

**SIGNATURE DOCUMENT FOR
HEALTH AND HUMAN SERVICES COMMISSION
CONTRACT NO. HHS000782500014
UNDER THE SUBSTANCE USE DISORDER
OUTREACH, SCREENING, ASSESSMENT, AND REFERRAL (OSAR) GRANT PROGRAM**

I. PURPOSE

The **HEALTH AND HUMAN SERVICES COMMISSION** (“System Agency”), a pass-through entity, and **BURKE CENTER** (“Grantee”) (each a “Party” and collectively the “Parties”) enter into the following grant contract to provide funding for Outreach, Screening, Assessment, Referral (SA/OSR) services (the “Contract”).

II. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of Texas Health and Safety Code, Section 12.051.

III. DURATION

The Contract is effective on September 1, 2020 and terminates on August 31, 2021, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. System Agency, at its sole discretion, may extend this Contract for any period(s) of time, provided the Contract term, including all extensions or renewals, does not 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) 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.

IV. BUDGET

The total amount of this Contract will not exceed **SIX HUNDRED EIGHTY-NINE THOUSAND, TWENTY-NINE DOLLARS (\$689,029.00)**.

This includes the System Agency share of **SIX HUNDRED FIFTY-NINE THOUSAND, THREE HUNDRED THIRTEEN DOLLARS (\$659,313.00)** and Grantee’s required match amount of **TWENTY-NINE THOUSAND, SEVEN HUNDRED SIXTEEN DOLLARS (\$29,716.00)**.

All expenditures under the Contract will be in accordance with **ATTACHMENT B, BUDGET**.

Indirect Cost Rate: The Grantee’s acknowledged or approved Indirect Cost Rate (ICR) is contained within **ATTACHMENT B, BUDGET** and either the ICR Acknowledgement Letter, ICR Acknowledgement Letter – Ten Percent De Minimis, or the ICR Agreement Letter is attached to this Contract and incorporated as **ATTACHMENT J, INDIRECT COST RATE LETTER**.

If an Indirect Cost Rate Letter is required but it is not issued at the time of Contract execution, the Parties agree to amend the Contract to include the Indirect Cost Rate Letter as **ATTACHMENT J** and revise **ATTACHMENT B** when the Indirect Cost Rate Letter is issued.

If the System Agency, at its sole discretion, approves or acknowledges an updated indirect cost rate, the new rate, together with the revised ICR Acknowledgement Letter, ICR Acknowledgement

Letter – Ten Percent De Minimis, or the ICR Agreement Letter, will be included in the revised **ATTACHMENT J** and amended **ATTACHMENT B**.

V. REPORTING REQUIREMENTS

Performing Agency shall submit all documents identified below, in accordance with **ATTACHMENT A, STATEMENT OF WORK:**

- A. Financial Status Reports
- B. Performance Measures
- C. Quarterly Client Satisfaction Survey results reports
- D. Quarterly Regional Collaborative Meeting Invitation List and Sign-in Sheets
- E. Quarterly TTOR Expenditure Reports
- F. Security Attestation Forms
- G. Contract Closeout Document

VI. CONTRACT REPRESENTATIVES

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

System Agency

Health and Human Service Commission
P.O. Box 149347
Austin, Texas 78714
Attention: Denise Collins

Grantee

Burke Center
2001 S. Medford Drive
Lufkin, TX 75901
Attention: Melanie Taylor

VII. LEGAL NOTICES

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

System Agency

Health and Human Service Commission
P.O. Box 149347
Austin, Texas 78714
Attention: General Counsel

Grantee

Burke Center
2001 S. Medford Drive
Lufkin, TX 75901
Attention: Melanie Taylor

VIII. NOTICE REQUIREMENTS

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

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

IV. ADDITIONAL GRANT INFORMATION

- A. Grantee Data Universal Numbering System (DUNS) Number: 9878646
- B. Federal Award Identification Number (FAIN): B08TI083054-01; 1H79TI081729-01
- C. Catalog of Federal Domestic Assistance (CFDA- Name and Number):
 - Substance Abuse Prevention Treatment Grant - Number 93.959
 - State Opioid Response Grant – Number 93.788
- D. Federal Award Date: B08TI083054-01:10/1/2019; 1H79TI081729-01: 9/30/2018
- E. Federal Award Period: B08TI083054-01: 10/01/2019-9/30/2021; 1H79TI081729-01: 09/30/2018-09/29/2020
- F. Name of Federal Awarding Agency: Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA)
- G. Awarding Official Contact Information:
 - B08TI083054-01: Odessa Crocker, Grants Management Officer, Point of Contact is Wendy Pang, Grants Specialist, Contact Number: (240) 276-1419, Facsimile: (240) 276-1430, Email: Wendy.Pang@samhsa.hhs.go
 - H79TI081729: Odessa Crocker, Grants Management Officer, Point of Contact is LeSchell D. Browne, Grants Specialist, Contact Number: (240) 276-1144, Email: leschell.browne@samhsa.hhs.gov

SIGNATURE PAGE FOLLOWS

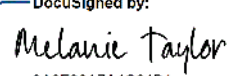
**SIGNATURE PAGE FOR SYSTEM AGENCY
CONTRACT NO. HHS000782500014**

**HEALTH AND HUMAN SERVICES
COMMISSION**

BURKE CENTER

DocuSigned by:

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Printed Name: Sonja Gaines

Printed Name: Melanie Taylor

Title: Assoc. Commissioner IDD/BH

Title: CEO

Date of Execution: August 28, 2020

Date of Execution: August 28, 2020

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO.
HHS000782500014 ARE INCORPORATED BY REFERENCE:**

- ATTACHMENT A – STATEMENT OF WORK**
- ATTACHMENT A-1 - STATEMENT OF WORK SUPPLEMENTAL**
- ATTACHMENT B – BUDGET**
- ATTACHMENT C – UNIFORM TERMS AND CONDITIONS - GRANT**
- ATTACHMENT D – CONTRACT AFFIRMATIONS**
- ATTACHMENT E – SPECIAL CONDITIONS**
- ATTACHMENT F – FEDERAL ASSURANCES AND CERTIFICATIONS**
- ATTACHMENT G – DATA USE AGREEMENT**
- ATTACHMENT H – NON-EXCLUSIVE LIST OF APPLICABLE LAWS**
- ATTACHMENT I – FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
(FFATA) CERTIFICATION**

ATTACHMENTS FOLLOW

ATTACHMENT A STATEMENT OF WORK

I. PURPOSE

Outreach, screening, assessment, and referral (OSAR) provides coordinated access to a continuum of substance use services within the System Agency-funded substance use service providers.

II. GRANTEE RESPONSIBILITIES

A. ADMINISTRATIVE REQUIREMENTS

Grantee shall:

1. Comply with all applicable rules and references adopted by System Agency related to substance use disorder services, including:
 - a. Title 25 of the Texas Administrative Code or subsequent revision
 - i. Chapter 441 - General Provisions;
 - ii. Chapter 448 - Standards of Care; and
 - iii. Chapter 140, Subchapter I - Counselor Licensure
 - b. Title 26 of the Texas Administrative Code, Chapter 321
 - c. Utilization Management Guidelines: <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/substance-use-disorder-service-providers>
 - d. American Society of Addiction Medicine (ASAM): <https://www.asam.org/>
2. Ensure primary offices are open and available for OSAR activities Monday through Friday, at minimum of eight hours a day.
3. Offer OSAR services at additional times and locations to meet the needs of clients to maximize access to substance use disorder treatment, especially for Federal and State-designated Priority populations. Examples of locations may include, but are not limited to, drug courts, jails, probation and Department of Family and Protective Services (DFPS) offices, emergency rooms, health clinics, and other areas deemed appropriate to enhance access to services.
4. Have a 1-800 number to provide crisis referral information after working hours, weekends, and holidays. The 1-800 number should be provided to System Agency within ten (10) business days of contract execution. If the 1-800 number changes, the Grantee shall notify System Agency within three (3) business days.
5. Provide services at Regional Public Health Centers and/or local Federal Qualified Health Clinics (FQHC) as directed by System Agency.

6. Develop and maintain a marketing plan to engage local referral sources and provide information to these sources regarding the availability of substance use disorder treatment services in the Region and the eligibility criteria for admission. Grantee shall make the marketing plan available to System Agency for review upon request.
7. Document all specified activities and services in the System Agency Clinical Management for Behavioral Health Services (CMBHS) system as directed by System Agency in accordance with the Contract and instructions provided through System Agency training, unless otherwise noted. Documents requiring signature(s) shall be made available to System Agency for review upon request.
8. Upload to an administrative note in CMBHS, clinical documentation that is handwritten and not transcribed into the client's CMBHS record: e.g. diagnostic tests, such as the Clinical Institute Withdrawal Assessment or Beck Depression Inventory, physician orders, etc.
9. Adopt policies and procedures that conform with Quality Management standards as outlined in 25 TAC §448.504 or any subsequent revisions. The Quality Management standards are located here:
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=448&rl=504](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=448&rl=504)
10. Create methods of assessing a client's satisfaction with the Grantee's services via a survey which includes wait time from initial screening request to actual date of screening. Survey will occur in writing at the time of screening. Grantee shall report the survey information quarterly to System Agency.
11. Adopt policies and procedures that conform with Client Rights standards as outlined in 25 TAC Subchapter G or any subsequent revisions, to address client grievances and complaints. Civil Rights standards are located here:
[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=448&sch=G&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=448&sch=G&rl=Y)
12. Ensure that if intervention services are provided by electronic means, they are compliant with 25 TAC § 448.911 or any subsequent revisions. Intervention Services in TAC are located here:
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=448&rl=911](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=448&rl=911) 25 TAC §448.911
13. Ensure the OSAR Program Director(s) or the position(s) responsible for OSAR program oversight, hereinafter referred to as "Program Director", participate in programmatic conference calls as scheduled by System Agency. Grantee's executive management may

participate in the conference calls, but the Program Director(s) shall participate unless otherwise agreed to by System Agency in writing.

14. Conduct quarterly regional collaborative meetings and submit to System Agency the quarterly meeting invitation list and completed sign-in sheet. Agenda topics shall include, at a minimum, the following:
 - a. Regional substance use disorder treatment system issue resolution;
 - b. Strengthening collaboration between System Agency-funded providers;
 - c. Maintaining referral processes with Department of Family and Protective Services (DFPS), probation and parole;
 - d. Identifying additional entities that can support the recovery continuum to be involved in the quarterly regional meetings; and
 - e. Reviewing changes to local area resources, such as changes in service areas or services offered.

