

**SIGNATURE DOCUMENT FOR  
HEALTH AND HUMAN SERVICES  
CONTRACT NO. HHS000750600001**

The **HEALTH AND HUMAN SERVICES COMMISSION** (“System Agency”), an administrative agency within the executive branch of the state of Texas, and **DISCOVERY HEALTHCARE CONSULTING GROUP LLC** (“Contractor”), having its principal office at 2950 50<sup>th</sup> Street, Lubbock, TX 79413, (each a “Party” and collectively the “Parties”), enter into the following agreement (“Contract”) for Medicare and Medicaid cost reporting services.

**I. LEGAL AUTHORITY**

This Contract is entered into pursuant to Title 10, Subtitle D of the Texas Government Code, 2155.144.

**II. DURATION**

The Contract is effective on October 1, 2020, or the latter date of the parties’ signatures, and terminates on August 31, 2025, unless sooner terminated pursuant to the terms and conditions of the Contract. System Agency, at its sole discretion, may extend the Contract beyond the termination date as necessary to ensure continuity of service, for the purposes of transition, or as otherwise determined by System Agency to serve the best interests of the State.

**III. STATEMENT OF WORK**

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

**IV. BUDGET**

The total amount of this Contract will not exceed **\$1,396,167.81**. 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, BUDGET**.

**V. CONTRACT REPRESENTATIVES**

The following will act as the representative authorized to administer activities under this Contract on

\_\_\_\_\_

behalf of its respective Party.

**System Agency Contract Representative**

Dallas Curry-Ikner  
Health & Human Services  
701 W. 51<sup>st</sup> St.,  
Austin, TX 78751  
[HSCSFacilityContracts@hhsc.state.tx.us](mailto:HSCSFacilityContracts@hhsc.state.tx.us)

**Contractor Contract Representative**

Brent Fuller  
Discovery Healthcare Consulting Group  
LLC  
2950 50<sup>th</sup> Street  
Lubbock, TX 79413  
[brentf@dhcg.com](mailto:brentf@dhcg.com)

**VI. NOTICE REQUIREMENTS**

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

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

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

**VII. CONTRACT DOCUMENTS**

**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 any conflict or contradiction between or among the Agreement elements, the documents shall control in the following order of precedence:

**ATTACHMENT A – STATEMENT OF WORK**

**HHSC Contract #HHS000750600001**

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**ATTACHMENT B – CONTRACT AFFIRMATIONS**  
**ATTACHMENT C – UNIFORM TERMS AND CONDITIONS**  
**ATTACHMENT D – ADDITIONAL PROVISIONS**  
**ATTACHMENT E – DATA USE AGREEMENT**  
**ATTACHMENT F – FEDERAL ASSURANCES – NON-CONSTRUCTION PROGRAMS**  
**ATTACHMENT G – BUDGET**  
**ATTACHMENT H – FACILITIES LIST**  
**ATTACHMENT I – PROJECT SCHEDULE**  
**ATTACHMENT J – SYSTEM AGENCY SOLICITATION No. RFP No. HHS0007506,**  
**INCLUDING, BUT NOT LIMITED TO ALL ADDENDA**  
**ATTACHMENT K – CONTRACTOR'S SOLICITATION RESPONSE**

**VIII. SIGNATURE AUTHORITY**

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

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000750600001**

**SYSTEM AGENCY**

**DISCOVERY HEALTHCARE  
CONSULTING GROUP, LLC**

DocuSigned by:  
*Mike Maples* \_\_\_\_\_  
E8BB9F5CB3B048F...

Mike Maples, HSCS

Deputy Executive Commissioner

Date of execution: September 23, 2020

DocuSigned by:  
*J. Brent Fuller* \_\_\_\_\_  
B6A6420170AD4F9...

