

**SIGNATURE DOCUMENT FOR  
HEALTH AND HUMAN SERVICES COMMISSION  
GRANT AGREEMENT,  
CONTRACT NO. HHS001245400001  
UNDER THE  
RURAL BORDER INTERVENTION (RBI)  
GRANT PROGRAM**

The parties to this agreement (“Grant Agreement” or “Contract”) are Health and Human Services Commission (“System Agency” or “HHSC”), a pass-through entity, and Permian Basin Community Centers for MHMR dba PermianCare (“Grantee”), having its principal office at 401 E. Illinois, Ste. 401, Midland, Texas 79701-4803 (each a “Party” and collectively the “Parties”).

**I. PURPOSE**

**The purpose of this Grant Agreement is to address the specific needs of the Rural Border communities by providing intervention services and access to a continuum of behavioral health services to members of the community who have or are at high risk of developing substance use disorder (SUD).**

**II. LEGAL AUTHORITY**

This Grant Agreement is entered into pursuant to Chapter 531 of the Texas Government Code and under the Public Health Service Act, 42 U.S.C. Chapter 6A, Subchapter XVII, Part B, Subpart II, Substance Use Prevention, Treatment, and Recovery Services (SUPTRS) Block Grant Program.

**III. DURATION**

This Grant Agreement is effective on September 1, 2023, and terminates on August 31, 2028, unless sooner terminated pursuant to the terms and conditions of the Grant Agreement. This Grant Agreement does not include renewals.

**IV. SCOPE OF GRANT PROJECT**

The Scope of Grant Project to which Grantee is bound is incorporated into and made a part of this Grant Agreement for all purposes and included as Attachment A.

The RFA, including all addenda, is incorporated into and made a part of this Grant Agreement for all purposes and included as Attachment J.

**V. BUDGET AND INDIRECT COST RATE**

The total amount of this Grant Agreement will not exceed **ONE MILLION SEVEN HUNDRED THIRTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$1,732,500.00)**.

System Agency Grant Agreement, Contract #HHS001245400001

Page 1 of 8

This includes the System Agency share of **ONE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$1,650,000.00)** and Grantee's required match amount of **EIGHTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$82,500.00)**. The state fiscal year (September 1 – August 31) (FY or State FY) allocation is as follows:

<b>FY</b>	<b>System Agency Share</b>	<b>Required Match</b>	<b>Total Contract Value</b>
2024	\$330,000.00	\$16,500.00	\$346,500.00
2025	\$330,000.00	\$16,500.00	\$346,500.00
2026	\$330,000.00	\$16,500.00	\$346,500.00
2027	\$330,000.00	\$16,500.00	\$346,500.00
2028	\$330,000.00	\$16,500.00	\$346,500.00
<b>TOTAL:</b>	<b>\$1,650,000.00</b>	<b>\$82,500.00</b>	<b>\$1,732,500.00</b>

All expenditures under the Grant Agreement will be in accordance with **ATTACHMENT B, FISCAL REQUIREMENTS** and **ATTACHMENT B-1, APPROVED CATEGORICAL BUDGET**.

**Indirect Cost Rate:** If an indirect cost rate letter is required but has not been issued by System Agency at the time of Contract Execution, the Parties agree to amend the Grant Agreement to include the indirect cost rate letter and make any necessary, corresponding amendments to the budget after the letter is issued. Grantee must have an approved or acknowledged indirect cost rate in order to recover indirect costs.

If the System Agency approves or acknowledges an updated indirect cost rate, the Grant Agreement will be amended to incorporate the new rate (and the new indirect cost rate letter, if applicable) and the budget revised accordingly.

## **VI. REPORTING REQUIREMENTS**

Grantee shall submit the following reports to the SUD Mailbox, [SUD.Contracts@hhs.texas.gov](mailto:SUD.Contracts@hhs.texas.gov), Clinical Management for Behavioral Health Services (CMBHS) system, and/or any alternative System Agency deliverable reporting submission system designated by System Agency:

REPORT	FREQUENCY	DUE DATE*
Financial Status Report (FSR) – Quarterly	<p>The Q1-Q3 Reports are due the last day of the month following the end of each State FY Quarter</p> <p>The Q4 Report is due on October 15<sup>th</sup></p>	<p>Q1: December 31<sup>st</sup></p> <p>Q2: March 31<sup>st</sup></p> <p>Q3: June 30<sup>th</sup></p> <p>Q4: October 15<sup>th</sup></p>
General Ledger (GL) - Quarterly	<p>The Q1-Q3 Reports are due the last day of the month following the end of each State FY Quarter</p> <p>The Q4 Report is due on October 15<sup>th</sup></p>	<p>Q1: December 31<sup>st</sup></p> <p>Q2: March 31<sup>st</sup></p> <p>Q3: June 30<sup>th</sup></p> <p>Q4: October 15<sup>th</sup></p>
FSR to GL Worksheet - Quarterly	<p>The Q1-Q3 Reports are due the last day of the month following the end of each State FY Quarter</p> <p>The Q4 Report is due on October 15<sup>th</sup></p>	<p>Q1: December 31<sup>st</sup></p> <p>Q2: March 31<sup>st</sup></p> <p>Q3: June 30<sup>th</sup></p> <p>Q4: October 15<sup>th</sup></p>
Invoices/Requests for Reimbursement – Monthly	<p>The 15<sup>th</sup> day of the month: expenses incurred the previous month.</p> <p>The August invoice is due by October 15<sup>th</sup></p>	<p>September: October 15<sup>th</sup></p> <p>October: November 15<sup>th</sup></p> <p>November: December 15<sup>th</sup></p> <p>December: January 15<sup>th</sup></p> <p>January: February 15<sup>th</sup></p> <p>February: March 15<sup>th</sup></p> <p>March: April 15<sup>th</sup></p> <p>April: May 15<sup>th</sup></p> <p>May: June 15<sup>th</sup></p>

		<p>June: July 15<sup>th</sup></p> <p>July: August 15<sup>th</sup></p> <p>August: October 15<sup>th</sup></p>
Performance Measures Report – Monthly	The 15 <sup>th</sup> day of the month; report previous month's performance data	<p>September: October 15<sup>th</sup></p> <p>October: November 15<sup>th</sup></p> <p>November: December 15<sup>th</sup></p> <p>December: January 15<sup>th</sup></p> <p>January: February 15<sup>th</sup></p> <p>February: March 15<sup>th</sup></p> <p>March: April 15<sup>th</sup></p> <p>April: May 15<sup>th</sup></p> <p>May: June 15<sup>th</sup></p> <p>June: July 15<sup>th</sup></p> <p>July: August 15<sup>th</sup></p> <p>August: September 15<sup>th</sup></p>
CMBHS Security Attestation Form and List of Authorized Users – Biannually	Each State FY, due the 15 <sup>th</sup> of the month in September and March	September 15 <sup>th</sup> and March 15 <sup>th</sup>
Behavioral Health Disparities Impact Statement - Annually	Each State FY	Within 60 days of Contract effective date, and within 60 days of the beginning of each new State FY during the Contract term
Quarterly Narrative - Quarterly	The 15 <sup>th</sup> day of the month following the end of each State FY Quarter	<p>Q1: December 15<sup>th</sup></p> <p>Q2: March 15<sup>th</sup></p>

		Q3: June 15th Q4: September 15th
Quality Management Report - Quarterly	The 15th day of the month following the end of each State FY Quarter	Q1: December 15th Q2: March 15th Q3: June 15th Q4: September 15th
FY Close-out Packet	45 days after the end of each State FY	October 15th
Final Contract Close-out	45 days after the end of the Contract term	45 days after the end of the Contract term

\* If the due date is on a weekend or holiday, the due date is the next business day.

## VII. CONTRACT REPRESENTATIVES

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

### System Agency

Kellie Marsh, Contract Manager  
Health and Human Services Commission  
909 West 45<sup>th</sup> Street, Bldg. 552  
Austin, Texas 78751  
Kellie.marsh@hhs.texas.gov

### Grantee

Chris Barnhill  
Permian Basin Community Centers for  
MHMR dba PermianCare  
401 E. Illinois, Ste. 401  
Midland, Texas 79701-4803  
ChrisBarnhill@permiacare.org

## VIII. NOTICE REQUIREMENTS

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

Health and Human Services Commission  
Attn: Office of Chief Counsel  
4601 W. Guadalupe, Mail Code 1100

System Agency Grant Agreement, Contract #HHS001245400001

Page 5 of 8

Austin, Texas 78751

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

**IX. FEDERAL AWARD INFORMATION**

**GRANTEE'S UNIQUE ENTITY IDENTIFIER IS: KQBSRH72AP1**

**Federal funding under this Grant Agreement is a subaward under the following federal award.**

**Federal Award Identification Number (FAIN): B08TI085835**

- A. Assistance Listings Title, Number, and Dollar Amount:  
Substance Use Prevention, Treatment, and Recovery Services (SUPTRS),  
Assistance Listing Number (ALN) 93.959, \$36,180,608.00
- B. Federal Award Date: 2/10/2023
- C. Federal Award Period: 10/1/2022 – 9/30/2024
- D. Name of Federal Awarding Agency:  
Department of Health and Human Services, Substance Abuse and Mental Health Services  
Administration Center for Substance Abuse Treatment
- E. Federal Award Project Description:  
Substance Use Prevention, Treatment, and Recovery Services
- F. Awarding Official Contact Information:  
Linda Fulton, Project Officer, [Linda.Fulton@samhsa.hhs.gov](mailto:Linda.Fulton@samhsa.hhs.gov), (240) 276 - 1573
- G. Total Amount of Federal Funds Awarded to System Agency: \$36,180,608.00
- H. Amount of Funds Awarded to Grantee: \$1,650,000.00
- I. Identification of Whether the Award is for Research and Development: No