15. Ensure, at minimum, the following stakeholders are invited to the quarterly regional collaborative meetings:
 - a. All System Agency-funded substance use disorder treatment, intervention and prevention, and recovery support services providers within the Program Service Area;
 - b. All System Agency-funded Local Mental Health Authorities (LMHAs) and Local Behavioral Health Authorities (LBHAs), known hereafter as Health Authorities (HAs), within the Program Service Area;
 - c. All Regional Public Health Centers, Federally Qualified Health Centers (FQHCs), and other medical or health providers serving low-income populations within the Program Service Area;
 - d. Regional/Local Veteran's Administration staff;
 - e. Regional DFPS staff;
 - f. Probation, parole, and drug court departments;
 - g. Housing resource staff;
 - h. Community and faith-based mental health and substance use recovery organizations within Program Service Area;
 - i. Community and faith-based mental social service organizations within Program Service Area;
 - j. Local University and College Student Support Groups;
 - k. Representatives of Local Police Departments;
 - l. Local Hospitals;
 - m. United Way representatives;
 - n. Local Chamber of Commerce; and
 - o. System Agency program staff.

16. Use funds to assist appropriate clients under special circumstances to meet one-time needs that are preventing admission to System Agency-funded substance use disorder treatment services, such as filling prescription medications or providing transportation to treatment services. Cash shall not be given directly to a client. Grantee shall not utilize more than Five Hundred Dollars (\$500.00) per client, per fiscal year and Grantee shall not budget and utilize more than Five Thousand Dollars (\$5,000.00) per fiscal year of the Contract for this purpose.
17. Maintain a log of financial assistance provided to clients that details the CMBHS client number, cost, and nature of the assistance and make this log of financial assistance available to System Agency upon request.
18. Ensure OSAR funds received under this Contract are not used to pay for a client's substance use disorder treatment, or assist in a client's personal financing, such as rent, utilities, car insurance, etc. Develop a written policy and procedures for how an OSAR employee may request assistance for a client receiving OSAR services and how a request will be approved and tracked. Funds shall not be used for assistance to a client if other funding resources are available for the proposed purpose. Maintain policy and procedures for System Agency review. Policies and Procedures should be submitted to System Agency within 30 business days of the beginning of each contract term.
19. Develop and annually update a resource directory that contains current and accurate information about local referral resources, including location and contact information, services offered, and eligibility criteria. The resource directory shall be made available on Grantee's website within 30 business days of contract term as well as in a hard-copy format which is updated quarterly that can be distributed to clients seeking services. The resource directory shall include at a minimum:
 - a. Community and faith-based substance use disorder prevention, intervention, treatment and recovery organizations;
 - b. Mental health (including crisis) service resources;
 - c. Family violence resources;
 - d. Health and medical resources, including:
 - i. Testing and counseling resources for tuberculosis, hepatitis B and C, sexually transmitted diseases, and Human Immunodeficiency Virus (HIV);
 - ii. Primary and reproductive health care resources;
 - iii. Prenatal care and reproductive health education and information;
 - e. Available transportation or funds for transportation;
 - f. Employment resources;
 - g. Child care resources;
 - h. Legal resources;
 - i. Housing and sober living environments; and
 - j. 12-step and other recovery meetings.

20. Engage and collaborate with community resources using Memoranda of Understanding (MOUs) to document collaborative relationships. MOUs shall be in place within 60 days of the initial Contract start date. MOUs shall specifically define which and how services will be provided to clients and their families including specific engagement strategies and procedures. All MOUs shall be signed by both parties, be individualized, and contain beginning and end dates.
21. Ensure all MOUs are effective within contract term, maintained, and available for System Agency review.
22. Establish MOUs with the following:
 - a. All System Agency-funded substance use disorder treatment providers in the OSAR's Service Area. MOUs will address, at a minimum, the following:
 - i. Coordination of capacity and treatment availability information;
 - ii. Coordination of referrals when immediate capacity is not available;
 - iii. Grantee or System Agency-funded substance use disorder treatment provider will provide initial required interim services;
 - iv. The System Agency-funded substance use disorder treatment provider's policy on how and when clients are removed from the waiting list.
 - v. Establish Federal and State Priority Population requirements;
 - vi. Update contact information quarterly for key agency staff that handle day-to-day client-placement activities.
 - vii. Whether the OSAR or the regional System Agency-funded treatment providers will provide assessment services.
 - b. A comprehensive resource network of community and social service agencies serving or having interest in the eligible population including other System Agency-funded treatment, prevention, intervention, mental health and Co-Occurring Psychiatric and Substance Use Disorder (COPSD) providers.
 - c. All Health Authorities within Grantee's System Agency Region and service area. MOUs shall address, at a minimum, the following:
 - i. Appropriate referrals to and from Grantee and the Health Authority for indicated services;
 - ii. Emergency referrals and transportation assistance for clients in crisis;
 - iii. Follow-up contact with the Health Authority's to facilitate the enrollment and engagement of clients in Health Authorities services; and
 - iv. Follow-up contact from the Health Authority with Grantee to coordinate subsequent services.

23. Execute a local agreement with DFPS local offices to address the referral process, coordination of services, and sharing of information as allowed per the consent and agreement form.
24. Ensure all MOUs and local agreements incorporate confidentiality requirements, including but not limited to: Title 42 Code of Federal Regulations Part 2 requirements (42 CFR Part 2), confidentiality requirements, Protected Health Information (PHI) transmission and Health Insurance Portability and Accountability ACT (HIPPA) compliance.
25. Participate in the independent treatment peer-review process, if requested by System Agency. Selected individuals will be guided by System Agency Quality Management personnel to review CMBHS entries by peer sub-recipient providers. Grantee will utilize System Agency-awarded contract funds to pay allowed expenses if participation in the independent treatment peer-review requires travel. Estimated travel expenses shall be submitted to the System Agency assigned contract manager prior to trip approval.

B. SERVICE DELIVERY REQUIREMENTS

Grantee shall:

1. Ensure priority populations for treatment admission have been developed in accordance with Substance Abuse Prevention and Treatment (SAPT) Block Grant regulations and state designation. To meet federal and state priority admissions guidelines, Grantee will:
 - a. Establish screening procedures to identify individuals of Federal and State priority populations;
 - b. Provide telephone screening when confidential face-to-face interview creates barrier to meeting priority admission requirements;
 - c. Refer to substance use disorder treatment services; and
 - d. Track admissions to treatment in accordance with the federal and state admission priorities and admission timeframes listed here:
 - i. Pregnant, injecting clients will be admitted immediately; (Federal)
 - ii. Pregnant clients will be admitted immediately; (Federal)
 - iii. Injecting drug users will be admitted within 14 days; (Federal)
 - iv. Clients at high risk for overdose will be admitted immediately; (State)
 - v. DFPS-referred clients will be admitted within 72 hours; (State) and
 - vi. All others.
2. Ensure all OSAR main offices and satellite offices where a person is screened, will post a notice in all applicable lobbies, containing the federal and state priority population admission requirements.

3. Ensure all printed brochures have the federal and state admission priority population requirements.
4. If immediate admission cannot be secured (within 72 hours) when attempting to place DFPS referred clients, then:
 - a. Exhaust all referral resources to include contacting System Agency-funded OSARs and treatment providers out of region;
 - b. Notify System Agency program staff within the 72-hour time-frame for assistance and resolution; and
 - c. Develop and maintain written protocols to ensure client(s) are admitted to other appropriate services and proper coordination with DFPS staff when appropriate.
5. Ensure when a client, determined to be a state or federal priority population presents for screening, the screening will be conducted in accordance with the priority population admission guidelines to ensure the client receives an appointment for admission for a substance use disorder (SUD) treatment service at the time of the OSAR screening, and ensure the following:
 - a. Admission date falls within priority population admission guidelines;
 - b. Admission site is a SUD treatment service provider that meets the needs of the client based on the client's diagnosis as well as other psychosocial factors;
 - c. Assist with travel when necessary to ensure client enters treatment according to state and federal guidelines; and
 - d. Contact the System Agency if assistance is needed to find intervention, recovery, and/or treatment for a client, as appropriate.
6. Provide OSAR services to clients referred by DFPS within three business days of receipt of the DFPS forms 2062: Referral for Substance Abuse Services, and 2063: Release of Confidential Information. Ensure that clients referred by DFPS, who do not meet clinical eligibility requirements for substance use disorder treatment, are referred to intervention and/or recovery support services when appropriate. Respond to referrals from DFPS and communicate the results of all services provided when proper consent-to-release information is on file.
7. Conduct and document the CMBHS screening through a confidential face-to-face interview or by telephone. If a screening is conducted by phone, Grantee shall arrange to obtain required client signature for all related consents and documents through digital or hardcopy within three (3) business days.
8. Complete the Financial Eligibility function in CMBHS before charging any clients for screening and/or assessment. Document client's financial eligibility for services through System Agency and other funding sources at the time of screening. Payment for screening and assessment will not be required from clients determined, by the Financial Eligibility function of CMBHS, to be eligible for System Agency-funded services.

9. Provide and document appropriate referrals to alternative service providers consistent with client's needs and financial resources, if client is determined not eligible for System Agency funding. Charges to clients for screenings and assessments must be accounted for as Program Income.
10. Provide individualized services to meet client needs using the System Agency federal and state priority population admission requirements, as well as clinical issues impacting the person to assist in making an appropriate recommendation for substance use disorder services and authorization of treatment admissions.
11. Provide and document brief interventions as pre-treatment services to help clients prepare for treatment services and move through the stages of change using an evidenced based model to a state of readiness to address substance use disorder problems. Brief interventions shall include, but not be limited to, crisis intervention as needed, Motivational Interviewing (MI), educational information about overdose prevention, and service coordination to reduce barriers to treatment. When providing MI, ensure the following:
 - a. For clients to be eligible for MI, the CMBHS client profile, screening, financial eligibility, and open case components must be completed. Documentation of MI will include the topic of the session, the client's response, and clinical observations relating to the client's readiness to change. Complete the close case in CMBHS when the client is no longer receiving MI services;
 - b. MI may include face-to-face and telephone sessions as needed or indicated by client need; and
 - c. MI may be provided as follows:
 - i. As a pre-treatment for clients to help increase motivation and confidence to make changes related to their substance use;
 - ii. As an interim service for maintaining engagement with clients who are on a waiting list for intake to a treatment provider;
 - iii. As an independent service for clients who decline recommended services;
 - iv. As a follow up service for clients who may need further assistance; and/or
 - v. As clinically indicated or needed.
12. Ensure all clients seeking treatment services, who are determined to have a diagnosis of opioid use disorder, will be engaged in the process of informed consent and document using the Informed Consent for Opiate Use Disorder clients Seeking Treatment form provided by System Agency. This form will be uploaded to an administrative note in CMBHS.
13. Conduct and document screening for tuberculosis, hepatitis B and C, sexually transmitted diseases (STDs), and Human Immunodeficiency Virus (HIV).