Name: J. Brent Fuller

Title: Partner / Shareholder

Date of execution: September 22, 2020

ATTACHMENT A  
STATEMENT OF WORK

**I. CONTRACTOR RESPONSIBILITIES**

- 1.1 Contractor will prepare and submit the CMS 2552-10 and Home Office (HO – CMS 287-05) Annual Cost Reports for the Facilities, including all supporting documentation and worksheets to the HHSC Director of Accounting and the Medicare Cost Report Liaison hereafter referred to as “Contacts”.
- 1.2 In collaboration with HHSC Contacts, Contractor will prepare schedules showing a cross walk from facility cost centers and populations serviced to each Cost Report and review provider’s supporting documents used to bill ancillary services to ensure services were properly billed for and claimed on each Cost Report. Contractor will also report findings and proposed solutions to the HHSC Contacts.
- 1.3 Contractor will prepare and submit to the HHSC Contacts, a written report for each Facility located in Exhibit H, Facilities List, providing findings and recommendations developed during the cost reporting period preparation process.
- 1.4 After each cost reporting period, the Contractor shall analyze the details for the current cost reporting year to identify areas where revenue collections will impact future reimbursements (e.g. Medicaid utilization threshold for Disproportionate Share Hospital (DSH) Application, enhance revenue collections including, but not limited to, Medicare).
- 1.5 Upon notification by CMS or HHS, the contractor will give an analysis of Medicare, Medicaid and uncompensated care (UCC) rules and regulations, for inclusion in training and briefing materials.
- 1.6 The Contractor will prepare for the filing of any additional reports and information as requested by the CMS auditors. Requests for additional reports and/or responses may occur up to 24 months following the submission of the initial reports. Additional activities such as re-opening of a report that was previously completed or closed, may be required and if required, the Contractor’s cost will be negotiated at the time the determination is made. Contractor will work in conjunction with HHSC to meet the timeline for a reopening.
- 1.7 Contractor will prepare training for HHSC Contacts on new CMS regulations/requirements impacting reimbursement of Medicare Cost Reports, DSH and UC Tool.
- 1.8 Contractor will provide HHSC, in writing, solutions for any audit adjustments.

- 1.9 Contractor will attend audit entrance and exit conferences and prepare the response and explanation of audit adjustments in the Medicare and Medicaid programs. CMS will provide notification of dates, times and location of conferences.
- 1.10 Contractor will prepare reports and studies that include, but are not be limited to, requested reports from Medicare/Medicaid audits.
- 1.11 Contractor is required to acquire, at own expense, necessary software as determined by CMS to prepare appropriate reports and any supporting Workpapers. Software includes, but is not limited to, Healthcare Financial Services (HFS) software used to prepare Medicare Cost reports (used by HHSC-in-house Cost Report Subject Matter Experts (SME's) to review any adjustments made by auditors. Contractor will analyze any national and state issues that affect reporting requirements.
- 1.12 Contractor must have the ability to conduct training on preparation of cost reports for state-owned IMDs in accordance with Medicare cost principles and administration of data collection systems for such reports.
- 1.13 Contractor will assist HHSC with developing needed training and technical assistance for improving required cost accounting activities on an Annual basis. This training will include establishing the audit trails and documentation that are necessary to support settlement for all services, bad debt, also physician time studies.
- 1.14 Contractor will participate in conference or teleconference calls as requested by the HHSC Contacts. These may include calls with state agencies, federal funding entities, technical assistance entities, local stakeholders or other persons or entities.
- 1.15 Contractor shall participate in face-to-face meetings as requested by HHSC.
- 1.16 Contractor will notify HHSC within one business day of receipt of request of ability to participate in non-routine calls and activities.
- 1.17 Contractor shall provide Technical Assistance services. These will be billed at on an agreed rate with HHSC's prior approval.

Reports must be prepared and submitted for each Facility and Home Office, consistent with Medicare cost report guidelines and procedures, to determine the allowable cost of services for mental health inpatient services, for cost reimbursement settle-up against interim payments. The audit ensures that proper payments were made based on reasonable costs of covered services, to provide verified financial information for making final determination of allowable costs, to discover any instances of fraud and abuse, and to develop other information CMS needs to fulfill its responsibilities. Any variances in cost from previous years will need to be explained.