**X. CONTRACT DOCUMENTS**

**The following documents are incorporated by reference and made a part of this Grant Agreement for all purposes.**

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

System Agency Grant Agreement, Contract #HHS001245400001

Page 6 of 8

<b>ATTACHMENT A</b>	<b>SCOPE OF GRANT PROJECT</b>
<b>ATTACHMENT A-1</b>	<b>PERFORMANCE MEASURES</b>
<b>ATTACHMENT B</b>	<b>FISCAL REQUIREMENTS</b>
<b>ATTACHMENT B-1</b>	<b>APPROVED CATEGORICAL BUDGET</b>
<b>ATTACHMENT B-2</b>	<b>INDIRECT COST RATE LETTER</b>
<b>ATTACHMENT C</b>	<b>CONTRACT AFFIRMATIONS v 2.2</b>
<b>ATTACHMENT D</b>	<b>UNIFORM TERMS AND CONDITIONS – GRANT, VERSION 3.2</b>
<b>ATTACHMENT E</b>	<b>DATA USE AGREEMENT</b>
<b>ATTACHMENT F</b>	<b>ADDITIONAL PROVISIONS - GRANT FUNDING, VERSION 1.0</b>
<b>ATTACHMENT G</b>	<b>ASSURANCES – NON-CONSTRUCTION PROGRAMS</b>
<b>ATTACHMENT H</b>	<b>CERTIFICATION REGARDING LOBBYING</b>
<b>ATTACHMENT I</b>	<b>FFATA CERTIFICATION FORM</b>
<b>ATTACHMENT J</b>	<b>SYSTEM RFA No. HHS0012454, INCLUDING ALL ADDENDA</b>
<b>ATTACHMENT K</b>	<b>GRANTEE'S RFA RESPONSE</b>

## **XI. SIGNATURE AUTHORITY**

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

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY GRANT AGREEMENT,  
CONTRACT NO HHS001245400001**

**SYSTEM AGENCY**

DocuSigned by:  
*Sonja Gaines*  
447C6A4434D044D...

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Signature

Sonja Gaines

NoSG

August 29, 2023

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Date of Execution:

**GRANTEE**

DocuSigned by:  
*Chris Barnhill*  
44F60F49218E463...

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Signature

Chris Barnhill

Chief Executive Officer

August 28, 2023

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Date of Execution:



# ATTACHMENT A

## SCOPE OF GRANT PROJECT

### RURAL BORDER INTERVENTION

#### I. PURPOSE AND GOALS

The Rural Border Intervention (RBI) program addresses the specific needs of the Rural Border<sup>1</sup> communities by providing intervention services and access to a continuum of behavioral health services (substance use services, mental health promotion, and substance use disorder (SUD) and mental health treatment and recovery) to members of the rural border communities who have or are at high risk of developing a SUD. Grantee will use Community Health Workers/Promotoras (CHW/P) to provide community-level intervention and case management services to the eligible population.

Grantee will provide substance use intervention services to individuals (youth and adults) in remote rural border areas. Grantees will increase access by helping to address barriers to services including, but not limited to substance use, mental health, and medical treatment services.

#### II. TARGET POPULATION

Youth ages (13 – 17), and adult individuals 18 years and older, living within the rural border community who have or are at risk of developing a SUD.

#### III. SERVICE AREA

**A.** Grantee shall provide services to the **Section II. TARGET POPULATION** in the following HHS health region and counties:

**Region:** 9 & 10

**Counties:** Region 9-Pecos, Region 10-Brewster, Culberson, Hudspeth, Jeff Davis, Presidio

**B.** Grantee may request to add/delete counties to **Section III. SERVICE AREA (A)** by submitting a written request to the assigned Contract Manager (CM) and copy the SUD Mailbox: [SUD.Contracts@hhs.texas.gov](mailto:SUD.Contracts@hhs.texas.gov). County revisions to the service area are considered a minor administrative change and do not require a Contract Amendment. System Agency will provide written notification to document county revisions to the service area.

**C.** The Contract does not allow Grantee to serve counties outside the identified region

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<sup>1</sup> According to 26 Texas Administrative Code (TAC) section 321.55, Rural Border is defined as the area that extends 62 miles north of the Texas-Mexico border and encompasses 32 counties as described in the United States-Mexico La Paz agreement of 1983.

## **ATTACHMENT A SCOPE OF GRANT PROJECT RURAL BORDER INTERVENTION**

in **Section III. SERVICE AREA (A)**. To review the counties within an HHS health region, refer to the below link for a list of all counties within a region:

<https://www.hhs.texas.gov/sites/default/files/documents/about-hhs/hhs-regional-map.pdf>

### **IV. GRANTEE RESPONSIBILITIES**

#### **A. ADMINISTRATIVE REQUIREMENTS**

Grantee will:

1. Ensure RBI services are accessible to the target population and specifically include residents of Colonias<sup>2</sup>.
2. Provide services in community-based settings and include the provision of services in the Colonias of the designated counties, to the extent possible within the funding limits of the Contract.
3. In addition to providing services at their own program site, Grantee will provide services in external community organization sites serving the target population and their families.
4. Complete and return Quarterly Narrative by the 15<sup>th</sup> day of the month following the end of each quarter. The Quarterly Narrative template will be provided by the System Agency Program Subject Matter Expert (SME) in the first quarter of each State Fiscal Year (FY or State FY).
5. Develop and submit a Behavioral Health Disparities Impact Statement no later than 60 calendar days after Contract effective date. At a minimum, the impact statement(s) should address how program has identified the subpopulation and will provide service to those populations, including those who are marginalized or stigmatized in the service area which may experience greater barriers to behavioral health services. Grantee will submit any revisions to the Behavioral Health Disparities Impact Statement within 60 calendar days after each new FY begins.
6. Hire a minimum of three (3) Community Health Workers/Promotoras (CHW/P) within sixty (60) business days after Contract effective date. The Grantee will maintain and employ a minimum of three (3) CHW/P staff for the duration of the

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<sup>2</sup> According to 26 TAC Section 321.55, Colonias are defined as a residential area along the Texas-Mexico border that lacks basic living needs, such as potable water and sewer systems, electricity, paved roads, and safe and sanitary housing. Colonias, while frequently found in unincorporated areas of the counties, are also found within city limits.

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

Contract. Grantee will:

- a. Notify System Agency within 10 business days when any staff changes, including separation, occur;
  - b. Ensure CHW/P work in teams of two (2) at all times, while in the community; and
  - c. Designate one (1) of the three (3) CHW/P as the RBI Program Director. The RBI Program Director will provide oversight authority.
7. Develop within 90 days of Contract effective date, implement, and maintain written policies and procedures for the following:
- a. Administrative Policies and Procedures
    - i. Employees, contracted labor, and volunteers who work directly or indirectly with participants, to address participant safety;
    - ii. Criminal and employment background checks and pre-employment drug testing of Grantee's staff who will deliver direct services;
    - iii. Definition of participant engagement and the circumstances under which the participant's case would be opened and closed;
    - iv. Address participant safety and ensure all activities with participants, family members, and supportive allies are conducted in a respectful, non-threatening, non-judgmental, and confidential manner; and
    - v. Make policies and procedures available to System Agency upon request.
  - b. Community Health Workers/Promotoras (CHW/P) Policies and Procedures
    - i. Require all CHW/P activities to be conducted in pairs or teams (a minimum of two (2) CHW/P) while in the community or streets.
  - c. Develop quality management (QM) policies and procedures for all subcontractors that meet the System Agency requirements to provide oversight and monitoring to all subcontractors. At minimum, System Agency requires the following policies and procedures:
    - i. How the Grantee determines which subcontractors to schedule monitoring reviews;
    - ii. How Grantee will conduct a monitoring review;
    - iii. How Grantee will document a monitoring review;
    - iv. How Grantee will report subcontractors' performance to System Agency;
    - v. How Grantee will conduct follow-up monitoring based on the

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

- subcontractor's individual findings; and
- vi. How Grantee will assess liquidated damages or recoupment of funds used to bring subcontractors into compliance.
8. Provide all services in a culturally, linguistically, and developmentally appropriate manner for participants, families, and significant others as evidenced by:
    - a. Building a diverse team that includes the use of CHW/Ps who exhibit some of the following criteria:
      - i. Are indigenous to the communities and populations served;
      - ii. Speak the language of the community;
      - iii. Reflect similar cultural background to those served;
      - iv. Have lived experience with mental health and substance use, including injection drug use;
      - v. Speak openly about their recovery and identify as a peer;
      - vi. Are living with HIV (human immunodeficiency virus) or HCV (hepatitis C virus);
      - vii. Can speak openly about gender and sexual diversity,
      - viii. Have lived experience with housing instability and homelessness; and
      - ix. Reflect and identify with the eligible population;
    - b. Pamphlets and other materials for education and health written at appropriate literacy levels for the eligible population;
    - c. Literature and signage in languages for eligible populations;
    - d. Use of interpreters as appropriate; and
    - e. Lobby and office environment is safe, clean, accessible, and welcoming for the eligible population.
  9. Ensure program policies and procedures do not discriminate against any participant, family member, or supportive ally based on gender, race, religion, age, national origin, disability, sexual orientation, medical condition, HIV status, or length of time in recovery, including those who have returned to use or are currently using substances.
  10. Ensure that program materials and services are available in both English and Spanish.
  11. Maintain a current webpage on Grantee's website that includes the RBI services offered and current Contact information specific to the RBI program. Grantee will

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

adhere to System Agency branding and any electronic accessibility requirements.

