly</p>
<p>DPS 049-D Facility and Business Structure Transition Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a Facility and Business Structure Transition Plan within 60 calendar days after contract effective date or by the date specified by System Agency.</p>	<p>Within 60 calendar days after contract effective date or by the date specified by System Agency</p>	<p>One-Time</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 051-D Risk Management Process</p>	<p>N/A</p>	<p>The Contractor shall submit a Risk Management Process, including an issue resolution and notification process, within 30 calendar days prior to operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency.</p>	<p>30 calendar days prior to <u>operational start date</u> or by the <u>date specified</u> by System Agency and anytime thereafter when specified by System Agency</p>	<p>One-Time As Requested</p>
<p>DPS 059 -D Readiness Assessment Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a Readiness Assessment Plan for the operations and systems within 45 calendar days after contract effective date or by the date specified by System Agency.</p>	<p>Within 45 calendar days after contract effective date or by the date specified by System Agency</p>	<p>One-Time</p>
<p>DPS 067-D Readiness Assessment Report</p>	<p>N/A</p>	<p>The Contractor shall submit the results of the Readiness Assessment in a Readiness Assessment Report within 15 business days after the readiness assessment process has been completed.</p>	<p>Within 15 business days after the readiness assessment process has been completed</p>	<p>One-Time</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 070-D Business Operations Plan</p>	<p>N/A</p>	<p>The Contractor shall submit an initial Business Operations Plan 30 calendar days prior to the scheduled operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency.</p>	<p>30 calendar days prior to the scheduled operational start date or by the date specified by System Agency and anytime thereafter when specified by System Agency</p>	<p>One-Time As Requested</p>
<p>DPS 072-D Business Operations Plan</p>	<p>KPR 4</p>	<p>The Contractor shall submit a detailed six-month evaluation report of the Business Operations Plan within 30 calendar days after the end of the six-month reporting period covered by the report after operational start date.</p>	<p>Within 30 calendar days after the end of the six-month reporting period covered by the report</p>	<p>Semi-Annually</p>
<p>DPS 073-D Business Operations Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a daily reconciliation report via e-mail providing an end-to-end count of transactions.</p>	<p>By noon of the next business day</p>	<p>Daily</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 074-D Business Operations Plan</p>	<p>KPR 20</p>	<p>The Contractor shall submit a Monthly Status Report within ten business days following the last day covered by the report. System Agency will inform the Vendor when the monthly status report submission period begins.</p>	<p>Within ten business days following the last day covered by the report</p>	<p>Monthly</p>
<p>DPS 079-D Configuration Management</p>	<p>N/A</p>	<p>The Contractor shall submit a Configuration Management Plan including an overall approach for tracking and managing hardware and software inventories including version control within 30 calendar days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.</p>	<p>Within thirty (30) calendar days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency</p>	<p>One-Time As Requested</p>
<p>DPS 084-D Security Management</p>	<p>KPR 35</p>	<p>The Contractor shall submit a Security Management Process Plan within 35 business days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency.</p>	<p>Within 35 business days after contract effective date or by the date specified by System Agency and anytime thereafter when specified by System Agency</p>	<p>One-Time As Requested</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
DPS 088-D Security Management	KPR 17	The Contractor shall submit a report of security systems issues within one calendar day of discovery detailing the security violation, when and how it was discovered, operational impacts, and corrective measures to detect and prevent future violations.	Within one calendar day of discovery	As Required
DPS 089-D IT Disaster Recovery and Business Continuity	KPR 11	The Contractor shall submit an IT Disaster Recovery Plan and a Business Continuity Plan specific to the transition and on-going operations within 45 calendar days after contract effective date or by the date specified by System Agency.	Within 45 calendar days after contract effective date or by the date specified by System Agency	One-Time As Requested
DPS 090-D IT Disaster Recovery and Business Continuity	KPR 12	The Contractor shall submit annual updates to the IT Disaster Recovery Plan and the Business Continuity Plan 30 calendar days prior to the end of the operational year of the contract or within 30 days following an IT DR exercise.	30 calendar days prior to the end of the operational year of the contract or within 30 days following a DR exercise	Annually As Required