- a. Refer the client to the appropriate community resources for further testing and counseling if the screening indicates the client is at risk for these communicable diseases.
 - b. If the client is a person living with HIV, refer the client to a community-based case manager or a Ryan White HIV/AIDS Program case manager, community resources specializing in HIV, and/or consider referral to the System Agency-funded statewide HIV residential provider.
14. Train staff and develop policies and procedures to ensure that service delivery and information gathering is conducted in a respectful, non-threatening, and culturally competent manner.
15. Upon referral to a System Agency-funded treatment provider outside of Grantee's service area, an assessment may be conducted upon request or in coordination with the referral facility to limit duplication of services.
16. Complete and document all referrals and referral follow-ups in CMBHS.
17. Coordinate transportation for System Agency-funded clients as needed, appropriate, and agreed to in MOUs.
18. Refer to Recovery Support Services or other community support services to assist clients with sustaining engagement with substance use disorder treatment services as applicable and agreed upon.
19. Upon determining a client has both a mental health and substance use disorder, a referral to a System Agency-funded Health Authority, or COPSD provider, or other community resources will be made and documented as a referral and referral follow-up.
20. Provide overdose prevention education:
- a. General overdose prevention education will be provided to all clients seeking treatment as a part of treatment education requirements to include education on naloxone (including possible local access if available).
 - b. Specific overdose prevention activities shall be conducted with clients with opioid use disorders and those clients using drugs intravenously to include:
 - i. Education about and referral to community-based services for people who inject substances; and
 - ii. Referral to local community resources that work to reduce harm associated with high risk behaviors and substance use.
21. Ensure access to adequate and appropriate medical and psychosocial tobacco cessation education, including access to evidence-based treatment for tobacco cessation, available at:

<https://www.quitnow.net/mve/quitnow?qnclient=texas>

22. Utilize Culturally and Linguistically Appropriate Services (CLAS):

Following the National Culturally and Linguistically Appropriate Services (CLAS) Standards in Health and Health Care for all served populations in accordance with the most current version of the Texas Cultural Competence Guidelines for Behavioral Health Organizations. A link to the most current version can be found here:

<https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/behavioral-health-provider/lmha/tx-cultural-competence-guidelines-bh-orgs.pdf>

This guidance document comprises a set of requirements, implementation strategies, and additional resources to help providers/programs establish and expand culturally and linguistically appropriate services.

C. TEXAS TARGETED OPIOID RESPONSE (TTOR) FUNDING ADDITIONAL SERVICE DELIVERY REQUIREMENT

Grantee shall:

1. Hire and/or assign one full-time employee (FTE) known as the Priority Admissions Counselor (PAC) to perform activities such as: expanding outreach, screening, assessment, and referral to both evidence-based treatment and recovery support for individuals who use opioids.
2. Provide outreach, screening, assessment, referral, and referral follow-ups to individuals engaging in non-medical use of opioids. Responsibilities include:
 - a. Provide, through outreach, contact with individuals who are hard to reach, without waiting for them to come to the OSAR office for services. Outreach must be scientifically sound and include:
 - i. Selecting, training, and supervising outreach workers
 - ii. Contacting, communicating, and following up with high-risk substance users, their associates, and neighborhood residents within the constraints of federal and state confidentiality requirements, including 42 CFR part 2;
 - iii. Promoting awareness among injection drug users about the relationship between injection drug use and communicable diseases, such as HIV and hepatitis C (HCV);
 - iv. Recommending steps that can be taken to prevent HIV and HCV transmission; and
 - v. Encouraging entry into evidence-based treatment
 - b. Act as an entry point into the community and as an entry point for individuals to access opioid overdose prevention, medication for opioid use disorder treatment, and recovery support services.

- c. When screening clients seeking services for opioid use, create a safe environment that reduces fear, use a non-judgmental approach, ensure that OSAR PAC services are low-threshold, accessible, and responsive to the needs of all people who use drugs.
 - d. Provide OSAR services that are confidential, responsive to the lifestyle of people using drugs, offered and operated at a convenient time and in a suitable place, imposing few rules on clients, and free of charge.
 - e. Engage people seeking services for opioid use in a process of informed consent that outlines the benefits and risks associated with all options, including evidence-based treatment options for Opioid Use Disorder (OUD), treatment without medications, and no treatment.
 - f. Ensure people using opioids at risk for overdose do not wait more than seventy-two (72) hours from the time they contact the OSAR for assistance to get into treatment and employ telephone screening protocols to ensure timely access to lifesaving treatment.
 - g. Ensure that intervention and recovery support services are offered to all people seeking services.
 - h. Provide overdose prevention education, risk reduction education, and naloxone to people seeking services.
 - i. Develop working agreements with, and be responsive to, state-funded entities providing Medication-Assisted Treatment (MAT) induction services to ensure timely access as patients transition from the induction phase of MAT into long-term treatment with a MAT provider.
3. Complete a quarterly TTOR Expenditure Report documenting the utilization of the TTOR Funding.

D. STAFFING AND STAFF COMPETENCY REQUIREMENTS

Grantee shall:

1. Ensure all personnel shall receive the training and supervision necessary to guarantee compliance with System Agency rules, provision of appropriate and individualized treatment, and protection of client health, safety, and welfare.
2. Ensure that all OSAR staff receive a copy of the service requirements within this Statement of Work, have access to all MOU's for System Agency providers in the OSAR service area, and utilization management guidelines for review as needed.
3. Ensure staff responsible for planning, directing, or supervising services shall be Qualified Credentialed Counselors, (QCCs) as defined in [25 TAC §441.101](#) or any subsequent revisions. TAC 441.101 is located here:
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=T&app=9&p_dir=F&p_rloc=115144&p_tloc=29691&p_ploc=14829&pg=3&p_tac=&ti=25&pt=1&ch=441&rl=101](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=F&p_rloc=115144&p_tloc=29691&p_ploc=14829&pg=3&p_tac=&ti=25&pt=1&ch=441&rl=101)

4. Ensure the Program Director has, at least, two years of post-licensure experience providing substance use disorder treatment services, excluding prevention services.
5. Ensure all OSAR staff conducting screenings and assessments meet the definition of a counselor as defined in [25 TAC §441.101](#) or any subsequent revisions.
6. Ensure clinical staff have current training documentation within ninety (90) days of start of initial contract or the date of hire and annually in the following:
 - a. Motivational Enhancement Therapy or motivational interviewing techniques;
 - b. Education on Infectious and Communicable Diseases;
 - c. Trauma Informed Care;
 - d. Cultural Competency;
 - e. Risk and Harm Reduction Strategies;
 - f. Treatment for Pregnant Women with Substance Use;
 - g. Aspects of Prenatal and Postpartum Care;
 - h. Neonatal Abstinence Syndrome;
 - i. Fetal Alcohol Spectrum Disorders;
 - j. Medicaid eligibility;
 - k. HIPPA Privacy;
 - l. Confidentiality of Mental Health and Substance Use Records (42 CFR Part 2); and
 - m. State of Texas co-occurring psychiatric and substance use disorder (COPSD) training.

Grantee shall access www.centralizedtraining.com website for COPSD training.

7. Licensed Chemical Dependency Counselors (LCDCs) recognize the limitations of the licensee's ability and shall not provide services outside the licensee's scope of practice or licensure or use techniques that exceed the person's license authorization or professional competence.

E. TTOR STAFFING AND STAFF COMPETENCY REQUIREMENTS

Grantee shall:

Comply with all staffing requirements documented in Section D., and in addition, comply with the following staffing requirements for the TTOR Funded Position, Priority Admissions Counselor (PAC):

1. Within 90 days of hire and prior to providing direct care services, PACs and their back-ups shall additionally complete training in the following:
 - a. System Agency-approved Overdose Prevention Training
 - b. System Agency-approved Medication Assisted Treatment (MAT) Advocate Training
2. At minimum, the PAC and back-ups shall complete and maintain documentation of the 10 hours of training each fiscal year in any of the following areas:

- a. Motivational interviewing techniques;
- b. Health literacy;
- c. Risk and harm-reduction strategies;
- d. Substance use and trauma issues;
- e. Community outreach;
- f. Aspects of Prenatal and Postpartum Care;
- g. Neonatal Abstinence Syndrome;
- h. Fetal Alcohol Spectrum Disorders.

F. DISASTER SUBSTANCE USE SERVICES

Grantee shall:

1. Assist in mitigating the psychological trauma experienced by victims, survivors, and responders to a disaster. Assist the client or family in returning to a normal (pre-disaster) level of functioning and assist in decreasing the psychological and physical effects of acute and/or prolonged stress. If clients who are already receiving substance use disorder services are affected, continued work with the affected clients in conjunction with the client's current support system will occur.
2. Develop policies and procedures to address response and recovery for substance use disorder programs. Responsibilities include, but are not limited to, the following:
 - a. Enter, and update as necessary, into CMBHS, the names and twenty-four (24)-hour contact information of the Risk Manager or Safety Officer and at least two professional staff members trained in mental health, substance use disorders, or crisis counseling, one of whom may be the Grantee's Risk Manager or Safety Officer, as disaster contacts;
 - b. Submit disaster substance use disorder services policies and procedures if requested by System Agency;
 - c. Collaborate with System Agency and local preparedness, response and recovery efforts;
 - d. Submit disaster substance use disorder services reports as requested by system agency;
 - e. Assist in coordinating the disaster/incident response among substance use disorder treatment providers, community mental health and emergency disaster service organizations, such as emergency shelters and food banks;
 - f. Facilitate outreach to substance use disorder clients and their families and ensure they are provided access to client and group counseling, education, assessment, referral and community support;
 - g. Assign employees to assist System Agency to meet staffing needs for shelters, morgues, schools, hospitals, Disaster Recovery Centers, community support centers, death notifications, mass inoculations sites, and other necessary services during local, state or federal emergencies;

- h. Contract with System Agency to provide Federal Emergency Management Agency (FEMA) funded Crisis Counseling, Assistance, and Training Program(s) (CCATP) after federal declarations, as appropriate. CCATP services include housing, hiring, and co-managing CCATP Team(s), as appropriate, and are described at <https://www.fema.gov/public-assistance-local-state-tribal-and-non-profit>. Participate in disaster substance use disorder education training programs as necessary.
3. Assist in the coordination of disaster evacuation and relief plans for the Program Service Area when requested and under the direction of System Agency.