12. Work towards expanding the service network, building the workforce capabilities, and promoting the RBI model to the target communities.
13. Support CHW/Ps and enhance workforce development in general. Grantee employing CHW/Ps will provide or contract to provide a minimum of four (4) hours of continuing education units (CEUs) for Promotoras certification annually. Training will include at least one of the eight key competency areas of the State of Texas Promotora certification program (<http://www.dshs.texas.gov/mch/chw.shtm>), and will focus on the areas related to SUD, mental health, or community health promotion.
14. Ensure that the day-to-day RBI Program Director and direct care staff attend the Rural Border Intervention statewide conference.
15. Ensure that the day-to-day RBI Program Director is on the programmatic conference calls as scheduled by the System Agency Program SME.
16. Establish and maintain formal membership or active participation in at least two (2) community planning groups. Grantee will document participation of at least one (1) RBI staff person through attendance noted in meeting minutes, sign-in sheets, or agendas. The focus of the planning groups will include, but is not limited to, the following topics:
  - a. Colonias and rural border issues;
  - b. Border violence prevention;
  - c. SUD and overdose education and prevention;
  - d. Recovery Oriented Services of Care (ROSC) groups;
  - e. Mental health issues; and
  - f. Other community-based services specifically needed by participants or groups residing within the rural border community.
17. Establish and maintain working linkages through Memorandums of Understanding (MOUs) with a resource network of external community organization sites serving the target population and their families. MOUs will encourage networking, coordination, and referrals to help address the needs of the participants, their families, and supportive allies. MOUs will be in place within six (6) months of the initial funded FY and maintained throughout the Contract term. Grantee will maintain copies of the signed MOUs on file for System Agency review upon request. MOUs will include:
  - a. Purpose;

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

- b. Goals and desired outcomes of partnership;
- c. Signed, individualized, and will contain beginning and end dates;
- d. Referral process, coordination of services and sharing of information;
- e. Address the non-duplication of services; and
- f. Be reviewed annually or when agreed upon term expires.

**B. COMMUNITY HEALTH SERVICES**

Grantee will:

1. Utilize the System Agency provided monthly work logs to account for CHW/P efforts. Work logs will:
  - a. Reflect efforts by the CHW/Ps without providing personal identifying information of participants receiving services;
  - b. Be retained by Grantee and provided to System Agency upon request; and
  - c. Be summarized in the System Agency provided Quarterly Narrative.
2. Ensure CHW/P group facilitation, communication, and events with eligible participants occur without undue interference from indirect staff or other agency staff not funded by this Contract.
3. Ensure harm and risk-reduction information, methods, and tools are used by CHW/Ps in their work with the eligible populations.
4. Promote and encourage entry into SUD and/or mental health services including Intervention, treatment, or recovery by providing referrals, community linkage, and support to eligible participants.
5. Refer eligible participants to other System Agency-funded programs when it is determined to be needed and the participant accepts.
6. Use motivational interviewing techniques and skills to help participants enhance their confidence and motivation for change.
7. Promote and encourage entry into medical services, including hepatitis C virus (HCV), hepatitis B virus (HBV), human immunodeficiency virus (HIV), tuberculosis (TB), sexually transmitted infections (STI) testing or treatment, other infectious disease testing, and vaccination, by providing referrals, community linkage, and support to participants in the eligible population.
8. Provide information, referrals, community linkage, and support to other services and community resources to help participants in the eligible population improve their lives.

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

9. Ensure training on all information, methods, and tools used and distributed by CHW/Ps. Information, methods, and tools will be based on the latest scientific research and best practices for reducing harm related to substance use. Methods and tools must include, but are not limited to:
  - a. substance use harm reduction tools including syringe cleaning kits with bleach;
  - b. Pre-Exposure Prophylactic treatments (PrEP) education and information;
  - c. overdose reversal kits including Naloxone;
  - d. condoms, lubricants, and safer sex tools;
  - e. wound care kits; and
  - f. hygiene kits.
10. Ensure that CHW/P have the tools and materials available for demonstration and distribution to eligible participants and participant's support system.

**C. CASE MANAGEMENT SERVICES**

Grantee will:

1. Provide case management services to eligible participants who may benefit from RBI services on an as needed basis.
2. Provide or arrange and advocate for appropriate social services for eligible participants and their families and/or significant others that include, but are not limited to:
  - a. Health and wellness education;
  - b. Transportation;
  - c. Licensed childcare;
  - d. Substance use services;
  - e. Mental health counseling;
  - f. Legal counseling;
  - g. Rehabilitative services;
  - h. Child welfare and family services;
  - i. Housing; and
  - j. Support groups.
3. Provide case management services in settings that are based on the needs of the participant and the goals of the participant's Service Plan, including office-based,

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

home-based or community-based locations.

4. Group education, psychoeducational support groups and case management may be provided in an in-person meeting, utilizing a virtual platform or technology, or a combination of both.
5. Ensure CHW/P assigned as case manager meets or follows up with participants assigned to caseload on a weekly or as needed basis.
6. Document case management activities using Clinical Management for Behavioral Health Services (CMBHS) system. Grantee will use the following components in CMBHS for participants who may benefit from RBI services to include case management:
  - a. Participant Profile;
  - b. Open Case;
  - c. Close Case (when Intervention services are complete);
  - d. Consent for Release of Information (including revoke consent);
  - e. Referral and Referral Follow-up to document all referrals;
  - f. Service Plan that includes problems to be addressed, goals and intended outcomes; and
  - g. Progress Notes (Case Management notes) that document progress related to Service Plan goals.

**D. STATEWIDE CONFERENCE**

Grantee will collaborate with System Agency and the other System Agency-funded RBI Grantees to plan, coordinate, market, and pay all associated fees to conduct a collaborative community-based border conference for a minimum of 100 youth and adults (families) eligible for the RBI program. The community-based border conference will be conducted by the RBI Grantee, on an agreed upon rotating basis between the RBI Grantees. One System Agency funded RBI Grantee will provide one community-based border conference each FY of the Contract term. Due to a variety of factors, RBI programs may agree to provide separate conferences within their service areas rather than a coordinated conference. Grantees will collaborate with the System Agency Program SME to decide the most effective method to deliver the conference. Grantee will:

1. Provide necessary resources, support, and outreach to ensure attendance barriers for the target population are minimized. Outreach will include a website and online registration and promotion.



**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

2. Focus primarily on community health issues that are significant (including opioids, teen pregnancy, suicide prevention, school dropout, obesity, diabetes) to families residing in the border and Colonia areas and counties served by the Grantee.
3. Grantee will create a diverse collaborative workgroup including community-based organizations for networking, planning, and developing conference content that will benefit parents and adolescents targeted by program.
4. Ensure that the conference includes a special track or session(s) for professionals such as CHW/Ps, Case Managers, Social Workers, and Teachers to build skills and capacity regarding prevention issues.
5. Utilize local, State, and national speakers with specialized expertise.
6. Submit a summary in the 4th quarter RBI Quarterly Narrative, of the activities performed for this Project, noting the number of workgroup meetings, list of collaborating partners, conference topics, number of attendees from the Colonias and community, age ranges of attendees, and results of a conference evaluation/feedback tool.

**V. STAFFING AND STAFF COMPETENCIES**

- A. Grantee will hire and ensure the person overseeing RBI staff and programmatic activities, on a day-to-day basis, for the purposes of this Contract, will be known as the RBI Program Director. The RBI Program Director will allocate fifty percent of his or her time to providing RBI direct care to meet performance measures as defined in **Attachment A-1 Performance and Outcome Measures**. This is a time approximation based on self-report in the Quarterly Narrative, CMBHS entry, and other participant documentation. The RBI Program Director must coordinate with the System Agency Program SME requesting technical assistance if this requirement cannot be met.
- B. Grantee will ensure all RBI staff and the RBI Program Director who provide services:
  1. Are knowledgeable and competent in discussing HIV, HCV, and other communicable diseases associated with substance use and be able to demonstrate ability to discuss sexuality openly and comfortably;
  2. Are knowledgeable and competent in discussing opioid overdose and be able to demonstrate ability to train individuals to use overdose reversal medications and harm reduction materials; and
  3. Understand SUDs, recovery, and can identify health concerns and risks associated with substance use including overdose and opioid use.
- C. Grantee will build a diverse team, Grantee may hire CHW/P who are licensed or certified

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

in other domains such as, Peer Support Specialists, Licensed Chemical Dependency Counselors, Licensed Nurses or medical staff, Social Workers, or other substance use related fields.