Medicare and Medicaid cost reports are prepared yearly and are required to be submitted to the Medicare Intermediary, Novitas Solutions, and Texas Medicaid and Healthcare Partnership

(TMHP) the last day of the fifth month following the end of the cost reporting period (August 31) which is January 31.

In accordance with Texas Administrative Code Rule §355.8065 & §355.8201, each year HHSC collects information to identify which hospitals in Texas qualify for payment under the Disproportionate Share Hospital (DSH) and Uncompensated Care waiver (UC) programs and separately collects information to calculate DSH and UC payments for qualifying hospitals. HHSC may use one data collection tool, the Texas Hospital Uncompensated Care (TXHUC) application, to collect the information to determine DSH and UC qualification and to calculate payments. In addition, HHSC may use information in the tool to conduct the interim reconciliation for all providers that received a prior Demonstration Year (DY) UC payment as required under the CMS UC waiver claiming protocol. If HHSC uses one data collection tool, the objective will be to eliminate the need for providers to provide separate data collection instruments for HHSC to determine DSH and UC qualification and payment.

All health care providers that wish to participate in the DSH and/or in the UC program must complete the tool based on program guides, policies and procedures for the application year as stated in Exhibit L, Project Schedule. Some HHSC State-operated hospitals qualify and participate in the DSH and UC payment programs Annually.

## **II. Project Schedule:**

The timeframes and delivery requirements, as determined by CMS and HHSC guidelines, for all reports are listed on Exhibit I, Project Schedule. The Project dates may fluctuate. HHSC will inform the Contractor within three (3) business days of any changes in reporting dates.

## **III. Deliverables:**

Contractor shall provide the following deliverables for the Facilities listed in Exhibit H, Facilities List. Contractor will submit all scheduled work within three (3) business days prior to each reporting period as listed in Exhibit I, Project Schedule.

### **3.1. Reporting Deliverables**

3.1.1 All reports must be submitted to the HHSC Contacts. Contractor will submit the report and Workpapers, which includes but is not limited to, any additional financial documents that support the deliverable

3.1.2 Contractor shall prepare written reports that reflects a review of cost estimates, projections and comparative analysis for the Medicare cost report and DSH Survey.

3.1.3 Contractor will provide written interpretation of Medicare, Medicaid and Uncompensated care (UCC) rules and regulations to HHSC Contacts.

3.1.4 Contractor will submit a management letter of findings that focuses on the current reporting year and details the areas where revenue collections will impact future

reimbursements. The management letter of findings is to be submitted to each Facility superintendent and the HHSC Contact.

3.1.5 Contractor will submit a written report to each designated Facility superintendent and HHSC Contacts that provides audit findings and recommendations developed during the cost report preparation process after each reporting period.

3.1.6 Contractor will submit the response and explanation of audit adjustments in the Medicare and Medicaid programs to HHSC Contacts.

3.1.7 Contractor will submit any recommendations, in writing, and any administrative resolutions to any audit adjustments to HHSC Contacts.

3.1.8 Contractor will submit any additional reports and information as requested by the auditors or HHSC Contact within the specified timeframe(s).

### **3.2. Training Deliverables:**

3.2.1 Contractor will provide special operational review and Facility in-services training sessions based on the needs assessment provided by the HHSC Contacts for training and Technical Assistance. This training will include establishing the audit trails and documentation that are necessary to support settlement for all services. The special operational reviews and Facility in-services trainings will take place onsite at each Facility or with mutually agreed upon electronic format on an as-needed basis. Contractor will supply, at own expense, all training materials to meet the deliverable requirement.

3.2.2 Contractor will provide onsite training or a mutually agreed upon electronic format on an as-needed basis to the HHSC Contacts on new regulations/requirements impacting reimbursement of Medicare Cost Reports, DSH and UC Tool. Contractor will supply, at own expense, all training materials to meet the deliverable requirement.