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 093-D Major Systems Outages Report</p>	<p>KPR 13</p>	<p>All major system outages must be reported to System Agency via e-mail or telephone if e-mail is unavailable within five minutes after the Contractor determines a major system outage has occurred.</p>	<p>Within five minutes after the Contractor determines a major system outage has occurred</p>	<p>As Required</p>
<p>DPS 094-D Major System Outages Report</p>	<p>KPR 14</p>	<p>The Contractor shall submit an Incident Report to System Agency via the official correspondence process within 24 hours of reported system outages detailing the incident, when and how it was discovered, system and operational impacts, and corrective measures to detect and prevent future incidents.</p>	<p>Within 24 hours of reported major system outage notification</p>	<p>As Required</p>
<p>DPS 095-D Quality Management Plan</p>	<p>N/A</p>	<p>The Contractor shall submit an initial Quality Management Plan 45 calendar day prior to the scheduled operational start date.</p>	<p>45 calendar days prior to the scheduled operational start date</p>	<p>One-Time</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 096-D Quality Management Plan</p>	<p>N/A</p>	<p>The Contractor shall submit an Annual Quality Management Plan 45 calendar day prior to the end of each operational year of the contract.</p>	<p>45 calendar days prior to the end of each operational year of the contract</p>	<p>Annually</p>
<p>DPS 097-D Quality Management Plan</p>	<p>KPR 22</p>	<p>The Contractor shall submit a monthly Quality Management Report, in a form acceptable to System Agency within 15 business days following the end of the reporting month.</p>	<p>Within 15 business days following the end of the reporting month</p>	<p>Monthly</p>
<p>DPS 109-D Communication and Coordination Requirements</p>	<p>N/A</p>	<p>The Contractor shall submit an initial Communication and Coordination Plan within 30 calendar days after contract effective date or by the date specified by System Agency.</p>	<p>Within 30 calendar days after contract effective date or by the date specified by System Agency</p>	<p>One-Time As Requested</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 110-D Communication and Coordination Plan</p>	<p>N/A</p>	<p>The Contractor shall submit an annual Communications and Coordination Plan twelve months following System Agency approval of the initial plan</p>	<p>Twelve months following approval of the initial plan</p>	<p>Annually</p>
<p>DPS 111-D Turnover Plan</p>	<p>KPR 23</p>	<p>The Contractor shall submit an Initial Operations Turnover Plan within 60 calendar days after the Transition Phase is complete or date specified by System Agency.</p>	<p>Within 60 calendar days after the Transition Phase is complete or date specified by System Agency</p>	<p>One-Time</p>
<p>DPS 112-D Turnover Plan</p>	<p>KPR 24</p>	<p>The Contractor shall submit an Annual Operations Turnover Plan 60 calendar day prior to the end of each operational year of the contract and a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.</p>	<p>60 calendar days prior to the end of each operational year of the contract 6 months prior to the end of the contract or upon request by System Agency</p>	<p>Annually One-Time As Requested</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 118-D Turnover Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a comprehensive Knowledge Transfer Plan, including all materials useful and necessary to perform all job duties and subject matter experts no less than 60 calendar days prior to the end of the contract.</p>	<p>60 calendar days prior to the end of the contract</p>	<p>One-Time</p>
<p>DPS 121-D Facilities and Business Structure Turnover Plan</p>	<p>N/A</p>	<p>The Contractor shall submit a Facilities and Business Structure Turnover Plan within 60 calendar days after the Transition Phase is complete.</p>	<p>Within 60 calendar days after the Transition Phase is complete</p>	<p>One-Time</p>
<p>DPS 123-D Facilities and Business Structure Turnover Plan</p>	<p>N/A</p>	<p>The Contractor shall submit an Annual Facilities and Business Structure Turnover Plan 60 calendar days prior to the end of each operational year of the contract and a “ready to execute” Turnover Plan six months prior to the end of the contract or upon request by System Agency.</p>	<p>60 calendar days prior to the end of each operational year of the contract Six months prior to the end of the contract or upon request by System Agency</p>	<p>Annually One-Time As Requested</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p>DPS 124-D Turnover Results</p>	<p>KPR 26</p>	<p>The Contractor shall submit a Turnover Results Report within 45 calendar days after the completion of turnover activities or by the date specified by System Agency.</p>	<p>Within 45 calendar days after the completion of turnover activities or by the date specified by System Agency</p>	<p>One-Time As Requested</p>
<p>DPS 131-D Financial Accounting Requirements</p>	<p>N/A</p>	<p>The Contractor shall submit a final Accounting Policy Manual and Disclosure Statement within 45 calendar days after contract effective date.</p>	<p>Within 45 calendar days after contract effective date</p>	<p>One-Time</p>
<p>DPS 139-D Financial Report Requirements</p>	<p>N/A</p>	<p>The Contractor shall submit an expense summary detailing operation under the contract for each of the applicable business functional areas of the contract, no later than 20 calendar days after the end of each reporting month.</p>	<p>No later than 20 calendar days after the end of each reporting month</p>	<p>Monthly</p>