G. TTOR ADDITIONAL DISASTER SUBSTANCE USE SERVICES

Grantee shall:

Assign PAC to assist System Agency to meet staffing needs for shelters, morgues, schools, hospitals, Disaster Recovery Centers, community support centers, death notifications, mass inoculations sites, and other necessary services during local, state, or federal emergencies.

H. REPORTING REQUIREMENTS

Grantee shall:

1. Submit all documents identified below to the designated System Agency Substance Abuse mailbox at SubstanceAbuse.Contracts@hhsc.state.tx.us and System Agency subject matter expert by the required due date.
2. All communication to the SubstanceAbuse.Contracts@hhsc.state.tx.us must include Grantee's Contract Number, legal entity name, and purpose in the email subject line.
3. Compile all client satisfaction surveys into a quarterly average that includes "average wait time from initial screening request to date of actual screening" to be due on the last business date of the month following the end of each quarter.
4. If the Due Date is on a weekend or holiday, the Due Date is the next business day.
5. Submit in CMBHS, the following required reports by the Due Date:
 - a. Financial Status Reports (FSRs)
 - b. Monthly Performance Measures
6. Submit the following to the Substance Abuse mailbox at SubstanceAbuse.Contracts@hhsc.state.tx.us and System Agency subject matter expert by the Due Date:
 - a. CMBHS Security Attestation Form and List of Authorized Users document
 - b. Quarterly Regional Collaborative Meeting Invitation List and Sign-in Sheets
 - c. Client Satisfaction Survey as directed in Administrative Requirements

- d. Quarterly TTOR Expenditure Report
- e. Closeout documents

Document Name	Due Date
1-800 Number confirmation	10 business days after contract execution; revisions to 1-800 number reported within 3 business days
CMBHS Security Attestation Form and List of Authorized Users document	Sept. 15, March 15 th , annually
Client Satisfaction Survey results report	Last business day of the month following the end of each quarter
Quarterly Regional Collaborative Meeting Invitation List and Sign-in Sheets	15th of the month following the quarter
TTOR funded Expenditure Report	Quarterly; 15 th of the month, reporting the following quarter's data.
Performance Measures in CMBHS	Monthly; 15 th of the month, reporting the following months data.
Financial Status Report (FSR) in CMBHS	Last business day of the month following the end of each quarter. <i>Final Financial Status Report due 45 days after Contract end date</i>
Closeout documents	Annually

III. CLINICAL MANAGEMENT FOR BEHAVIORAL HEALTH SERVICES (CMBHS) SYSTEM MINIMUM REQUIREMENTS

Grantee Shall:

1. Designate a Security Administrator and a back-up Security Administrator. The Security Administrator is required to implement and maintain a system for management of user accounts/user roles to ensure that all the CMBHS user accounts are current.

2. Establish and maintain a security policy that ensures adequate system security and protection of confidential information.
3. Notify the CMBHS Help-desk within ten (10) business days of any change to the designated Security Administrator or the back-up Security Administrator.
4. Ensure that access to CMBHS is restricted to only authorized users. Grantee shall, within 24 hours, remove access to users who are no longer authorized to have access to secure data.
5. In addition to CMBHS Helpdesk notification, twice a year Grantee shall submit a signed CMBHS Security Attestation Form and a list of Grantee's employees, contracted laborers and subcontractors authorized to have access to secure data. The CMBHS Security Attestation Form shall be submitted electronically within fifteen (15) calendar days of contract execution, and on March 15 to the designated Substance Abuse mailbox (SubstanceAbuse.Contracts@hhsc.state.tx.us).

**ATTACHMENT A-1
STATEMENT OF WORK SUPPLEMENTAL**

A. CONTRACT INFORMATION

Vendor ID:	1751442393200
Performing Agency Name:	Burke Center
Contract Number:	HHS000782500014
Contract Type	Intervention
Payment Method:	Cost Reimbursement
DUNS Number:	010787505
Federal Award Identification Number (FAIN)	B08TI083054-01; 1H79TI081729-01
Solicitation Method:	Exempt, Governmental Entity

B. SERVICE AREA

Services or activities will be provided to participants and/or clients from the following counties:

Region: 5

Counties: Angelina, Hardin, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler

C. TARGET POPULATION

All Texas Residents

D. RENEWALS

This contract may be renewed for four (4) additional one-year terms for 12-month periods.

E. CONTACT INFORMATION

Name:	Denise Collins
Email:	Denise.Collins01@hhsc.state.tx.us
Telephone:	(512) 206-5170
Address:	909 W 45 th Street, Bldg 552 (MC 2058)
City/Zip:	Austin TX 78751

F. PERFORMANCE MEASURES

Performing Agency shall report performance measures monthly through CMBHS in accordance with Section II., H. Reporting Requirements in Attachment A, Statement of Work for this contract.

OSAR PERFORMANCE MEASURE (S)

Performance Measure:	<u>Sep- Nov</u>	<u>Dec- Feb</u>	<u>Mar- May</u>	<u>Jun- Aug</u>	<u>Annual Goal</u>
1. Number of adults screened for substance use services	<u>636</u>	<u>636</u>	<u>636</u>	<u>636</u>	<u>2544</u>
2. Number of youth screened for substance use services	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>120</u>

TTOR PERFORMANCE MEASURE (S)

Performance Measure:	<u>Sep- Nov</u>	<u>Dec- Feb</u>	<u>Mar- May</u>	<u>Jun- Aug</u>	<u>Annual Goal</u>
3. Number of adults screened resulting in a preliminary diagnosis of opioid use disorder	<u>136</u>	<u>136</u>	<u>136</u>	<u>137</u>	<u>545</u>
4. Number of pregnant adults screened resulting in a preliminary diagnosis of opioid use disorder	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>12</u>

G. PERFORMANCE MEASURE METHODOLOGY

OSAR Performance Measure Methodology

1. Number of adults screened for substance use services: The number of individual adults who have been screened for substance use services by the Grantee within the reporting period.
2. Number of youth screened for substance use services: The number of individual youth who have been screened for substance use services by the Grantee within the reporting period.

TTOR Performance Measure Methodology

3. Number of adults screened resulting in a preliminary diagnosis of opioid use disorder: The number of individual adults who have been screened and preliminarily diagnosed with an opioid use disorder by the Grantee within the reporting period.
4. Number of pregnant adults screened resulting in a preliminary diagnosis of opioid use disorder: The number of individual pregnant adults who have been screened and preliminarily diagnosed with an opioid use disorder by the Grantee within the reporting period.

H. PERFORMANCE OUTCOME MEASURES

OSAR PERFORMANCE OUTCOME MEASURE (S)

Outcome Measures:	Percentages
1. Percent of individuals referred to Substance Use Disorder Treatment	55%
2. Percent of individuals referred to Recovery Support Services	40%
3. Percent of individuals referred to Mental Health Services	20%

TTOR PERFORMANCE OUTCOME MEASURE (S)

Outcome Measures	Percentages
4. Percent of individual adults with an opioid use disorder referred that presented to medication-assisted treatment	55%
5. Percent of individual pregnant adults with an opioid use disorder referred that presented to medication-assisted treatment	90%

I. PERFORMANCE OUTCOME MEASURE METHODOLOGY

OSAR Performance Outcome Measure Data Methodology:

1. Percent of individuals referred to Substance Use Disorder Treatment
 - a. The **numerator** is the total number of individuals (adults and youth combined) who received a referral to Substance Use Disorder Treatment and the referral type selected in CMBHS is Substance Abuse/Use Disorder Treatment. Additionally, the Substance Use Disorder Treatment referral has one or both in CMBHS:
 - i. A corresponding waitlist entry and/or;
 - ii. A scheduled admission date with to a referred substance use disorder treatment provider.
 - b. The **denominator** is the total number of individuals (adult and youth combined) screened for substance use services.
2. Percent of individuals referred to Recovery Support Services
 - a. The **numerator** is the total number of individuals (adult and youth combined) who received a referral to Recovery Support Services (and the referral type selected in CMBHS is Recovery Support Services). A Referral to Recovery Support Services is defined as a referral to one or more of the following: Recovery Coaching, Sober Living, Peer Support Groups/Mentoring, Community Recovery Meetings.
 - b. The **denominator** is the total number of individuals (adult and youth combined) screened for substance use services
3. Percent of individuals referred to Mental Health Services.
 - a. The **numerator** is the total number of individuals (adult and youth combined) who received a referral to Mental Health Services and the referral type selected in CMBHS is Mental Health Treatment (Inpatient) or (Mental Health Treatment (Outpatient)). A referral to Mental Health Services is defined as a referral to one or more of the following: Local Mental Health Authority (LMHA), Local Behavioral Health Authority (LBHA), Community Mental Health Provider, Inpatient/Outpatient Psychiatric Facility, Co-Occurring Psychiatric and Substance Use Disorders (COPSD), etc.)

- b. The **denominator** is the total number of individuals (adult and youth combined) screened for substance use services

TTOR Performance Outcome Measure Data Methodology:

- 4. Percent of adults with an opioid use disorder referred that presented to medication assisted treatment.
 - a. The **numerator** is the total number of adults who have a one or more of the following documented in CMBHS:
 - i. A referral outcome with “Presented for Referral” selected as the client outcome; or
 - ii. A corresponding waitlist entry; or
 - iii. An admission to a Medication Assisted Treatment provider.
 - b. The **denominator** is the total number of adults screened resulting in a preliminary diagnosis of opioid use disorder.
- 5. Percent of individual pregnant adults with an opioid use disorder referred that presented to medication assisted treatment.
 - a. The **numerator** is the total number of pregnant adults who have a one or more of the following documented in CMBHS:
 - iv. A referral outcome with “Presented for Referral” selected as the client outcome; or
 - v. A corresponding waitlist entry; or
 - vi. An admission to a Medication Assisted Treatment provider.
 - b. The **denominator** is the total number of pregnant adults screened resulting in a preliminary diagnosis of opioid use disorder.