## **IV. STAIRS REPORTING**

The STAIRS reporting portion of the RFP, is not being utilized for FY21. HHSC retains the right to implement and/or include in future years, by amendment, as long as this contract is active.



Attachment G Budget  
 Medicare Cost Reporting  
 HHS000750600001

Deliverable	units	Cost Per Fiscal Year				
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Texas ICF/IID	1	\$ 6,469.71	\$ 6,631.45	\$ 6,797.24	\$ 6,967.17	\$ 7,141.35
CMS 2552-10	11	\$ 76,901.71	\$ 78,824.25	\$ 80,794.86	\$ 82,814.73	\$ 84,885.10
CMS 287-05 Cost Reports Home Office	1	\$ 10,328.10	\$ 10,586.30	\$ 10,850.96	\$ 11,122.23	\$ 11,400.29
Texas DSH Audit Survey	9	\$ 44,182.29	\$ 45,286.85	\$ 46,419.02	\$ 47,579.49	\$ 48,768.98
Texas DSH Application/Uncompensated Care Tool	9	\$ 46,568.68	\$ 47,732.90	\$ 48,926.22	\$ 50,149.37	\$ 51,403.11
American Hospital Association Survey (AHA)	11	\$ 22,326.55	\$ 22,884.71	\$ 23,456.83	\$ 24,043.25	\$ 24,644.33
TCID-DSHS Texas Center for Infectious Disease (included w CMS 2552-10 above)	0	\$ -	\$ -	\$ -	\$ -	\$ -
Training-contingency fee(s), billed as needed or as requested. Stated budget is a "not-to-exceed" amount.	1	\$ 4,534.15	\$ 4,647.50	\$ 4,650.00	\$ 4,650.00	\$ 4,650.00
Technical Assistance-contingency fee. This is an hourly rate, not to Exceed 100 hours without HHSC approval.	\$150/hr. only as needed					
Amended Reports-contingency fee, based on any work that might be performed. State budget is a "not-to-exceed" amount.	Only as needed	\$ 9,596.74	\$ 9,404.81	\$ 9,216.71	\$ 9,032.37	\$ 8,851.73
<b>Total</b>		\$ 220,907.93	\$ 225,998.77	\$ 231,111.84	\$ 236,358.63	\$ 241,744.89

Note: Assumed CMS FFY 2020 Market Basket Increase (2.5%) in costing structure each year for reporting requirements. Market Basket increase is a contingency increase, capped at 2.5%. Reduced cost structure on non-reporting work below CMS market basket amount.

<b>Total Cost</b>	
\$	34,006.92
\$	404,220.65
\$	54,287.89
\$	232,236.63
\$	244,780.28
\$	117,355.68
\$	-
\$	23,131.65
\$	46,102.36
\$	1,156,122.06

## **HEALTH AND HUMAN SERVICES CONTRACT AFFIRMATIONS**

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

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 System Agency 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 System Agency 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 HHSC. 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. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support. 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 Attached to Response**

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 System Agency's terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

**7. System Agency Right to Use**

Contractor agrees that System Agency has the right to use, produce, and distribute copies of and to disclose to System Agency employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as System Agency 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 Terrorists 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. Technology Access**

- A. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to System Agency that the technology provided to System Agency for purchase (if applicable under this Contract or any related Solicitation) is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
  - i. providing equivalent access for effective use by both visual and non-visual means;
  - ii. presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
  - iii. being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
- B. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as

assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

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

**24. 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.

**25. Television Equipment Recycling**

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

**26. 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.

**27. 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.

**28. Disclosure of Prior State Employment**

If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Contractor certifies that it does not employ an individual who was employed by System Agency or another agency at any time during the two years preceding the submission of any related

Solicitation Response related to this Contract or, in the alternative, Contractor has disclosed in any related Solicitation Response the following:

- i. the nature of the previous employment with System Agency or the other agency;
- ii. the date the employment was terminated; and
- iii. the annual rate of compensation at the time of the employment was terminated.