- D.** Grantee will ensure the RBI Program Director meets the following requirements:
1. Meet the competencies to become a Department of State Health Services (DSHS) Certified CHW/P;
  2. Have a minimum of two (2) years of experience in one or more of the following:
    - i. Substance use outreach;
    - ii. Substance use intervention; or
    - iii. Substance use treatment.
  3. Have a minimum of one (1) year of experience in at least two (2) of the following:
    - i. Working with Rural Border populations;
    - ii. Working with individuals experiencing housing instability;
    - iii. Working with individuals with SUD, HIV/STDs, and/or behavioral health issues;
    - iv. Community health work; or
    - v. Supervisory experience.
- E.** Grantee will ensure the RBI Program Director provides each staff member they supervise (CHW/P) with documented field observations and feedback at least once every six (6) months using the supervision document that has been approved and provided by System Agency. The documented field observations and feedback will be provided to System Agency upon request.
- F.** Grantee will require RBI direct staff to obtain DSHS CHW/P certification within six (6) months from date of Contract effective date or start date of employment, whichever is later. Grantee will provide a valid DSHS CHW/P certification for each CHW/P upon System Agency request. CHW/Promotora Training & Certification Program website: <https://www.dshs.texas.gov/community-health-worker-or-promotora-training-certification-program>
- G.** Grantee will ensure all CHW/P maintain their certification, and be in good standing, for the duration of employment under this Contract. All certifications will be kept in the employee file for review by System Agency upon request.
- H.** Grantee will ensure there are self-care and/or team building activities provided to CHW/P, that will be held during work hours, at least once per quarter. The self-care and/or team building activities will be documented in the Quarterly Narrative, for review by System

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

Agency. At minimum, the documentation must include activities and budget details.

- I.** All direct care staff and the RBI Program Director will attend the Rural Border Intervention statewide annual conference. Any direct care staff or RBI Program Director who cannot attend must be granted written permission in advance of missing the annual conference.
- J.** Grantee will ensure all staff receive a minimum of ten (10) hours of training during each state FY, on any of the combinations of topics listed below. The training can be completed by using any type of medium outlet at the discretion of the Grantee prior to training. Maintain documentation on all training and make available for System Agency review upon request. The types of trainings Grantee may attend are:
  - i. Stages of Change;
  - ii. Motivational Interviewing (MI) techniques;
  - iii. Cultural competency;
  - iv. Health literacy;
  - v. Risk- and harm-reduction strategies;
  - vi. Trauma Informed Care;
  - vii. Role related skills, community outreach, case management, patient navigation/linkage, etc.;
  - viii. Parenting and/or pregnancy;
  - ix. Overdose prevention education;
  - x. Tobacco cessation education;
  - xi. Ethics;
  - xii. Education on substance use and/or substances;
  - xiii. Other topics not listed with written approval from System Agency Program SME; and
  - xiv. Other topics or training as directed by System Agency.

**VI. FINANCIAL ASSISTANCE**

- A.** Financial assistance is allowable to help eligible participants access services.
- B.** Financial assistance may include:
  - 1. Transportation to appointments;
  - 2. Prescription medications;
  - 3. Vision or hearing needs;

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

4. Clothing or personal hygiene items;
  5. Assistance for recovery housing;
  6. Employment or educational needs; and
  7. Other needs not listed that improve the individual's quality of life or ability to successfully engage in services are required to have written approval from System Agency Program SME and Contract Manager (CM).
- C.** At minimum, Grantee will ensure financial assistance **is not** be used for the following:
1. Direct cash payment to participants;
  2. Meals;
  3. Payments to attend treatment; or
  4. Hypodermic needles or syringes for injection drug use.
- D.** Grantee will maintain and document all financial assistance, and it will be summarized in the Quarterly Narrative report. System Agency may request the document utilized to track all financial assistance; Grantee will provide once requested. At minimum documentation will include:
1. Date provided;
  2. Dollar amount;
  3. Item purchased; and
  4. Participant identifier (examples: driver's license, CMBHS participant identifying number, first name and last initial).
- E.** Grantee will ensure the total cost of financial assistance to participants will not exceed five percent (5%) of each State FY total funding amount in this awarded Contract. Financial assistance will not exceed \$250 per participant, per fiscal term. Prior to implementing an incentive or alternative not described in this Contract, Grantee must receive written approval by the System Agency Program SME.

**VII. QUALITY MANAGEMENT REQUIREMENTS**

- A.** Grantee will provide QM and oversight for all subcontractors performing activities required within the **Attachment A**. Grantee will:
1. Participate in continuous quality improvement (CQI) activities as defined and scheduled by System Agency including, but not limited to data verification; performing self-reviews; submitting self-review results, supporting documentation for System Agency's desk reviews; and participating in System Agency's onsite or

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

desk reviews.

2. For subcontractors underperforming or noncompliant as a result of monitoring, System Agency will request a corrective action plan and supporting documentation from Grantee. System Agency shall provide written notification when the corrective action plan is approved. Grantee will ensure the approved corrective action plan is implemented by thirty (30) calendar days from the date approved.
  3. Participate in and actively pursue CQI activities that support performance and outcomes improvement.
  4. System Agency will advise Grantee on identified training and/or improvements needed to perform the required activities for all subcontractors. Grantee will ensure all required staff participate in System Agency required training.
  5. Monitor all subcontractors' financial and programmatic performance and maintain pertinent records that must be made available for inspection by System Agency upon request.
- B.** Grantee will develop a quarterly review schedule and submit a quarterly report by the due date documented in **Section IX**. The report will document the QM activities performed in the period being reported. At a minimum, the report should include the following:
1. Date of review;
  2. Name of subcontractor;
  3. Unique Provider Identifier for the review;
  4. Type of review;
  5. Name of staff conducted review;
  6. List of findings;
  7. Number of monitoring reviews conducted;
  8. Types of monitoring reviews conducted;
  9. Summary evaluation of findings and Grantee plan of oversight to bring the subcontractors into compliance, if applicable
  10. Number and nature of complaints received on subcontractor; and
  11. List of significant subcontractor findings that must, at a minimum, include the following:
    - a. Immediate risk to health or safety;
    - b. Patient abuse, neglect, or exploitation;

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

- c. Fraud, waste or abuse reports; and
  - d. Report criminal activity of any subcontractor staff.
- C. Grantee will develop and utilize a QM monitoring tool that will be completed to document all quality reviews. All completed tools/reports with corrective actions documentation will be stored and made available to System Agency, upon request.
- D. Grantee will monitor all subcontracts to ensure compliance. The required Quality Management Quarterly Report will include activities to support the QM activities for this Project.

**VIII. DATA REPORTING REQUIREMENTS**

Grantee will:

- A. Meet all data reporting requirements as established by System Agency.
- B. Document and report all specified recovery activities and services in the System Agency CMBHS system as directed by System Agency in accordance with the Contract, unless otherwise noted.
- C. Submit invoices and FSRs through the CMBHS system in accordance with the Contract, unless otherwise noted.

**IX. SUBMISSION SCHEDULE AND REPORTING REQUIREMENTS**

- A. Grantee will submit all documents identified below to the System Agency by the applicable due date outlined below. The following reports must be submitted to System Agency through CMBHS system, an alternate System Agency submission system designated by System Agency, or emailed to the SUD Mailbox, [SUD.Contracts@hhs.texas.gov](mailto:SUD.Contracts@hhs.texas.gov). The deliverables table documents the required submission system.
- B. All reports required to be submitted via email to the SUD Mailbox require the following:
  - 1. The assigned CM is copied on all emails to System Agency; and
  - 2. The email subject line required naming convention is as follows:  
**[FY for deliverable] Deliverable [Name of Deliverable] SA/RBI [Contract Number].**
- C. All communications excluding deliverable submission will include Grantee 's Contract Number, legal entity name, and purpose in the email subject line.
- D. Grantee will submit CMBHS Security Attestation Form biannually, by September 15<sup>th</sup> and March 15<sup>th</sup>.
- E. Grantee will submit Performance Measures in CMBHS by the 15<sup>th</sup> day of the month

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

following the month being reported.