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
DPS 140-D Financial Report Requirements	N/A	The Contractor shall submit, no later than 90 calendar days after the end of each operational reporting period or after the termination of a contract, annual financial statements for the preceding operational reporting period that depict the financial position of the Contractor and the result of operations (including administrative service fees) for each applicable business functional area under the contract, as well as, the result of operations under all contracts for the State of Texas for the period.	No later than 90 calendar days after the end of each operational reporting period or after the termination of a contract	Annually
DPS 141-D Financial Report Requirements	N/A	The Contractor shall submit an income statement for each applicable business functional area that includes all revenue and expenses incurred in the yearly operation of the Contractor no later than 90 calendar days after the end of each operational contract period or after the termination of the contract.	No later than 90 calendar days after the end of each operational contract period or after the termination of the contract	Annually One-Time
DPS 142-D Financial Report Requirements	N/A	The Contractor shall submit a certified public accountant's statement of tangible net worth as of the most recent State Fiscal Year end within the following timeframes: <ul style="list-style-type: none"> • Within 30 calendar days after contract effective date, and • No later than 30 calendar days after the end of each State Fiscal Year. 	Within 30 calendar days after contract effective date No later than 30 calendar days after the end of each State Fiscal Year	One-Time Annually

Deliverable ID	KPR No.	Requirements	Due Date	Frequency
<p style="text-align: center;">DPS 143-D</p> <p>Financial Report Requirements</p>	<p style="text-align: center;">N/A</p>	<p>The Contractor shall submit a list of all nonexpendable capital items acquired under the contract no later than 30 calendar days after the end of the transition period and within 15 calendar days after the end of each State Fiscal quarter thereafter when nonexpendable capital items are acquired.</p>	<p>No later than 30 calendar days after the end of the transition period</p> <p>Within 15 calendar days after the end of each State Fiscal quarter thereafter when nonexpendable capital items are acquired</p>	<p style="text-align: center;">Quarterly</p> <p style="text-align: center;">As required</p>
<p style="text-align: center;">DPS 144-D</p> <p>Financial Report Requirements</p>	<p style="text-align: center;">N/A</p>	<p>The Contractor shall submit the Primary Subcontractor's quarterly report of Allowable Costs within 15 calendar days after the end of the calendar quarter.</p>	<p>Within 15 calendar days after the end of the calendar quarter</p>	<p style="text-align: center;">Quarterly</p>
<p style="text-align: center;">DPS 145-D</p> <p>Financial Report Requirements</p>	<p style="text-align: center;">N/A</p>	<p>The Contractor shall submit maximum costs for the following operational year no later than 60 calendar days prior to the end of each operational year of the contract.</p>	<p>60 calendar days prior to the end of each operational year of the contract</p>	<p style="text-align: center;">Annually</p>