**29. 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 HHSC. 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 HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by HHSC's decision.

**30. Fraud, Waste, and Abuse**

Contractor understands that System Agency does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud including, but not limited to, HHS Circular C-027.

**31. 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.



**32. 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.

**33. 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.

**34. 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.

**35. Entities that Boycott Israel**

Pursuant to Section 2271.002 of the Texas Government Code, Contractor certifies that either:

- i. it meets an exemption criteria under Section 2271.002; or
- ii. it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Contractor refuses to make that certification,

Contractor shall state here any facts that make it exempt from the boycott certification:

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**36. 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 this 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 Contractor to perform work pursuant to this Contract within the United States of America.

**37. Professional or Consulting Contract**

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

**38. Former Agency Employees**

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

**39. Disclosure of Prior State Employment**

If this Contract is for consulting services,

- A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, HHSC or another State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
  - i. Name of individual(s) (Respondent or employee(s));
  - ii. Status;
  - iii. The nature of the previous employment with HHSC or the other State of Texas agency;

- iv. The date the employment was terminated and the reason for the termination; and
  - v. The annual rate of compensation for the employment at the time of its termination.
- B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by HHSC or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

**40. Abortion Funding Limitation**

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

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

**41. Funding Eligibility**

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

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**42. 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.

**43. 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.

**44. 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.

**45. 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.

**46. Equal Employment Opportunity**

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

**47. 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).

**48. 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.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

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

Discovery Healthcare Consulting Group, LLC

**Legal Name of Contractor**

**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) for each County**

DocuSigned by:

*J. Brent Fuller*

**Signature of Authorized Representative**

September 22, 2020

**Date Signed**

J. Brent Fuller

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

Partner / Shareholder

**Title of Authorized Representative**

2950 50th Street

**Physical Street Address**

Lubbock, Texas 79413

**City, State, Zip Code**

**Mailing Address, if different**

**City, State, Zip Code**

806-776-0601

**Phone Number**

**Fax Number**

BrentF@dhcg.com

**Email Address**

N/A

**DUNS Number**

26-0668891

**Federal Employer Identification Number**

32033143739

**Texas Payee ID No. – 11 digits**

32033143739

**Texas Franchise Tax Number**

0800829173

**Texas Secretary of State Filing  
Number**



# TEXAS

## Health and Human Services

Health and Human Services (HHS)  
Additional Provisions  
Version 1.0  
Effective: November 7, 2019

### Medicare Cost Reporting Service

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## **EXHIBIT C** **ADDITIONAL PROVISIONS**

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Contract. Capitalized items used in these Additional Provisions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions.

### **1. HHSC VENDOR ACCESS**

At HHSC's request, Contractor will allow parties interested in responding to other HHSC solicitations to have reasonable access during normal business hours to the Work, software, systems documentation, and site visits to the Contractor's facilities. Contractor may elect to have such parties inspecting the Work, facilities, software or systems documentation to agree to use the information so obtained only in the State of Texas and only for the purpose of responding to the relevant HHSC solicitation.

### **2. HHSC APPROVAL OF STAFFING**

- A. Contractor shall not employ or contract with or permit the employment of unfit or unqualified persons or persons not skilled in the tasks assigned to them. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to HHSC for the acts and omissions of the Contractor's employees, agents (including, but not limited to, lobbyists) and Subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents (including, but not limited to, lobbyists) and Subcontractors performing the services under the Contract.
- B. Any person employed by the Contractor shall, at the written request of HHSC, and within HHSC's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

### **3. TURNOVER ASSISTANCE**

Contractor will provide any assistance and actions reasonably necessary to enable HHSC or its designee to effectively close out the Contract and transfer the Work and the obligations of the Contract to another vendor or to perform the Work by itself. Contractor agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Contract and remains in effect until completed to the satisfaction of HHSC.