- F.** Grantee will submit a Behavioral Health Disparities Impact Statement within 60 days after Contract effective date and annually within 60 days after the new FY begins.
- G.** Submit Quality Management Quarterly Report due the 15<sup>th</sup> day of the month following the end of each quarter of the Contract term.
- H.** Grantee will submit Quarterly Narrative by the 15<sup>th</sup> day of the month following the end of each quarter of the Contract term.
- I.** Grantee will submit fiscal year closeout documents by October 15<sup>th</sup>. The final Contract Closeout will be submitted 45 days after the end of the Contract term.
- J.** Grantee's duty to submit required documents will survive the termination or expiration of this Contract.
- K.** System Agency may require additional deliverables in accordance with federal and or state requirements.
- L.** Deliverables and Reporting Requirement table below:

<b>Requirement</b>	<b>Report Name</b>	<b>Due Date*</b>	<b>Transmission Method</b>
Attachment A	CMBHS Security Attestation Form and List of Authorized Users	<b><u>Each State FY:</u></b> September 15th and March 15 <sup>th</sup>	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment A	Performance Measures	<b><u>Each State FY, Monthly:</u></b> Due 15th day of the of the month; reporting previous month performance	CMBHS
Attachment A	Behavioral Health Disparities Impact Statement	Within 60 days of Contract effective date and annually within 60 days of each new State FY	SUD Mailbox: SUD.Contracts@hhs.texas.gov

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

Attachment B	Financial Status Report (FSR)	<b><u>Each State FY,</u></b> <b><u>Quarterly:</u></b> Q1: December 31st Q2: March 31st Q3: June 30th Q4: October 15th**	CMBHS
Attachment B	General Ledger (GL) Documentation	<b><u>Each State FY,</u></b> <b><u>Quarterly:</u></b> Q1: December 31st Q2: March 31st Q3: June 30th Q4: October 15th**	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment B	FSR to GL Worksheet	<b><u>Each State FY,</u></b> <b><u>Quarterly:</u></b> Q1: December 31st Q2: March 31st Q3: June 30th Q4: October 15th**	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment A	Quality Management Report	<b><u>Each State FY,</u></b> <b><u>Quarterly:</u></b> Q1: December 15th Q2: March 15th Q3: June 15th Q4: September 15th	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment A	Quarterly Narrative	<b><u>Each State FY,</u></b> <b><u>Quarterly:</u></b> Q1: December 15th Q2: March 15th Q3: June 15th Q4: September 15th	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment A	FY Contract Closeout	<b><u>Each State FY:</u></b> October 15th	SUD Mailbox: SUD.Contracts@hhs.texas.gov
Attachment A	Final Closeout	45 days after the end of Contract term	SUD Mailbox: SUD.Contracts@hhs.texas.gov

***\*If the Due Date is on a weekend or holiday, the Due Date is the next business day.***

***\*\*For Financial Status Report, General Ledger Documentation, and FSR to GL Worksheet documentation for Q4 are due October 15<sup>th</sup>.***



**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

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

- A.** Grantee will designate a Security Administrator and a back-up Security Administrator responsible for the following:
  - a. Must implement and maintain a system for managing user account access and user roles to ensure that all the CMBHS user accounts are current;
  - b. Ensures that access to CMBHS is restricted to authorized users. All users are required to update their passwords every 90 days. The Security Administrators must change their passwords every 60 days;
  - c. Reset access if a user account becomes disabled due to inactivity. Within twenty-four (24) hours of notification, the System Administrator is required to remove access to CMBHS for users who are no longer authorized to have access to secure data; and
  - d. Responsible for ensuring that CMBHS users know the rules, regulations, and policies and procedures regarding protected health information (PHI) in their service setting.
- B.** Grantee will establish and maintain a security policy that ensures adequate system security and protection of confidential information.
- C.** Grantee will notify the CMBHS Helpdesk within five (5) business days of any change to the designated Security Administrator or the back-up Security Administrator with a new Security Attestation Form.
- D.** Grantee will 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 will be submitted in accordance with **Section IX. Submission Schedule and Reporting Requirements.**
- E.** The Security Administrators must fully understand the legal, organizational, professional, and service delivery consequences of making changes to various documents in CMBHS. Security Administrators will verify that they have been provided training and have the competency needed to fulfill their responsibilities.

**XI. PERFORMANCE & OUTCOME MEASURES**

Grantee shall adhere to the performance and outcome measure requirements documented in **Attachment A-1.**

**XII. SOLICITATION**

Grantee is awarded a grant agreement as an awardee from the Request for Application, HHS0012454, Grant for Substance Use Intervention for the Program of: Rural Border

**ATTACHMENT A**  
**SCOPE OF GRANT PROJECT**  
**RURAL BORDER INTERVENTION**

Intervention, February 10, 2023.

**HEALTH AND HUMAN SERVICES**  
**Contract Number HHS001245400001**  
**Attachment C CONTRACT AFFIRMATIONS**

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

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

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

**2. Complete and Accurate Information**

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

**3. Public Information Act**

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

**4. Contracting Information Requirements**

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

**5. Assignment**

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

**6. Terms and Conditions**

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

**7. HHS Right to Use**

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

**8. Release from Liability**

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

**9. Dealings with Public Servants**

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

**10. Financial Participation Prohibited**

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

**11. Prior Disaster Relief Contract Violation**

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

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

**12. Child Support Obligation**

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

**13. Suspension and Debarment**

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

**14. Excluded Parties**

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

**15. Foreign Terrorist Organizations**

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

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

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

**17. Human Trafficking Prohibition**

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

**18. Franchise Tax Status**

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

**19. Debts and Delinquencies**

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

**20. Lobbying Prohibition**

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

**21. Buy Texas**

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

**22. Disaster Recovery Plan**

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

**23. Computer Equipment Recycling Program**

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

**24. Television Equipment Recycling Program**

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

**25. Cybersecurity Training**

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

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

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

**27. No Conflicts of Interest**

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

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

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

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

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

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

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

**29. Antitrust**

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

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

**30. Legal and Regulatory Actions**

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



**31. No Felony Criminal Convictions**

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

**32. Unfair Business Practices**

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

**33. Entities that Boycott Israel**

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

**34. E-Verify**

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

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

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

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

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

If this Contract is for consulting services,

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

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

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

**37. Abortion Funding Limitation**

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

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

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

**38. Funding Eligibility**

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

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

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

**40. COVID-19 Vaccine Passports**

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

**41. Entities that Boycott Energy Companies**

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

**42. Entities that Discriminate Against Firearm and Ammunition Industries**

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

**43. Security Controls for State Agency Data**

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

**44. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)**

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

**45. Office of Inspector General Investigative Findings Expert Review**

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

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

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

**47. Foreign-Owned Companies in Connection with Critical Infrastructure**

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

**48. Critical Infrastructure Subcontracts**

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

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

**49. Enforcement of Certain Federal Firearms Laws Prohibited**

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

**50. Prohibition on Abortions**

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

**51. False Representation**

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

**52. False Statements**

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

**53. Permits and License**

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

**54. Equal Employment Opportunity**

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

**55. 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).

**56. Signature Authority**

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

**Signature Page Follows**

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

Permian Basin Community Centers for Mental Health & Mental Retardation

---

**Legal Name of Contractor**

PermiaCare

---

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

Midland

---

**Texas County(s) for Assumed Business Name (d/b/a or ‘doing business as’)**

**Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.**

DocuSigned by:  
  
44E60E49218E463

August 28, 2023

---

**Signature of Authorized Representative**

---

**Date Signed**

Chris Barnhill

Chief Executive Officer

---

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

---

**Title of Authorized Representative**

401 E Illinois

Midland, Tx 79701

---

**Physical Street Address**

---

**City, State, Zip Code**

401 E Illinois

Midland, Tx 79701

---

**Mailing Address, if different**

---

**City, State, Zip Code**

432-570-3333

432-570-3346

---

**Phone Number**

---

**Fax Number**

chrisbarnhill@permiacare.org

074145561

---

**Email Address**

---

**DUNS Number**

751401776

751401776

---

**Federal Employer Identification Number**

---

**Texas Identification Number (TIN)**

751401776

751401776

---

**Texas Franchise Tax Number**

---

**Texas Secretary of State Filing  
Number**

KQBSRH72A6P1

---

**SAM.gov Unique Entity Identifier (UEI)**

ATTACHMENT D



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

**Health and Human Services (HHS)**

**Uniform Terms and Conditions - Grant**

**Version 3.2**

Published and Effective – July 2022

Responsible Office: Chief Counsel



## **ABOUT THIS DOCUMENT**

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed-through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