**ATTACHMENT B
CATEGORICAL BUDGET**

Grantee: Burke Center

Contract Number: HHS000782500014

- A. Funding from The United States Department of Health and Humans Services (HHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) fund the System Agency Substance Use Disorder project(s), which include this contract.
- B. The following Catalog of Federal Domestic Assistance (CFDA) funds may be listed as part of the System Agency Share. Grantee shall comply with the Code of Federal Regulations (CFR), as applicable:
1. Substance Abuse Prevention Treatment (SAPT) Grant, CFDA 93.959
45 CFR Part 96, Subpart C, as applicable, which is located at the following website:
<https://ecfr.io/Title-45/pt45.1.96#sp45.1.96.c>;
 2. Texas Targeted Opioid Response, CFDA 93.788
45 CFR Part 75, as applicable, which is located at the following website:
<https://ecfr.io/Title-45/pt45.1.75> .
 3. State General Revenue
- C. The total reimbursements are as follows:
1. In Fiscal Year 2021, the total reimbursements shall not exceed \$659,313.00 for the term September 1, 2020 through August 31, 2021. The funding is allocated as follows:
 - a. Substance Abuse Prevention Treatment Grant allocation is \$594,313.00 for the term September 1, 2020 through August 31, 2021.
 - b. Texas Targeted Opioid Response (TTOR) allocation is \$65,000.00 for the term September 1, 2020 through August 31, 2021.
 - c. State General Revenue allocation is \$0.00 for the term September 1, 2020 through August 31, 2021.
 2. Total reimbursements will not exceed the System Agency Share, as stated in the Categorical Budget, for the term September 1, 2020 through August 31, 2021.
- D. Grantee shall comply with the requirements applicable in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR 200, https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl and the Uniform Grant Management Standards (UGMS) Standards, <https://comptroller.texas.gov/purchasing/grant-management/>
- E. Grantee shall review and comply with the System Agency's Grants Technical Assistance guide, which provides guidance on financial administration in order to clarify applicable laws, rules and regulations. The Guide is located at the following:
<https://hhs.texas.gov/doing-business-hhs/grants>.
- F. Grantee Share (Match)

1. Match is equal or greater than five percent (5%) of total amount of System Agency funds expended for this contract term.
2. TTOR funds do not require and are not calculated in the match requirement.

G. Grantee will submit invoices to System Agency through Clinical Management for Behavioral Health Services (CMBHS) system monthly.

H. Except as indicated by the CMBHS financial eligibility assessment, Grantee shall accept reimbursement or payment from the System Agency as payment in full for services or goods provided to clients or participants, and Grantee shall not seek additional reimbursement or payment for services or goods, to include benefits received from federal, state, or local sources, from clients or participants.

I. Any unexpended balance associated with any other System Agency Contract may not be applied to this System Agency Contract.

J. Cost Reimbursement Budget

1. The Cost Reimbursement budget documents all approved and allowable expenditures; Grantee shall *only* utilize the funding detailed in Attachment B for approved and allowable costs. If Grantee requests to utilize funds for an expense not documented on the approved budget, Grantee shall notify, in writing, the System Agency assigned contract manager and request approval prior to utilizing the funds. System Agency shall provide written notification regarding if the requested expense is approved.
2. If needed, Grantee may revise the System Agency approved Cost Reimbursement budget. The requirements are as follows:
 - a. Grantee is allowed to transfer funds from the budgeted direct categories only; with the exception of the Equipment Category. Grantee may transfer up to ten (10) percent of the Fiscal Year Contract value without System Agency approval. Budget revisions exceeding the ten percent requirement require System Agency's written approval.
 - b. Grantee may request revisions to the approved Cost Reimbursement budgeted direct categories that exceed the ten (10) percent requirement stated in (J)(2)(a), by submitting a written request to the assigned contract manager. This change is considered a minor administrative change and does not require an amendment. The System Agency shall provide a Technical Guidance Letter (TGL) if the budget revision is approved; and the assigned Contract Manager will update CMBHS, as needed.
 - c. Grantee may revise the Cost Reimbursement budget 'Equipment' and/or 'Indirect Cost' Categories, however a formal Amendment is required. Grantee shall submit to the assigned contract manager a written request to revise the budget, which includes a justification for the revisions. The assigned Contract Manager shall provide written notification stating if the requested revision is approved. If the revision is approved, the budget revision is *not* authorized, and

funds *cannot* be utilized until the Amendment is executed and signed by both parties.

3. The budgeted indirect cost amount is provisional and subject to change. The System Agency reserves the right to negotiate Grantee's indirect cost amount, which may require Grantee to provide additional supporting documentation.

K. Categorical Budget

The approved categorical budget for fiscal year 2021 is below:

Categorical Budget

PERSONNEL	\$0.00
FRINGE BENEFITS	\$0.00
TRAVEL	\$0.00
EQUIPMENT	\$0.00
SUPPLIES	\$0.00
CONTRACTUAL	\$599,375.00
OTHER	\$29,716.00
TOTAL DIRECT CHARGES	\$629,091.00
INDIRECT CHARGES	\$59,938.00
TOTAL CONTRACT AMOUNT	\$689,029.00
SYSTEM AGENCY SHARE	\$659,313.00
MATCH	\$29,716.00

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



TEXAS

Health and Human Services

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

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

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

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

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

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

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

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

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“State of Texas Textravel” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

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

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

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

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

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

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

1.2 INTERPRETIVE PROVISIONS

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

ARTICLE II. PAYMENT METHODS AND RESTRICTIONS

2.1 PAYMENT METHODS

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

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

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

2.2 FINAL BILLING SUBMISSION

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

2.3 FINANCIAL STATUS REPORTS (FSRs)

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

2.4 USE OF FUNDS

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

2.5 USE FOR MATCH PROHIBITED

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

2.6 PROGRAM INCOME

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

2.7 NONSUPPLANTING

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

2.8 ALLOWABLE COSTS

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

2.9 INDIRECT COST RATES

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT AND DELINQUENCIES

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

3.4 RECAPTURE OF FUNDS

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

any funds erroneously paid by System Agency which are not expressly authorized under the Contract.

- B. "Overpayments" as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures. Grantee understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

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

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

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

4.2 AUDITS AND FINANCIAL STATEMENTS

A. Audits

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

B. Financial Statements

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

4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

A. Audits

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

i. HHS portal at: or,

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

ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements

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

i. HHS portal at:

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

ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 GENERAL AFFIRMATIONS

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

5.2 FEDERAL ASSURANCES

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

5.3 FEDERAL CERTIFICATIONS

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

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated

therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Grantee agrees to execute all papers and to perform such other property rights as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

6.2 GRANTEE'S PRE-EXISTING WORKS

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

6.3 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

6.4 DELIVERY UPON TERMINATION OR EXPIRATION

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

6.5 SURVIVAL

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

ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE

7.1 BOOKS AND RECORDS

Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Grantee shall maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the Contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

7.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

7.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

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

7.4 SAO AUDIT

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

7.5 CONFIDENTIALITY

Grantee shall maintain as confidential, and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract.

ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION

8.1 CONTRACT REMEDIES

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

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

8.2 TERMINATION FOR CONVENIENCE

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

8.3 TERMINATION FOR CAUSE

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

i. **Material Breach**

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

ii. **Failure to Maintain Financial Viability**

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

ARTICLE IX. MISCELLANEOUS PROVISIONS

9.1 AMENDMENT

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

9.2 INSURANCE

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

B. These and all other insurance requirements under the Contract apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

9.3 LEGAL OBLIGATIONS

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

9.4 PERMITTING AND LICENSURE

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Contract. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

9.5 INDEMNITY

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENCE ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Contract.**

9.6 ASSIGNMENTS

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

9.7 INDEPENDENT CONTRACTOR

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Should Grantee subcontract any of the services required in the Contract, Grantee expressly understands and acknowledges that in entering such subcontract(s), System Agency is in no manner liable to any Subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

9.8 TECHNICAL GUIDANCE LETTERS

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

9.9 DISPUTE RESOLUTION

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

9.10 GOVERNING LAW AND VENUE

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

9.11 SEVERABILITY

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

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

9.12 SURVIVABILITY

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

9.13 FORCE MAJEURE

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

9.14 NO WAIVER OF PROVISIONS

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

9.15 PUBLICITY

- A. Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.
- B. Grantee may publish, at its sole expense, results of Grantee performance under the Contract with the System Agency’s prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.
- C. Contractor is prohibited from using the Work for any Contractor or third party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Contractor’s or a third party’s products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Contractor as part of the Work.

9.16 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

9.17 NO WAIVER OF SOVEREIGN IMMUNITY

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

9.18 ENTIRE CONTRACT AND MODIFICATION

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

9.19 COUNTERPARTS

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

9.20 PROPER AUTHORITY

Each Party represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract.

9.21 E-VERIFY PROGRAM

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

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

9.22 CIVIL RIGHTS

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
 - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
 - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);

- v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
 - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Contract.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

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

9.23 SYSTEM AGENCY DATA

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

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:

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:

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:

Burke Center

Legal Name of Contractor

dba Burke

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:
Melanie Taylor
3A3F28A7A4C84B1...

Signature of Authorized Representative

August 28, 2020

Date Signed

Melanie Taylor

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

CEO

Title of Authorized Representative

2001 S. Medford Dr.

Physical Street Address

Lufkin, TX 75901

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

936-639-1141

Phone Number

Fax Number

melanie.taylor@myburke.org

Email Address

01-078-7505

DUNS Number

751442393

Federal Employer Identification Number

17514423932

Texas Payee ID No. – 11 digits

17514423932

Texas Franchise Tax Number

Not Registered

**Texas Secretary of State Filing
Number**

ATTACHMENT E



TEXAS
Health and Human Services

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

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ENGAGED IN ANY ACTIVITY THAT COULD CONSTITUTE A CRIMINAL OFFENSE EQUAL TO OR GREATER THAN A CLASS A MISDEMEANOR OR GROUNDS FOR DISCIPLINARY ACTION BY A STATE OR FEDERAL REGULATORY AUTHORITY; OR.....17

A.17

BEEN PLACED ON COMMUNITY SUPERVISION, RECEIVED DEFERRED ADJUDICATION, OR BEEN INDICTED FOR OR CONVICTED OF A CRIMINAL OFFENSE RELATING TO INVOLVEMENT IN ANY FINANCIAL MATTER, FEDERAL OR STATE PROGRAM OR FELONY SEX CRIME.17

B.17

CONTRACTOR SHALL NOT PERMIT ANY PERSON WHO ENGAGED, OR WAS ALLEGED TO HAVE ENGAGED, IN ANY ACTIVITY SUBJECT TO REPORTING UNDER THIS SECTION TO PERFORM DIRECT CLIENT SERVICES OR HAVE DIRECT CONTACT WITH CLIENTS, UNLESS OTHERWISE DIRECTED IN WRITING BY THE SYSTEM AGENCY.17

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DEFINITIONS

ARTICLE I.