HEALTH AND HUMAN SERVICES
Contract Number HHS000733300001
Attachment **D** **CONTRACT AFFIRMATIONS**

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

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

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

2. Complete and Accurate Information

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

3. Public Information Act

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

4. Contracting Information Requirements

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

5. Assignment

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

6. Terms and Conditions

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

7. HHS Right to Use

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

8. Release from Liability

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

9. Dealings with Public Servants

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

10. Financial Participation Prohibited

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

11. Prior Disaster Relief Contract Violation

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

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

12. Child Support Obligation

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

13. Suspension and Debarment

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

14. Excluded Parties

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

15. Foreign Terrorist Organizations

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

16. Executive Head of a State Agency

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

17. Human Trafficking Prohibition

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

18. Franchise Tax Status

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

19. Debts and Delinquencies

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

20. Lobbying Prohibition

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

21. Buy Texas

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

22. Disaster Recovery Plan

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

23. Computer Equipment Recycling Program

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

24. Television Equipment Recycling Program

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

25. Cybersecurity Training

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

26. Restricted Employment for Certain State Personnel

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

27. No Conflicts of Interest

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

28. Fraud, Waste, and Abuse

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

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

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

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

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
Attn: Fraud Hotline
MC 1300
P.O. Box 85200
Austin, Texas 78708-5200

29. Antitrust

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

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

30. Legal and Regulatory Actions

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

31. No Felony Criminal Convictions

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

32. Unfair Business Practices

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

33. Entities that Boycott Israel

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

34. E-Verify

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

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

35. Former Agency Employees – Certain Contracts

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

36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

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

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

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

37. Abortion Funding Limitation

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

1. performs an abortion procedure that is not reimbursable under the state’s Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program.

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

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) 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 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

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

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

40. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

41. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

42. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

43. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

44. Cloud Computing State Risk and Authorization Management Program

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

45. Office of Inspector General Investigative Findings Expert Review

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

47. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

48. Critical Infrastructure Subcontracts

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote

access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

49. Enforcement of Certain Federal Firearms Laws Prohibited

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

50. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. 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 II.

51. False Representation

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

52. False Statements

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

53. Permits and License

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

54. Drug-Free Workplace

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

55. Equal Employment Opportunity

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

56. Federal Occupational Safety and Health Law

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

57. Signature Authority

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

Signature Page Follows

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

Aaron Hall, CFO

Legal Name of Contractor

Image API, LLC

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

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

DocuSigned by:

52D6F53B1A8C494...

Signature of Authorized Representative

Aaron Hall

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

2002 Old St. Augustine Rd. Bldg. D

Physical Street Address

Mailing Address, if different

850-701-2040

Phone Number

aaron.hall@imageapi.com

Email Address

23-2753915

Federal Employer Identification Number

32001972838

Texas Franchise Tax Number

October 1, 2021

Date Signed

CFO

Title of Authorized Representative

Tallahassee, FL 32301

City, State, Zip Code

City, State, Zip Code

Fax Number

850-224-3367

DUNS Number

879943769

Texas Payee ID No. – 11 digits

0012955406

Texas Secretary of State Filing Number

ATTACHMENT E
HHS UNIFORM TERMS AND CONDITIONS -
V.3.2



TEXAS
Health and Human Services

Health and Human Services (HHS)
Uniform Terms and Conditions - Vendor
Version 3.2