## **TABLE OF CONTENTS**

<b>ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS .....</b>	<b>6</b>
<b>1.1    DEFINITIONS .....</b>	<b>6</b>
<b>1.2    INTERPRETIVE PROVISIONS.....</b>	<b>7</b>
<b>ARTICLE II. PAYMENT PROVISIONS .....</b>	<b>8</b>
<b>2.1    PROMPT PAYMENT.....</b>	<b>8</b>
<b>2.2    TAXES .....</b>	<b>8</b>
<b>2.3    ANCILLARY AND TRAVEL EXPENSES .....</b>	<b>9</b>
<b>2.4    BILLING.....</b>	<b>9</b>
<b>2.5    USE OF FUNDS .....</b>	<b>9</b>
<b>2.6    USE FOR MATCH PROHIBITED.....</b>	<b>9</b>
<b>2.7    PROGRAM INCOME .....</b>	<b>9</b>
<b>2.8    NONSUPPLANTING.....</b>	<b>9</b>
<b>2.9    INDIRECT COST RATES.....</b>	<b>10</b>
<b>ARTICLE III. STATE AND FEDERAL FUNDING .....</b>	<b>10</b>
<b>3.1    EXCESS OBLIGATIONS PROHIBITED.....</b>	<b>10</b>
<b>3.2    NO DEBT AGAINST THE STATE.....</b>	<b>10</b>
<b>3.3    DEBTS AND DELINQUENCIES .....</b>	<b>10</b>
<b>3.4    REFUNDS AND OVERPAYMENTS .....</b>	<b>10</b>
<b>ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS .....</b>	<b>11</b>
<b>4.1    ALLOWABLE COSTS.....</b>	<b>11</b>
<b>4.2    AUDITS AND FINANCIAL STATEMENTS.....</b>	<b>11</b>
<b>4.3    SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS .....</b>	<b>12</b>
<b>ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS.....</b>	<b>12</b>
<b>5.1    WARRANTY .....</b>	<b>12</b>
<b>5.2    GENERAL AFFIRMATIONS.....</b>	<b>13</b>
<b>5.3    FEDERAL ASSURANCES .....</b>	<b>13</b>
<b>5.4    FEDERAL CERTIFICATIONS .....</b>	<b>13</b>
<b>5.5    STATE ASSURANCES.....</b>	<b>13</b>

<b>ARTICLE VI. INTELLECTUAL PROPERTY .....</b>	<b>13</b>
<b>6.1 OWNERSHIP OF WORK PRODUCT.....</b>	<b>13</b>
<b>6.2 GRANTEE’S PRE-EXISTING WORKS .....</b>	<b>14</b>
<b>6.3 THIRD PARTY IP .....</b>	<b>14</b>
<b>6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS .....</b>	<b>14</b>
<b>6.5 DELIVERY UPON TERMINATION OR EXPIRATION .....</b>	<b>15</b>
<b>6.6 SURVIVAL .....</b>	<b>15</b>
<b>6.7 SYSTEM AGENCY DATA .....</b>	<b>15</b>
<b>ARTICLE VII. PROPERTY .....</b>	<b>15</b>
<b>7.1 USE OF STATE PROPERTY.....</b>	<b>15</b>
<b>7.2 DAMAGE TO STATE PROPERTY .....</b>	<b>16</b>
<b>7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT .....</b>	<b>16</b>
<b>7.4 EQUIPMENT AND PROPERTY.....</b>	<b>16</b>
<b>ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY.....</b>	<b>17</b>
<b>8.1 RECORD MAINTENANCE AND RETENTION.....</b>	<b>17</b>
<b>8.2 AGENCY’S RIGHT TO AUDIT.....</b>	<b>17</b>
<b>8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS .....</b>	<b>18</b>
<b>8.4 STATE AUDITOR’S RIGHT TO AUDIT .....</b>	<b>18</b>
<b>8.5 CONFIDENTIALITY .....</b>	<b>18</b>
<b>ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES.....</b>	<b>19</b>
<b>9.1 REMEDIES.....</b>	<b>19</b>
<b>9.2 TERMINATION FOR CONVENIENCE .....</b>	<b>19</b>
<b>9.3 TERMINATION FOR CAUSE .....</b>	<b>19</b>
<b>9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY’S TERMINATION COSTS....</b>	<b>20</b>
<b>9.5 INHERENTLY RELIGIOUS ACTIVITIES .....</b>	<b>20</b>
<b>9.6 POLITICAL ACTIVITIES.....</b>	<b>20</b>
<b>ARTICLE X. INDEMNITY.....</b>	<b>21</b>
<b>10.1 GENERAL INDEMNITY.....</b>	<b>21</b>
<b>10.2 INTELLECTUAL PROPERTY .....</b>	<b>21</b>
<b>10.3 ADDITIONAL INDEMNITY PROVISIONS .....</b>	<b>22</b>
<b>ARTICLE XI. GENERAL PROVISIONS .....</b>	<b>22</b>
<b>11.1 AMENDMENTS .....</b>	<b>22</b>
<b>11.2 NO QUANTITY GUARANTEES.....</b>	<b>22</b>

<b>11.3</b>	<b>CHILD ABUSE REPORTING REQUIREMENTS</b> .....	22
<b>11.4</b>	<b>CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS</b> .....	23
<b>11.5</b>	<b>INSURANCE AND BONDS</b> .....	23
<b>11.6</b>	<b>LIMITATION ON AUTHORITY</b> .....	23
<b>11.7</b>	<b>CHANGE IN LAWS AND COMPLIANCE WITH LAWS</b> .....	24
<b>11.8</b>	<b>SUBCONTRACTORS</b> .....	24
<b>11.9</b>	<b>PERMITTING AND LICENSURE</b> .....	24
<b>11.10</b>	<b>INDEPENDENT CONTRACTOR</b> .....	24
<b>11.11</b>	<b>GOVERNING LAW AND VENUE</b> .....	25
<b>11.12</b>	<b>SEVERABILITY</b> .....	25
<b>11.13</b>	<b>SURVIVABILITY</b> .....	25
<b>11.14</b>	<b>FORCE MAJEURE</b> .....	25
<b>11.15</b>	<b>NO IMPLIED WAIVER OF PROVISIONS</b> .....	26
<b>11.16</b>	<b>FUNDING DISCLAIMERS AND LABELING</b> .....	26
<b>11.17</b>	<b>MEDIA RELEASES</b> .....	26
<b>11.18</b>	<b>PROHIBITION ON NON-COMPETE RESTRICTIONS</b> .....	26
<b>11.19</b>	<b>SOVEREIGN IMMUNITY</b> .....	26
<b>11.20</b>	<b>ENTIRE CONTRACT AND MODIFICATION</b> .....	27
<b>11.21</b>	<b>COUNTERPARTS</b> .....	27
<b>11.22</b>	<b>PROPER AUTHORITY</b> .....	27
<b>11.23</b>	<b>E-VERIFY PROGRAM</b> .....	27
<b>11.24</b>	<b>CIVIL RIGHTS</b> .....	27
<b>11.25</b>	<b>ENTERPRISE INFORMATION MANAGEMENT STANDARDS</b> .....	28
<b>11.26</b>	<b>DISCLOSURE OF LITIGATION</b> .....	28
<b>11.27</b>	<b>NO THIRD PARTY BENEFICIARIES</b> .....	29
<b>11.28</b>	<b>BINDING EFFECT</b> .....	29

## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or 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 Grant Agreement.

“[Contract](#)” or “[Grant Agreement](#)” means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

“[Deliverables](#)” means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

“[DSHS](#)” means the Department of State Health Services.

“[Effective Date](#)” means the date on which the Grant Agreement 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 Grant Agreement. May also be referred to as “subrecipient” or “contractor” in this document.

“[HHSC](#)” means the Texas Health and Human Services Commission.

“[Health and Human Services](#)” or “[HHS](#)” includes HHSC and DSHS.

“[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.

“[Parties](#)” means the System Agency and Grantee, collectively.

“[Party](#)” means either the System Agency or Grantee, individually.

“[Project](#)” means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

“[Signature Document](#)” means the document executed by all Parties for this Grant Agreement.

“[Solicitation](#),” “[Funding Announcement](#)” or “[Request for Applications \(RFA\)](#)” means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

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

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

“[State of Texas Textravel](#)” means the Texas Comptroller of Public Accounts’ state travel rules, policies, and guidelines.

“[Statement of Work](#)” means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

“[System Agency](#)” means HHSC or DSHS, as applicable.

“[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 Grant Agreement or through use of any funding provided under this Grant Agreement.

“[Texas Grant Management Standards](#)” or “[TxGMS](#)” 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. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

## 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 Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

(including this Grant Agreement) 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 Grant Agreement, 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 agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
- E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
- F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
- G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- H. 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.”
- I. Time is of the essence in this Grant Agreement.
- J. Prior to execution of the Grant Agreement, Grantee must notify System Agency’s designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee’s execution of the Grant Agreement, Grantee:
  - i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
  - ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

## **ARTICLE II. PAYMENT PROVISIONS**

### **2.1 PROMPT PAYMENT**

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

### **2.2 TAXES**

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

## **2.3 ANCILLARY AND TRAVEL EXPENSES**

- A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
- B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Texttravel* guidelines, which can currently be accessed at: <https://fmx.cpa.texas.gov/fmx/travel/texttravel/>.

## **2.4 BILLING**

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, 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.

## **2.5 USE OF FUNDS**

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

## **2.6 USE FOR MATCH PROHIBITED**

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

## **2.7 PROGRAM INCOME**

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement 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 Grant Agreement.

## **2.8 NONSUPPLANTING**

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.



## **2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

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

### **3.1 EXCESS OBLIGATIONS PROHIBITED**

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal 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 Grant Agreement impossible or unnecessary, the Grant Agreement 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. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

### **3.2 NO DEBT AGAINST THE STATE**

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

### **3.3 DEBTS AND DELINQUENCIES**

Grantee agrees that any payments due under the Grant Agreement 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 during the entirety of the Grant Agreement term.

### **3.4 REFUNDS AND OVERPAYMENTS**

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 – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

- 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 Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. 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 Grant Agreement.