"Confidential System Information" means any communication or record (whether oral, written, electronicall stored or transmitted, or in any other form) provided to or made available to Grantee; or that Grantee may create, receive, maintain, use, disclose or have access to on behalf of HHSC or through performance of the Work, which is not designated as Confidential Information in a Data Use Agreement.

"Conflict of Interest" means a set of facts or circumstances, a relationship, or other situation under which Grantee, a SubGrantee, or individual has past, present, or currently planned personal or financial activities or interests that either directly or indirectly: (1) impairs or diminishes the Grantee's, or SubGrantee's ability to render impartial or objective assistance or advice to the HHSC; or (2) provides the Grantee or SubGrantee an unfair competitive advantage in future HHSC procurements.

"Grantee Agents" means Grantee's representatives, employees, officers, SubGrantees, as well as their employees, Grantees, officers, and agents.

"Data Use Agreement" means the agreement incorporated into the Contract to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information.

"Item of Noncompliance" means Grantee's acts or omissions that: (1) violate a provision of the Contract; (2) fail to ensure adequate performance of the Work; (3) represent a failure of Grantee to be responsive to a request of HHSC relating to the Work under the Contract.

"Minor Administrative Change" refers to a change to the Contract that does not increase the fees or term and done in accordance with Section **Error! Reference source not found.** of these Additional Provisions.

"Software" means all operating system and applications software used or created by Grantee to perform the Work under the Contract.

"State" means the State of Texas and, unless otherwise indicated or appropriate, will be interpreted to mean HHSC and other agencies of the State of Texas that may participate in the administration of HHSC Programs; provided, however, that no provision will be interpreted to include any entity other than HHSC as the contracting agency.

"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 Software" refers to software programs or plug-ins developed by companies or individuals other than Grantee which are used in performance of the Work. It does not include items which are ancillary to the performance of the Work, such as internal systems of Grantee which were deployed by Grantee prior to the Contract and not procured to perform the Work.

"Turnover" means the effort necessary to enable HHSC, or its designee, to effectively close out the Contract and move the Work to another vendor or to perform the Work by itself.

"Turnover Plan" means the written plan developed by Grantee, approved by HHSC, and to be employed when the Work described in the Contract transfers to HHSC, or its designee, from the Grantee.

"UTC" means HHSC's Uniform Terms and Conditions- Vendor --Version 2.15

ARTICLE II. GENERAL PROVISIONS

2.01 OTHER SYSTEM AGENCIES PARTICIPATION IN THE CONTRACT

In addition to providing the Work specified for HHSC, Grantee agrees to allow other System Agencies the option to participate in the Contract under the same terms and conditions. Each System Agency that elects to obtain Work under this section will issue a purchase or Work order to Grantee, referring to, and incorporating by reference, the terms and conditions specified in the Contract.

System Agencies have no authority to modify the terms of the Contract. However, additional System Agency terms and conditions that do not conflict with the Contract, and are acceptable to the Grantee, may be added in a purchase or Work order and given effect. No additional term or condition added in a purchase or Work order issued by a System Agency can conflict with or diminish a term or condition of the Contract. In the event of a conflict between a System Agency's purchase or Work order and the Contract, the Contract terms control.

2.02 MOST FAVORED CUSTOMER

Grantee agrees that if during the term of the Contract, Grantee enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, Grantee will notify HHSC within (10) business days from the date Grantee executes any such agreement. Grantee agrees, at HHSC's option, to amend the Contract to accord equivalent advantage to HHSC.

2.03 COOPERATION WITH HHSC VENDORS

At HHSC's request, Grantee 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 Grantee's facilities. Grantee 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.

2.04 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.

2.05 RENEGOTIATION AND REPROCUREMENT RIGHTS

Notwithstanding anything in the Contract to the contrary, HHSC may at any time during the term of the Contract exercise the option to notify Grantee that HHSC has elected to renegotiate certain terms of the Contract. Upon Grantee's receipt of any notice under this section, Grantee and HHSC will undertake good faith negotiations of the subject terms of the Contract. HHSC may at any time issue solicitation instruments to other potential Grantees for performance of any portion of the Work covered by the Contract, including services similar or comparable to the Work, performed by Grantee under the Contract. If HHSC elects to procure the Work, or any portion thereof, from another vendor in accordance with this section, HHSC will have the termination rights set forth in the UTC.

2.06 HHSC APPROVAL OF STAFFING

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. 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.

ARTICLE III. GRANTEE'S PERSONNEL AND SUBGRANTEES

3.01 QUALIFICATIONS

Grantee agrees to maintain the organizational and administrative capacity and capabilities proposed in its response to the Solicitation, as modified, to carry out all duties and responsibilities under the Contract. Grantee Agents assigned to perform the duties and responsibilities under the Contract must be and remain properly trained and qualified for the functions they are to perform. Notwithstanding the transfer or turnover of personnel, Grantee remains obligated to perform all duties and responsibilities under the Contract without degradation and in strict accordance with the terms of the Contract.

3.02 CONDUCT AND REMOVAL

While performing the Work under the Contract, Grantee Agents must comply with applicable Contract terms, State and federal rules, regulations, HHSC's policies, and HHSC's requests regarding personal and professional conduct; and otherwise conduct themselves in a businesslike and professional manner.

If HHSC determines in good faith that a particular Grantee Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may Grantee notice and documentation regarding its concerns. Upon receipt of such notice, Grantee must promptly investigate the matter and, at HHSC's election, take appropriate action that may include removing the Grantee Agent from performing any Work under the Contract and replacing the Grantee Agent with a similarly qualified individual acceptable to HHSC as soon as reasonably practicable or as otherwise agreed to by HHSC.

ARTICLE IV. PERFORMANCE

4.01 MEASUREMENT

Satisfactory performance of the Contract, unless otherwise specified in the Contract, will be measured by:

- (a) Compliance with Contract requirements, including all representations and warranties;
- (b) Compliance with the Work requested in the Solicitation and Work proposed by Grantee in its response to the Solicitation and approved by HHSC;
- (c) Delivery of Work in accordance with the service levels proposed by Grantee in the Solicitation Response as accepted by HHSC;
- (d) Results of audits, inspections, or quality checks performed by the HHSC or its designee;
- (e) Timeliness, completeness, and accuracy of Work; and
- (f) Achievement of specific performance measures and incentives as applicable.

ARTICLE V. AMENDMENTS AND MODIFICATIONS

5.01 FORMAL PROCEDURE

No different or additional Work or contractual obligations will be authorized or performed unless contemplated within the Scope of Work and memorialized in an amendment or modification of the Contract that is executed in compliance with this Article. No waiver of any term, covenant, or condition of the Contract will be valid unless executed in compliance with this Article. Grantee will not be entitled to payment for Work that is not authorized by a properly executed Contract amendment or modification, or through the express written authorization of HHSC. Any changes to the Contract that results in a change to either the term, fees, or significantly impacting the obligations of the parties to the Contract must be effectuated by a formal Amendment to the Contract. Such Amendment must be signed by the appropriate and duly authorized representative of each party in order to have any effect.

5.02 MINOR ADMINISTRATIVE CHANGES

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Work or the Contract that do not increase the fees or term. Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in Section **Error! Reference source not found.** of these Additional Provisions. Upon approval of a Minor Administrative Change, HHSC and Grantee will maintain written notice that the change has been accepted in their Contract files.

ARTICLE VI. PAYMENT

6.01 ENHANCED PAYMENT PROCEDURES

HHSC will be relieved of its obligation to make any payments to Grantee until such time as any and all set-off amounts have been credited to HHSC. If HHSC disputes payment of all or any portion of an invoice from Grantee, HHSC will notify the Grantee of the dispute and both Parties will attempt in good faith to resolve the dispute in accordance with these Additional Provisions. HHSC will not be required to pay any disputed portion of a Grantee invoice unless, and until, the dispute is resolved. Notwithstanding any such dispute, Grantee will continue to perform the Work in compliance with the terms of the Contract pending resolution of such dispute so long as all undisputed amounts continue to be paid to Grantee.

ARTICLE VII. CONFIDENTIALITY

7.01 CONSULTANT DISCLOSURE

Grantee agrees that any consultant reports received by HHSC in connection with the Contract may be distributed by HHSC, in its discretion, to any other state agency and the Texas legislature. Any distribution may include posting on HHSC's website or the website of a standing committee of the Texas Legislature.

7.02 CONFIDENTIAL SYSTEM INFORMATION

HHSC prohibits the unauthorized disclosure of Other Confidential Information. Grantee and all Grantee Agents will not disclose or use any Other Confidential Information in any manner except as is necessary for the Work or the proper discharge of obligations and securing of rights under the Contract. Grantee will have a system in effect to protect Other Confidential Information. Any disclosure or transfer of Other Confidential Information by Grantee, including information requested to do so by HHSC, will be in accordance with the Contract. If Grantee receives a request for Other Confidential Information, Grantee will immediately notify HHSC of the request, and will make reasonable efforts to protect the Other Confidential Information from disclosure until further instructed by the HHSC.

Grantee will notify HHSC promptly of any unauthorized possession, use, knowledge, or attempt thereof, of any Other Confidential Information by any person or entity that may become known to Grantee. Grantee will furnish to HHSC all known details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist HHSC in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Other Confidential Information.

HHSC will have the right to recover from Grantee all damages and liabilities caused by or arising from Grantee or Grantee Agents' failure to protect HHSC's Confidential Information as required by this section.

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Grantee WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM ALL DAMAGES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COSTS) CAUSED BY OR ARISING FROM Grantee OR Grantee AGENTS FAILURE TO PROTECT OTHER CONFIDENTIAL INFORMATION. Grantee WILL FULFILL THIS PROVISION WITH COUNSEL APPROVED BY HHSC.

ARTICLE VIII. DISPUTES AND REMEDIES

8.01 AGREEMENT OF THE PARTIES

The Parties agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under the Contract before resorting to formal dispute resolution processes otherwise provided in the Contract. The Parties will use all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in the Contract, unless HHSC immediately terminates the Contract in accordance with the terms and conditions of the Contract.