Effective: April 2021

Responsible Office: Chief Counsel

Table of Contents

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS	5
1.1 DEFINITIONS.....	5
1.2 INTERPRETIVE PROVISIONS	7
ARTICLE II. PAYMENT PROVISIONS.....	8
2.1 PROMPT PAYMENT.....	8
2.2 ANCILLARY AND TRAVEL EXPENSES	8
2.3 NO QUANTITY GUARANTEES	8
2.4 TAXES.....	8
ARTICLE III. STATE AND FEDERAL FUNDING.....	8
3.1 EXCESS OBLIGATIONS PROHIBITED.....	8
3.2 NO DEBT AGAINST THE STATE.....	8
3.3 DEBT AND DELINQUENCIES	9
3.4 REFUNDS AND OVERPAYMENTS	9
ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS.....	9
4.1 WARRANTY	9
4.2 GENERAL AFFIRMATIONS	9
4.3 FEDERAL ASSURANCES.....	10
4.4 FEDERAL CERTIFICATIONS.....	10
ARTICLE V. INTELLECTUAL PROPERTY.....	10
5.1 OWNERSHIP OF WORK PRODUCT	10
5.2 CONTRACTOR’S PRE-EXISTING WORKS.....	11
5.3 THIRD PARTY IP.....	11
5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS	11
5.5 DELIVERY UPON TERMINATION OR EXPIRATION	11
5.6 SURVIVAL	12
5.7 SYSTEM AGENCY DATA	12
ARTICLE VI. PROPERTY	12
6.1 USE OF STATE PROPERTY	12
6.2 DAMAGE TO GOVERNMENT PROPERTY	13
6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT	13
ARTICLE VII. WORK ORDERS	13
7.1 WORK ORDERS.....	13
7.2 PROPOSALS	13
7.3 RESPONSIBILITY	13

7.4 TERMINATION..... 13

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY 14

8.1 RECORD MAINTENANCE AND RETENTION..... 14

8.2 AGENCY’S RIGHT TO AUDIT 14

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS 15

8.4 STATE AUDITOR’S RIGHT TO AUDIT 15

8.5 CONFIDENTIALITY 15

ARTICLE IX. CONTRACT REMEDIES AND EARLY TERMINATION..... 15

9.1 CONTRACT REMEDIES 15

9.2 TERMINATION FOR CONVENIENCE..... 16

9.3 TERMINATION FOR CAUSE 16

9.4 CONTRACTOR RESPONSIBILITY FOR SYSTEM AGENCY’S TERMINATION COSTS 16

ARTICLE X. INDEMNITY..... 16

10.1 GENERAL INDEMNITY..... 16

10.2 INTELLECTUAL PROPERTY..... 17

10.3 ADDITIONAL INDEMNITY PROVISIONS..... 17

ARTICLE XI. GENERAL PROVISIONS 18

11.1 AMENDMENT 18

11.2 INSURANCE..... 18

11.3 LIMITATION ON AUTHORITY..... 18

11.4 LEGAL OBLIGATIONS..... 19

11.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS 19

11.6 E-VERIFY PROGRAM..... 19

11.7 PERMITTING AND LICENSURE 19

11.8 SUBCONTRACTORS..... 19

11.9 INDEPENDENT CONTRACTOR 20

11.10 GOVERNING LAW AND VENUE 20

11.11 SEVERABILITY 20

11.12 SURVIVABILITY 20

11.13 FORCE MAJEURE..... 20

11.14 DISPUTE RESOLUTION..... 21

11.15 NO IMPLIED WAIVER OF PROVISIONS..... 21

11.16 MEDIA RELEASES..... 21

11.17 NO MARKETING ACTIVITIES 22

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS 22

11.19 SOVEREIGN IMMUNITY..... 22

11.20 ENTIRE CONTRACT AND MODIFICATION 22

11.21	COUNTERPARTS	22
11.22	CIVIL RIGHTS	22
11.23	ENTERPRISE INFORMATION MANAGEMENT STANDARDS	23
11.24	DISCLOSURE OF LITIGATION	24
11.25	NO THIRD-PARTY BENEFICIARIES	24
11.26	BINDING EFFECT	24

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

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

“Amendment” means a written agreement, signed by the Parties, which documents changes to the Contract other than those permitted by Work Orders.

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

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

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

“Deliverable” means a Work Product(s), including all reports and project documentation, prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.

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

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Goods” means supplies, materials, or equipment.

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

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

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

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

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

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

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

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

“Project” means the goods or Services described in the Signature Document or a Work Order of this Contract.

“Scope of Work” means the description of Services and Deliverables specified in the Contract and as may be amended.