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

### **4.1 ALLOWABLE COSTS**

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.
- B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs 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 Grant Agreement. 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 remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.
- C. OMB Circulars will be applied with the modifications prescribed by TxGMS 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. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
  - ii. 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 maybe subject to sanctions and remedies for non-compliance.
  - iii. 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.

- iv. 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 TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
  - v. 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 TxGMS, as applicable, for their program-specific audits.
  - vi. Each Grantee 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 applicable provisions of 2 CFR 200 and TxGMS.
- B. Financial Statements.  
Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

#### 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 one electronic copy of the single audit or program-specific audit to the System Agency via:

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

B. Financial Statements.

Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:

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

## ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

### 5.1 WARRANTY

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

- i. Repair or replace all defective or damaged work;
- ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,

- iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

## **5.2 GENERAL AFFIRMATIONS**

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

## **5.3 FEDERAL ASSURANCES**

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

## **5.4 FEDERAL CERTIFICATIONS**

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, 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 Grant Agreement.

## **5.5 STATE ASSURANCES**

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

# **ARTICLE VI. INTELLECTUAL PROPERTY**

## **6.1 OWNERSHIP OF WORK PRODUCT**

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, 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.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.

- D. In the event that 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.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

## 6.2 GRANTEE'S PRE-EXISTING WORKS

- A. 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 Grant Agreement (“**Incorporated Pre-existing Works**”), Grantee retains ownership of such Incorporated Pre-existing Works.
- B. 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, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. 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 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
- B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

## 6.4 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, Intellectual Property.

## **6.5 DELIVERY UPON TERMINATION OR EXPIRATION**

No later than the first calendar day after the termination or expiration of the Grant Agreement 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 Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

## **6.6 SURVIVAL**

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

## **6.7 SYSTEM AGENCY DATA**

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

# **ARTICLE VII. PROPERTY**

## **7.1 USE OF STATE PROPERTY**

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.

- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
  - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
  - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

## **7.2 DAMAGE TO STATE PROPERTY**

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

## **7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT**

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

## **7.4 EQUIPMENT AND PROPERTY**

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable.

Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.

- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

## **ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY**

### **8.1 RECORD MAINTENANCE AND RETENTION**

- A. 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 Grant Agreement and all state and federal rules, regulations, and statutes.
- B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

### **8.2 AGENCY'S RIGHT TO AUDIT**

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, 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 Grant Agreement. If the Grant Agreement 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, HHS'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.

- C. 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 Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
- E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

### **8.3 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 Grant Agreement 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 HHS 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 Grant Agreement.

### **8.4 STATE AUDITOR'S RIGHT TO AUDIT**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement 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.

### **8.5 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 Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

## ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

### 9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, 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 the following:
- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
  - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
  - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
  - iv. suspending all or part of the Grant Agreement;
  - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
  - vi. recouping payments made by the System Agency to the Grantee found to be in error;
  - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
  - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
  - ix. withholding release of new grant agreements; and
  - x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

### 9.2 TERMINATION FOR CONVENIENCE

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

### 9.3 TERMINATION FOR CAUSE

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

**i. Material Breach**

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

**ii. Failure to Maintain Financial Viability**

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

#### **9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS**

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

#### **9.5 INHERENTLY RELIGIOUS ACTIVITIES**

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

#### **9.6 POLITICAL ACTIVITIES**

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

## **ARTICLE X. INDEMNITY**

### **10.1 GENERAL 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, ATTORNEYS' 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 GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Grant Agreement.**

### **10.2 INTELLECTUAL PROPERTY**

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

- i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM**

**AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.**

**10.3 ADDITIONAL INDEMNITY PROVISIONS**

- A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE 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.**
- C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

**ARTICLE XI. GENERAL PROVISIONS**

**11.1 AMENDMENTS**

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

**11.2 NO QUANTITY GUARANTEES**

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

**11.3 CHILD ABUSE REPORTING REQUIREMENTS**

- 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 use the Texas Abuse Hotline Website located at <https://www.txabusehotline.org/Login/Default.aspx> as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.**

#### **11.4 CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS**

- A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:
- i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
  - ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
  - iii. Applying to all employees and visitors in this designated area; and
  - iv. Providing for or referring its employees to tobacco use cessation services.
- B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

#### **11.5 INSURANCE AND BONDS**

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. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

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

#### **11.6 LIMITATION ON AUTHORITY**

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt,

obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.

- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
- i. Make public policy on behalf of the System Agency;
  - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
  - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

### **11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS**

Grantee shall comply with all laws, regulations, requirements and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

### **11.8 SUBCONTRACTORS**

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges 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 Grant Agreement.

### **11.9 PERMITTING AND LICENSURE**

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement 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 Grant Agreement. 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 Grant Agreement.

### **11.10 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 Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. 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 Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

#### **11.11 GOVERNING LAW AND VENUE**

The Grant Agreement 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 Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

#### **11.12 SEVERABILITY**

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

#### **11.13 SURVIVABILITY**

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement 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 Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

#### **11.14 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 Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.



### **11.15 NO IMPLIED WAIVER OF PROVISIONS**

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

### **11.16 FUNDING DISCLAIMERS AND LABELING**

- A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee'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 Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.
- B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

### **11.17 MEDIA RELEASES**

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

### **11.18 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.

### **11.19 SOVEREIGN IMMUNITY**

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement 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 Grant Agreement 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 Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

#### **11.20 ENTIRE CONTRACT AND MODIFICATION**

The Grant Agreement 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 Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

#### **11.21 COUNTERPARTS**

This Grant Agreement 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 Grant Agreement.

#### **11.22 PROPER AUTHORITY**

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

#### **11.23 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:

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

#### **11.24 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 Grant Agreement.
- 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: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>.
  - 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 complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:
    - HHSC Civil Rights Office
    - 701 W. 51st Street, Mail Code W206
    - Austin, Texas 78751
    - Phone Toll Free: (888) 388-6332
    - Phone: (512) 438-4313
    - Fax: (512) 438-5885
    - Email: [HHSCivilRightsOffice@hhsc.state.tx.us](mailto:HHSCivilRightsOffice@hhsc.state.tx.us).

## **11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS**

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

## **11.26 DISCLOSURE OF LITIGATION**

- A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or

pending involving the Grantee. “Threatened litigation” as used herein shall include governmental investigations and civil investigative demands. “Litigation” as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, “material” refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Grantee’s financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

#### **11.27 NO THIRD PARTY BENEFICIARIES**

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

#### **11.28 BINDING EFFECT**

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

ATTACHMENT F



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

**Health and Human Services (HHS)**  
**Additional Provisions – Grant Funding**  
**Version 1.0**  
**Effective: February 2021**

**TABLE OF CONTENTS**

**1. TURNOVER PLAN..... 3**

**2. TURNOVER ASSISTANCE..... 3**

**3. TRADEMARK LICENSE ..... 3**

**4. TRADEMARK OWNERSHIP ..... 4**

**5. ELECTRICAL ITEMS ..... 4**

**6. DISASTER SERVICES..... 4**

**7. NOTICE OF A LICENSE ACTION..... 4**

**8. EDUCATION TO PERSONS IN RESIDENTIAL FACILITIES..... 5**

**9. CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL, AND SURGICAL  
TREATMENT OF A CHILD ..... 5**

**10. TELEMEDICINE/TELEHEALTH SERVICES ..... 5**

**11. SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH  
PROFICIENCY ..... 5**

**12. THIRD PARTY PAYORS ..... 6**

**13. HIV/AIDS MODEL WORKPLACE GUIDELINES ..... 6**

**14. MEDICAL RECORDS RETENTION..... 7**

**15. INTERIM EXTENSION AMENDMENT ..... 7**

**16. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY AND  
SECURITY STANDARDS ..... 7**

**17. PROJECT COMMENCEMENT ..... 9**

**18. DUPLICATION OF FUNDING..... 9**

**19. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS..... 10**

**20. NOTICE OF GRANT AGREEMENT/CONTRACT ACTION..... 10**

**21. NOTICE OF BANKRUPTCY..... 10**

**22. NOTICE OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL..... 10**

**23. NOTICE OF INSOLVENCY, INCAPACITY, OR OUTSTANDING UNPAID  
OBLIGATIONS ..... 10**

**24. HHSC VENDOR ACCESS ..... 11**

**25. HHSC APPROVAL OF STAFFING ..... 11**

**26. NOTICE OF IRS OR TWC INSOLVENCY ..... 11**

**27. BREACH OF CONTRACT AND LIQUIDATED DAMAGES ..... 11**

**28. BLOCK GRANT SUPPLEMENT ..... 13**

## **ADDITIONAL PROVISIONS**

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Grant Agreement. Terms included in these Additional Provisions and not otherwise defined have the meanings assigned to them in HHS Uniform Terms and Conditions.

### **1. TURNOVER PLAN**

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

- i. The least disruption in the implementation and performance of grant-funded activities during Turnover; and
- ii. Full cooperation with System Agency or its designee in transferring the performance and obligations of the Grant Agreement.