Any dispute, that in the judgment of any Party to the Agreement, may materially affect the performance of any Party will be reduced to writing and delivered to the other Party within 10 business days after the dispute arises. The Parties must then negotiate in good faith and use every reasonable effort to resolve the dispute at the managerial or executive levels prior to initiating formal proceedings pursuant to the UTC and Texas Government Code §2260, unless a Party has reasonably determined that a negotiated resolution is not possible and has so notified the other Party. The resolution of any dispute disposed of by agreement between the Parties will be reduced to writing and delivered to all Parties within 10 business days of such resolution.

8.02 OPERATIONAL REMEDIES

The remedies described in this section may be used or pursued by HHSC in the context of the routine operation of the Contract and are directed to Grantee's timely and responsive performance of the Work as well as the creation of a flexible and responsive relationship between the Parties. Grantee agrees that HHSC may pursue operational remedies for Items of Noncompliance with the Contract. At any time, and at its sole discretion, HHSC may impose or pursue one or more said remedies for each Item of Noncompliance. HHSC will determine operational remedies on a case-by-case basis which include, but are not, limited to:

- (a) Requesting a detailed Corrective Action Plan, subject to HHSC approval, to correct and resolve a deficiency or breach of the Contract;
- (b) Require additional or different corrective action(s) of HHSC's choice;
- (c) Suspension of all or part of the Contract or Work;
- (d) Prohibit Grantee from incurring additional obligations under the Contract;
- (e) Issue Notice to stop Work Orders;
- (f) Assessment of liquidated damages as provided in the Contract;
- (g) Accelerated or additional monitoring;
- (h) Withholding of payments; and
- (i) Additional and more detailed programmatic and financial reporting.

HHSC's pursuit or non-pursuit of an operational remedy does not constitute a waiver of any other remedy that HHSC may have at law or equity; excuse Grantee substandard performance, relieve Grantee of its duty to comply with performance standards, or prohibit HHSC from assessing additional operational remedies or pursuing other appropriate remedies for continued substandard performance.

HHSC will provide notice to Grantee of the imposition of an operational remedy in accordance with this section, with the exception of accelerated monitoring, which may be unannounced. HHSC may require Grantee to file a written response as part of the operational remedy approach.

8.03 EQUITABLE REMEDIES

Grantee acknowledges that if, Grantee breaches, attempts, or threatens to breach, any obligation under the Contract, the State will be irreparably harmed. In such a circumstance, the State may

proceed directly to court notwithstanding any other provision of the Contract. If a court of competent jurisdiction finds that Grantee breached, attempted, or threatened to breach any such obligations, Grantee will not oppose the entry of an order compelling performance by Grantee and restraining it from any further breaches, attempts, or threats of breach without a further finding of irreparable injury or other conditions to injunctive relief.

8.04 CONTINUING DUTY TO PERFORM

Neither the occurrence of an event constituting an alleged breach of contract, the pending status of any claim for breach of contract, nor the application of an operational remedy, is grounds for the suspension of performance, in whole or in part, by Grantee of the Work or any duty or obligation with respect to the Contract.

ARTICLE IX. DAMAGES

9.01 AVAILABILITY AND ASSESSMENT

HHSC will be entitled to actual, direct, indirect, incidental, special, and consequential damages resulting from Grantee's failure to comply with any of the terms of the Contract. In some cases, the actual damage to HHSC as a result of Grantee's failure to meet the responsibilities or performance standards of the Contract are difficult or impossible to determine with precise accuracy. Therefore, if provided in the Contract, liquidated damages may be assessed against Grantee for failure to meet any aspect of the Work or responsibilities of the Grantee. HHSC may elect to collect liquidated damages:

- (a) Through direct assessment and demand for payment to Grantee; or
- (b) By deducting the amounts assessed as liquidated damages against payments owed to Grantee for Work performed. In its sole discretion, HHSC may deduct amounts assessed as liquidated damages as a single lump sum payment or as multiple payments until the full amount payable by the Grantee is received by the HHSC.

9.02 SPECIFIC ITEMS OF LIABILITY

Grantee bears all risk of loss or damage due to defects in the Work, unfitness or obsolescence of the Work, or the negligence or intentional misconduct of Grantee or Grantee Agents. Grantee will ship all equipment and Software purchased and Third Party Software licensed under the Contract, freight prepaid, FOB HHSC's destination. The method of shipment will be consistent with the nature of the items shipped and applicable hazards of transportation to such items. Regardless of FOB point, Grantee bears all risks of loss, damage, or destruction of the Work, in whole or in part, under the Contract that occurs prior to acceptance by HHSC. After acceptance by HHSC, the risk of loss or damage will be borne by HHSC; however, Grantee remains liable for loss or damage attributable to Grantee's fault or negligence.

Grantee will protect HHSC's real and personal property from damage arising from Grantee or Grantee Agents performance of the Contract, and Grantee will be responsible for any loss,

destruction, or damage to HHSC's property that results from or is caused by Grantee or Grantee Agents' negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of HHSC, Grantee will notify HHSC thereof and, subject to direction from HHSC or its designee, will take all reasonable steps to protect that property from further damage. Grantee agrees, and will require Grantee Agents, to observe safety measures and proper operating procedures at HHSC sites at all times. Grantee will immediately report to the HHSC any special defect or an unsafe condition it encounters or otherwise learns about.

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Grantee WILL BE SOLELY RESPONSIBLE FOR ALL COSTS INCURRED THAT ARE ASSOCIATED WITH INDEMNIFYING THE STATE OF TEXAS OR HHSC WITH RESPECT TO INTELLECTUAL, REAL AND PERSONAL PROPERTY. ADDITIONALLY, HHSC RESERVES THE RIGHT TO APPROVE COUNSEL SELECTED BY Grantee TO DEFEND HHSC OR THE STATE OF TEXAS AS REQUIRED UNDER THIS SECTION.

ARTICLE X. TURNOVER

10.01 TURNOVER PLAN

HHSC may require Grantee to develop a Turnover Plan at any time during the term of the Contract in HHSC's sole discretion. Grantee must submit the Turnover Plan to HHSC for review and approval. The Turnover Plan must describe Grantee's policies and procedures that will ensure:

- (a) The least disruption in the delivery the Work during Turnover to HHSC or its designee; and
- (b) Full cooperation with HHSC or its designee in transferring the Work and the obligations of the Contract.

10.02 TURNOVER ASSISTANCE

Grantee 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. Grantee 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.

ARTICLE XI. ADDITIONAL LICENSE AND OWNERSHIP PROVISIONS

11.01 HHSC ADDITIONAL RIGHTS

HHSC will have ownership and unlimited rights to use, disclose, duplicate, or publish all information and data developed, derived, documented, or furnished by Grantee under or resulting from the Contract. Such data will include all results, technical information, and materials developed for or obtained by HHSC from Grantee in the performance of the Work. If applicable, Grantee will reproduce and include HHSC's copyright, proprietary notice, or any product identifications provided by Grantee.

11.02 THIRD PARTY SOFTWARE

Grantee grants HHSC a non-exclusive, perpetual, license for HHSC to use Third Party Software and its associated documentation for its internal business purposes. HHSC will be entitled to use Third Party Software on the equipment or any replacement equipment used by HHSC, and with any replacement Third Party Software chosen by HHSC, without additional expense.

Terms in any licenses for Third Party Software will be consistent with the requirements of this section. Prior to utilizing any Third Party Software product not identified in the Solicitation Response, Grantee will provide HHSC copies of the license agreement from the licensor of the Third Party Software to allow HHSC to, in its discretion, object to the license agreement that must, at a minimum, provide HHSC with necessary rights consistent with the short and long-term goals of the Contract. Grantee will assign to HHSC all licenses for the Third Party Software as necessary to carry out the intent of this section.

Grantee will, during the Contract, maintain any and all Third Party Software at their most current version or no more than one version back from the most current version. However, Grantee will not maintain any Third Party Software versions, including one version back, if notified by HHSC that any such version would prevent HHSC from using any functions, in whole or in part, of HHSC systems or would cause deficiencies in HHSC systems.

11.03 SOFTWARE AND OWNERSHIP RIGHTS

In accordance with 45 C.F.R. Part 95.617, all appropriate federal agencies will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for government purposes all Work, materials, Custom Software and modifications thereof, source code, associated documentation designed, developed, or installed with Federal Financial Participation under the Contract, including but not limited to those materials covered by copyright.

ARTICLE XII. UNIFORM ICT ACCESSIBILITY CLAUSE

12.01 APPLICABILITY

This Section applies to the procurement or development of Information and Communication Technology (ICT) for HHSC, or any changes to HHSC's ICT. This Section also applies if the Contract requires Grantee to perform a service or supply a goods that include ICT that: (i) HHSC employees are required or permitted to access; or (ii) members of the public are required or permitted to access. This Section does not apply to incidental uses of ICT in the performance of a contract, unless the parties agree that the ICT will become property of the state or will be used by HHSC's Client/Recipient after completion of the Contract.

Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a product / service.

12.02 DEFINITIONS

The legacy term "Electronic and Information Resources" (EIR) and the term "Information and Communication Technology" (ICT) are considered equivalent in meaning for the purpose of applicability of HHSC Uniform Terms and Conditions, policies, accessibility checklists, style guides, contract specifications, and other contract management documents. To the extent that any other of the following definitions conflict with definitions elsewhere in this Contract, the following definitions are applicable to this Section only.

1. **"Accessibility Standards"** refers to the Information and Communication Technology Accessibility Standards and the Web Accessibility Standards/Specifications under the Web Content Accessibility Guidelines version 2.0 Level AA, (WCAG 2.0).
2. **"Information and Communication Technology (ICT)"** is any information technology, equipment, or interconnected system or subsystem of equipment for which the principal function is the creation, conversion, duplication, automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information. Examples of ICT are electronic content, telecommunications products, computers and ancillary equipment, software, information kiosks and transaction machines, videos, IT services, and multifunction office machines which copy, scan, and fax documents.
3. **"Information and Communication Technology Accessibility Standards"** refers to the accessibility standards for information and communication technology contained in the Web Content Accessibility Guidelines version 2.0 Level AA.
4. **"Web Accessibility Standards/Specifications"** refers to the web standards contained in WCAG 2.0 Level AA.
5. **"Products"** means information resources technologies that are, or are related to, ICT.