“Services” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

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

“Solicitation” means the document issued by the System Agency (including any published addenda, exhibits, and Attachments) under which the goods or Services provided under the Contract were initially requested, which is incorporated by reference for all purposes in its entirety.

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

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

“State of Texas Textravel” means the State Travel Management Program through the Texas Comptroller of Public Accounts website and Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

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

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

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

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

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

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

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

1.2 INTERPRETIVE PROVISIONS

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

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

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

2.2 ANCILLARY AND TRAVEL EXPENSES

- A. Except as otherwise provided in the Contract, no ancillary expenses incurred by the Contractor in connection with its provision of the Services or Deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to costs associated with transportation, delivery, and insurance for each Deliverable.
- B. When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas *Textravel* available at the Texas Comptroller of Public Accounts State Travel Management Program website.

2.3 NO QUANTITY GUARANTEES

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

2.4 TAXES

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT AND DELINQUENCIES

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

3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may:
 - i. withhold all or part of any payments to Contractor to offset overpayments, unallowable or ineligible costs made to the Contractor, or if any required financial status report(s) is not submitted by the due date(s); or,
 - ii. require Contractor to promptly refund or credit - within thirty (30) calendar days of written notice - any funds erroneously paid by System Agency which are not expressly authorized under the Contract.
- B. "Overpayments," as used in this Section, include payments:
 - i. made by the System Agency that exceed the maximum allowable rates;
 - ii. that are not allowed under applicable laws, rules, or regulations; or,
 - iii. that are otherwise inconsistent with this Contract, including any unapproved expenditures. Contractor understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs shall be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS

4.1 WARRANTY

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

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

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

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

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. INTELLECTUAL PROPERTY

5.1 OWNERSHIP OF WORK PRODUCT

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

5.2 CONTRACTOR'S PRE-EXISTING WORKS

- A. To the extent that Contractor incorporates into the Work Product any works of Contractor that were created by Contractor or that Contractor acquired rights in prior to the Effective Date of this Contract (“**Incorporated Pre-existing Works**”), Contractor retains ownership of such Incorporated Pre-existing Works.
- B. Contractor hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Contractor represents, warrants, and covenants to System Agency that Contractor has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

5.3 THIRD PARTY IP

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

5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

5.5 DELIVERY UPON TERMINATION OR EXPIRATION

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

5.6 SURVIVAL

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

5.7 SYSTEM AGENCY DATA

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

ARTICLE VI. PROPERTY

6.1 USE OF STATE PROPERTY

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

- ii. all charges attributable to Contractor's use of State Property that exceeds the Contract scope. Contractor shall fully reimburse such charges to System Agency within ten (10) calendar days of Contractor's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

6.2 DAMAGE TO GOVERNMENT PROPERTY

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

6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

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

ARTICLE VII. WORK ORDERS

7.1 WORK ORDERS

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

7.2 PROPOSALS

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

7.3 RESPONSIBILITY

For each approved Project, the Contractor shall be responsible for all Work assigned under the Work Order. Multiple Work Orders may be issued during the term of this Contract, all of which will be in writing and signed by the Parties. Each Work Order will include a scope of Services; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project budget; and any other information or special conditions as may be necessary for the Work assigned.

7.4 TERMINATION

If this Work Order is in effect on the day the Contract would otherwise expire, the Contract will remain in effect until this Work Order is terminated or expires; and the Contract and this Work Order may be amended after such termination or expiration to

extend the performance period or add ancillary deliverables or services, only to the extent necessary.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

- A. Contractor shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes.
- B. Contractor shall maintain and retain legible copies of this Contract and all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Contractor for a minimum of seven (7) years after the Contract expiration date or seven (7) years after the completion of all audit, claim, litigation, or dispute matters involving the Contract are resolved, whichever is later.

8.2 AGENCY'S RIGHT TO AUDIT

- A. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Contractor pertaining to the Contract for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Contractor and any of Contractor's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority.
- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor shall produce original documents related to this Contract.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.

- E. Contractor shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

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

8.4 STATE AUDITOR'S RIGHT TO AUDIT

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

8.5 CONFIDENTIALITY

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

ARTICLE IX. CONTRACT REMEDIES AND EARLY TERMINATION

9.1 CONTRACT REMEDIES

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

- i. suspending all or part of the Contract;
- ii. requiring the Contractor to take specific actions in order to remain in compliance with the Contract;

- iii. recouping payments made by the System Agency to the Contractor found to be in error;
- iv. suspending, limiting, or placing conditions on the Contractor's continued performance of Work; or
- v. imposing any other remedies, sanctions, or penalties authorized under this Contract or permitted by federal or state law.

9.2 TERMINATION FOR CONVENIENCE

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

9.3 TERMINATION FOR CAUSE

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

i. **Material Breach**

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

ii. **Failure to Maintain Financial Viability**

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Contractor no longer maintains the financial viability required to complete the Work, or otherwise fully perform its responsibilities under the Contract.

9.4 CONTRACTOR RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

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

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

A. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL

RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT.

- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Contractor or any other entity under the Contract.**

10.2 INTELLECTUAL PROPERTY

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

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

10.3 ADDITIONAL INDEMNITY PROVISIONS

- A. CONTRACTOR AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. CONTRACTOR SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS'**

FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENT

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

11.2 INSURANCE

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

11.3 LIMITATION ON AUTHORITY

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

programs or the Contract. However, upon System Agency request and with reasonable notice from System Agency to the Contractor, the Contractor shall assist the System Agency in communications and negotiations regarding the Work under the Contract with state and federal governments.

11.4 LEGAL OBLIGATIONS

Contractor shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Contractor shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

11.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

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

11.6 E-VERIFY PROGRAM

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

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

11.7 PERMITTING AND LICENSURE

At Contractor's sole expense, Contractor shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or Services required by this Contract.

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

11.8 SUBCONTRACTORS

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

ensuring that the services performed under all Subcontracts are rendered in compliance with the Contract.

11.9 INDEPENDENT CONTRACTOR

Contractor and Contractor's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Contractor nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Contractor shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Contractor and System Agency.

11.10 GOVERNING LAW AND VENUE

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

11.11 SEVERABILITY

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

11.12 SURVIVABILITY

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

11.13 FORCE MAJEURE

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

avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

11.14 DISPUTE RESOLUTION

- A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract. If the Contractor's claim for breach of contract cannot be resolved informally with the System Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under §2260.051 of the Texas Government Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- B. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the System Agency if the Parties are unable to resolve their disputes as described above.
- C. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the System Agency, the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. However, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

11.15 NO IMPLIED WAIVER OF PROVISIONS

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

11.16 MEDIA RELEASES

- A. Contractor shall not use System Agency's name, logo, or other likeness in any press release, marketing material, or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Contractor is not authorized to make or participate in any media releases or public announcements pertaining to this Contract or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. Contractor may publish, at its sole expense, results of Contractor performance under the Contract with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.17 NO MARKETING ACTIVITIES

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

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

11.19 SOVEREIGN IMMUNITY

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

11.20 ENTIRE CONTRACT AND MODIFICATION

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

11.21 COUNTERPARTS

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

11.22 CIVIL RIGHTS

- A. Contractor 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. Contractor 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. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. 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. Contractor 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. Contractor agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>
- E. Contractor 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, Contractor shall provide HHSC's Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- G. Contractor must notify HHSC's Civil Rights Office of any complaints of discrimination 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. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us

11.23 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

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

11.24 DISCLOSURE OF LITIGATION

- A. The Contractor must disclose in writing to the contract manager assigned to this Contract any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. “Threatened litigation” as used herein shall include governmental investigations and civil investigative demands. “Litigation” as used herein shall include administrative enforcement actions brought by governmental agencies. The Contractor must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, “material” refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Contract or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Contractor’s financial condition.
- B. This is a continuing disclosure requirement; any litigation commencing after Contract Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.25 NO THIRD-PARTY BENEFICIARIES

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

11.26 BINDING EFFECT

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