6. **"Service"** means the act of delivering information or performing a task for employees, clients, or members of the public through a method of access or delivery that uses ICT.

12.03 ACCESSIBILITY REQUIREMENTS

Under Texas Government Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHSC must procure Products or Services that comply with the Accessibility Standards when such Products or Services are available in the commercial marketplace or when such Products or Services are developed in response to a procurement solicitation. Accordingly, Grantee must provide ICT and associated Product and/or Service documentation and technical support that comply with the Accessibility Standards.

12.04 EVALUATION, TESTING AND MONITORING

1. HHSC may review, test, evaluate and monitor Grantee's Products, Services and associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing.
2. Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or Service, nor (2) the absence of such review, testing, evaluation or monitoring, will result in a waiver of the State's right to contest the Grantee's assertion of compliance with the Accessibility Standards.
3. Grantee agrees to cooperate fully and provide HHSC and its representatives timely access to Products, Services, documentation, and other items and information needed to conduct such review, evaluation, testing and monitoring.

12.05 REPRESENTATIONS AND WARRANTIES

1. Grantee represents and warrants that: (i) as of the effective date of the contract, the Products, Services and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the contract, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the state or an HHS agency's client or recipient after the contract expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or

termination of the contract term, unless HHSC and/or Client/Recipient, as applicable uses the Products in a manner that renders it noncompliant.

2. In the event Grantee should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, Grantee represents and warrants that it will, in a timely manner and at no cost to HHSC, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, repair, replacement, and upgrading of the Product, or providing a suitable substitute.
3. Grantee acknowledges and agrees that these representations and warranties are essential inducements on which HHSC relies in awarding this contract.
4. Grantee's representations and warranties under this subsection will survive the termination or expiration of the contract and will remain in full force and effect throughout the useful life of the Product.

12.06 REMEDIES

1. Pursuant to Texas Government Code Sec. 2054.465, neither Grantee nor any other person has cause of action against HHSC for a claim of a failure to comply with Texas Government Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of Grantee's representations and warranties, Grantee will be liable for direct and consequential damages and any other remedies to which HHSC may be entitled. This remedy is cumulative of any and all other remedies to which HHSC may be entitled under this contract and other applicable law.

ARTICLE XIII. MISCELLANEOUS PROVISIONS

13.01 CONFLICTS OF INTEREST

Grantee warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and further that Grantee or Grantee Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Grantee will, and require Grantee Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal gain. Grantee and Grantee Agents will

operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract. Grantee agrees that, if after Grantee's execution of the Contract, Grantee discovers or is made aware of a Conflict of Interest, Grantee will immediately and fully disclose such interest in writing to HHSC. In addition, Grantee will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Grantee or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Grantee agrees to abide by HHSC's decision.

If HHSC determines that Grantee was aware of a Conflict of Interest and did not disclose the conflict to HHSC, such nondisclosure will be considered a material breach of the Contract. Furthermore, such breach may be submitted to the Office of the Attorney General, Texas Ethics Commission, or appropriate State or federal law enforcement officials for further action.

13.02 FLOW DOWN PROVISIONS

Grantee must include any applicable provisions of the Contract in all subcontracts based on the scope and magnitude of Work to be performed by such SubGrantee. Any necessary terms will be modified appropriately to preserve the State's rights under the Contract.

13.03 ELECTRICAL ITEMS

All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

13.04 MANUFACTURER'S WARRANTIES

Grantee assigns to HHSC all of the manufacturers' warranties and indemnities relating to the Work, including without limitation, Third Party Software, to the extent Grantee is permitted by the manufacturers to make such assignments to HHSC.

14.05 NOTICE OF LEGAL MATTER OR LITIGATION

Grantee will send notice to the Substance Use Disorder (SUD) email box, SubstanceAbuse.Contracts@hhsc.state.tx.us of any litigation or legal matter related to or affecting this Contract within seven (7) calendar days of becoming aware of the litigation or legal matter.

14.06 NOTICE OF A CONTRACT ACTION

Grantee shall notify their assigned contract manager assigned to the contract if Grantee has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the contract;

- d. Date of suspension or termination; and
- e. Contract or case reference number.

ARTICLE XV. DSHS LEGACY PROVISIONS

15.01 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

Contractor shall immediately report in writing to its assigned HHSC contract manager when Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Contractor, or their agent, employee, subcontractor or volunteer who is providing services under this Contract has:

- A. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
- B. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- C. Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

15.02 NOTICE OF IRS OR TWC INSOLVENCY

Contractor shall notify in writing its assigned HHSC contract manager of any insolvency, incapacity or outstanding unpaid obligations of Contractor owed to the Internal Revenue Service or the State of Texas, or any agency or political subdivision of the State of Texas within five days of the date of Contractor's becoming aware of such.

15.03 Education to Persons in Residential Facilities

Grantee shall ensure that all persons, who are housed in System Agency licensed or funded residential facilities and are 22 years of age or younger, have access to educational services as required by Texas Education Code § 29.012.

Grantee shall notify the local education agency or local early intervention program as prescribed by this Section not later than the third calendar day after the date a person who is 22 years of age or younger is placed in Grantee's residential facility

15.04 DISASTER SERVICES

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

- (a) Community evacuation;
- (b) Health and medical assistance;
- (c) Assessment of health and medical needs;
- (d) Health surveillance;
- (e) Medical care personnel;
- (f) Health and medical equipment and supplies;
- (g) Patient evacuation;
- (h) In-hospital care and hospital facility status;
- (i) Food, drug and medical device safety;
- (j) Worker health and safety;
- (k) Mental health and substance abuse;
- (l) Public health information;
- (m) Vector control and veterinary services; and
- (n) Victim identification and mortuary services.

15.05 CONSENT BY NON-PARENT OR OTHER STATE LAW TO MEDICAL CARE OF A MINOR

Unless a federal law applies, before a Grantee or its subGrantee can provide medical, dental, psychological or surgical treatment to a minor without parental consent, informed consent must be obtained as required by Texas Family Code Chapter 32.

15.06 TELEMEDICINE /TELEPSYCHIATRY MEDICAL SERVICES

If Grantee or its subGrantee uses telemedicine/telepsychiatry, these services shall be in accordance with the Grantee's written procedures. Grantee must use a protocol approved by Grantee's medical director and equipment that complies with the System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine service must include the following requirements:

- (a) Clinical oversight by Grantee's medical director or designated physician responsible for medical leadership;
- (b) Contraindication considerations for telemedicine use;
- (c) Qualified staff members to ensure the safety of the individual being served by telemedicine at the remote site;
- (d) Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
- (e) Use by credentialed licensed providers providing clinical care within the scope of their licenses;
- (f) Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- (g) Priority in scheduling the system for clinical care of individuals;

- (h) Quality oversight and monitoring of satisfaction of the individuals served; and
- (i) Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

15.07 SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

- (a) Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities.
- (b) Grantee shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- (c) Grantee shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

15.08 THIRD PARTY PAYORS

Except as provided in this Contract, Grantee shall screen all clients and may not bill the System Agency for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.

As applicable, the Grantee shall:

- (a) Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Contract that may be covered by those programs and bill those programs for the covered services;
- (b) Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
- (c) Allow clients that are otherwise eligible for System Agency services, but cannot pay a deductible required by a third party payor, to receive services up to the amount of the deductible and to bill the System Agency for the deductible;
- (d) Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
- (e) Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
- (f) Bill all third party payors for services provided under this Contract before submitting any

- request for reimbursement to System Agency; and
(g) Provide third party billing functions at no cost to the client.

15.09 HIV/AIDS MODEL WORKPLACE GUIDELINES

Grantee shall implement System Agency's policies based on the Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), AIDS Model Workplace Guidelines for Businesses at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>, State Agencies and State Grantees Policy No. 090.021.

Grantee shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas. Health & Safety Code §§ 85.112-114.

15.10 MEDICAL RECORDS RETENTION

Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

15.11 NOTICE OF A LICENSE ACTION

Grantee shall notify their contract manager of any action impacting its license to provide services under this Contract within five days of becoming aware of the action and include the following:

- (a) Reason for such action;
- (b) Name and contact information of the local, state or federal department or agency or entity;
- (c) Date of the license action; and
- (d) License or case reference number.

15.12 INTERIM EXTENSION AMENDMENT

- (a) Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.
- (b) The System Agency shall provide written notice of interim extension amendment to the Grantee under one of the following circumstances:
 1. Continue provision of services in response to a disaster declared by the governor; or
 2. To ensure that services are provided to clients without interruption.
- (c) The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- (d) Grantee will provide and invoice for services in the same manner that is stated in the Contract.
- (e) An interim extension under Section (b)(1) above shall extend the term of the contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.

- (f) An interim extension under Section (b)(2) above shall be a one-time extension for a period of time determined by the System Agency.

15.13 CHILD ABUSE REPORTING REQUIREMENT

- (a) Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
- (b) Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.

Grantee shall use the System Agency's Child Abuse Reporting Form located at www.SystemAgency.state.tx.us/childabusereporting as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

15.14 LIQUIDATED DAMAGES

Grantee agrees that noncompliance with the requirements specified in the Contract causes damages to SYSTEM AGENCY that are difficult to ascertain and quantify. Grantee further agrees that SYSTEM AGENCY may impose liquidated damages each month for so long as the noncompliance continues. For failing to comply with any of the Contract requirements, SYSTEM AGENCY may impose liquidated damages of \$500 for the first occurrence of noncompliance during a fiscal year; \$750 for the second occurrence of noncompliance with the same requirement during the same fiscal year, and \$1,000 for the third and subsequent occurrence(s) of noncompliance with the same requirement during the same fiscal year.



**FEDERAL ASSURANCES FOR NON-CONSTRUCTION
PROJECT AND FEDERAL LOBBYING FORM**

ASSURANCES - NON-CONSTRUCTION PROGRAMS

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


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

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

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

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11938; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
DocuSigned by:  <small>3631 28A764C641F</small>	CEO
APPLICANT ORGANIZATION	DATE SUBMITTED
Burke Center	August 28, 2020

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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


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

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

Statement for Loan Guarantees and Loan Insurance

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

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

* APPLICANT'S ORGANIZATION Burke Center	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE Prefix: <input type="text"/> * First Name: Melanie Middle Name: <input type="text"/> * Last Name: Taylor Suffix: <input type="text"/> * Title: CEO	
* SIGNATURE:  <small>3A3F23A7A4C94B1</small>	* DATE: August 28, 2020