### **2. TURNOVER ASSISTANCE**

Grantee will provide any assistance and actions reasonably necessary to enable System Agency or its designee to effectively close out the Grant Agreement and transfer the performance and obligations of the Grant Agreement to another Grantee or to System Agency if necessary. Grantee agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Grant Agreement and remains in effect until completed to the satisfaction of System Agency.

### **3. TRADEMARK LICENSE**

System Agency grants to Grantee, for the term of the Grant Agreement, a limited non-exclusive, royalty-free, non-assignable, non-transferable license to reproduce System Agency's trademarks on published materials in the United States related to the performance of the Grant Agreement, provided that such license is expressly conditional upon, and subject to, the following:

- i. Grantee is in compliance with all provisions of the Grant Agreement;
- ii. Grantee's use of the trademarks is strictly in accordance with the quality standards and in conformance with the reproduction requirements set forth in this Grant Agreement or as otherwise communicated by System Agency;
- iii. Grantee takes no action to damage the goodwill associated with the trademarks, and refrains from any attempt to contest, attack, dispute, challenge, cancel and/or oppose System Agency's right, title and interest in the trademarks or their validity;
- iv. Grantee makes no attempt to sublicense any rights under this trademark license; and
- v. Grantee complies with any marking requests System Agency may make in relation to the trademarks, including without limitation to use the phrase "Registered Trademark", the registered trademark symbol "®" for registered trademarks, and the symbol "™" for unregistered trademarks.

#### **4. TRADEMARK OWNERSHIP**

Grantee acknowledges and agrees that the trademarks remain the exclusive property of System Agency, that all right, title and interest in and to the trademarks is exclusively held by System Agency, and all goodwill associated with such trademarks inures solely to System Agency.

#### **5. ELECTRICAL ITEMS**

All electrical items purchased under this Grant Agreement or used in the performance of approved and eligible grant-funded activities must meet all applicable Occupational Safety and Health Administration (OSHA) standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

#### **6. 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 declared by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

- i. Community evacuation;
- ii. Health and medical assistance;
- iii. Assessment of health and medical needs;
- iv. Health surveillance;
- v. Medical care personnel;
- vi. Health and medical equipment and supplies;
- vii. Patient evacuation;
- viii. In-hospital care and hospital facility status;
- ix. Food, drug and medical device safety;
- x. Worker health and safety;
- xi. Mental health and substance abuse;
- xii. Public health information;
- xiii. Vector control and veterinary services; and  
Victim identification and mortuary services.

#### **7. NOTICE OF A LICENSE ACTION**

Grantee shall notify the assigned System Agency contract manager in writing of any action impacting Grantee's license to provide services under this Grant Agreement within five business days of becoming aware of the action and include the following:

- i. Reason for such action;
- ii. Name and contact information of the local, state or federal department or agency or entity;
- iii. Date of the license action; and
- iv. License or case reference number.



## **8. 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 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.

## **9. CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL, AND SURGICAL TREATMENT OF A CHILD**

Unless a federal law applies, before a Grantee or its subcontractor 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.

## **10. TELEMEDICINE/TELEHEALTH SERVICES**

If Grantee or its sub-contractor provides grant-funded telemedicine/telehealth services, these services shall be in accordance with the Grantee's written procedures, applicable law, the Grantee's/Contractor's or subcontractor's licensing board rules, and System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine/telehealth service must include the following requirements:

- i. Consider any contraindications to the use of telemedicine/telehealth;
- ii. Qualified staff members to ensure the safety of the individual being served by telemedicine/telehealth at the remote site;
- iii. Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
- iv. Use by credentialed licensed providers providing clinical care within the scope of their licenses;
- v. 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;
- vi. Priority in scheduling the system for clinical care of individuals;
- vii. Quality oversight and monitoring of satisfaction of the individuals served; and
- viii. Management of information and documentation for telemedicine/telehealth services that ensures timely access to accurate information between the two sites. Telemedicine/telehealth Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule §448.911.

## **11. 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. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, if necessary. More information can be found at <https://www.lep.gov/>.

- 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.

## **12. THIRD PARTY PAYORS**

- A. Except as provided in this Grant Agreement, 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.
- B. As applicable, the Grantee shall:
  - i. Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Grant Agreement that may be covered by those programs and bill those programs for the covered services;
  - ii. Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
  - iii. Allow clients that are otherwise eligible for System Agency services, but cannot pay a deductible required by a third party payor, to receive services and bill the System Agency for the deductible;
  - iv. Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
  - v. Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
  - vi. Bill all third party payors for services provided under this Grant Agreement before submitting any request for reimbursement to System Agency; and
  - vii. Provide third party billing functions at no cost to the client.

## **13. HIV/AIDS MODEL WORKPLACE GUIDELINES**

- A. Grantee shall implement DSHS's HIV-STD Policy No. 090.021, HIV/AIDS Model Workplace Guidelines for Businesses, State Agencies, and State Contractors, accessible at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>.

- B. 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.

#### **14. 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. INTERIM EXTENSION AMENDMENT**

- A. Prior to or on the expiration date of this Grant Agreement, the Parties agree that this Grant Agreement 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:
  - i. Continue provision of services in response to a disaster declared by the governor; or
  - ii. 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 Grant Agreement.
- E. An interim extension under subsection (B)(i) of this section shall extend the term of the Grant Agreement not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.  
An interim extension under subsection (B)(i) of this section shall be a one-time extension for a period of time determined by the System Agency.

#### **16. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY AND SECURITY STANDARDS**

##### **A. Applicability**

- i. This section applies to the procurement or development of Information and Communication Technology (ICT) for Health and Human Services (HHS), or any changes to HHS's ICT. This section also applies if the Grant Agreement requires Grantee to perform a service or supply goods that include ICT that: (i) HHS 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 Grant Agreement, unless the parties agree that the ICT will become property of the state or will be used by HHS's Client/Recipient after completion of the Grant Agreement.
- ii. 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.

##### **B. 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 HHS Uniform Terms and Conditions, policies, accessibility

checklists, style guides, Grant Agreement specifications, and other Grant Agreement management documents. To the extent that any other of the following definitions conflict with definitions elsewhere in this Grant Agreement, the following definitions are applicable to this section only.

- i. **“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).
- ii. **“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.
- iii. **“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.
- iv. **“Web Accessibility Standards/Specifications”** refers to the web standards contained in WCAG 2.0 Level AA.
- v. **“Products”** means information resources technologies that are, or are related to, ICT.
- vi. **“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.

**C. Accessibility Requirements**

Under Texas Government Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHS 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.

**D. Evaluation, Testing and Monitoring**

- i. HHS 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 grant agreement. Testing and monitoring may include user acceptance testing.
- ii. 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.
- iii. Grantee agrees to cooperate fully and provide HHS and its representatives timely access to Products, Services, documentation, and other items and information needed to conduct such review, evaluation, testing and monitoring.

**E. Representations and Warranties**

- i. Grantee represents and warrants that: (a) as of the effective date of the Grant Agreement, the Products, Services and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Grant Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and (b) if the Products will be in the custody of the state or an HHS agency's client or recipient after the Grant Agreement expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or termination of the Grant Agreement term, unless HHS and/or Client/Recipient, as applicable uses the Products in a manner that renders it noncompliant.
- ii. 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 HHS, 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.
- iii. Grantee acknowledges and agrees that these representations and warranties are essential inducements on which HHS relies in awarding this Grant Agreement.
- iv. Grantee's representations and warranties under this subsection will survive the termination or expiration of the Grant Agreement and will remain in full force and effect throughout the useful life of the Product.

**F. Remedies**

- i. Pursuant to Texas Government Code Sec. 2054.465, neither Grantee nor any other person has a cause of action against HHS for a claim of a failure to comply with Texas Government Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
- ii. 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 HHS may be entitled. This remedy is cumulative of any and all other remedies to which HHS may be entitled under this Grant Agreement and other applicable law.

**17. PROJECT COMMENCEMENT**

The Grantee shall begin the grant-funded project <<on or before *insert date*>> <<within 90 days of the original start date of the grant term or grant execution date, whichever is later,>>, unless otherwise approved by System Agency. If project commencement is delayed, the Grantee must submit in writing to the assigned contract manager, the steps taken to initiate the project, the reasons for the delay, and the expected start date. System Agency may require Grantee to take immediate remedial or corrective action in response to any delay.

**18. DUPLICATION OF FUNDING**

If Grantee receives any funding that is duplicative of funding received under this Grant Agreement that cannot be used for new or expanded eligible grant activities, Grantee will notify the assigned contract manager as soon as possible. System Agency may issue an

amendment modifying budget and/or project activities to eliminate duplication. Additionally, Grantee understands that duplicative funding that cannot be re-programmed to support new or expanded grant-funded activities within the program's scope may be de-obligated from this Grant Agreement and returned to System Agency.

#### **19. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS**

- A. Grantee shall immediately report in writing to its assigned System Agency contract manager when Grantee learns of or has any reason to believe it or any person with ownership or controlling interest in Grantee, or their agent, employee, subcontractor or volunteer who is providing services under this Grant Agreement has 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.
- B. Grantee 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.

#### **20. NOTICE OF GRANT AGREEMENT/CONTRACT ACTION**

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

- i. Reason for such action;
- ii. Name and contact information of the local, state or federal department or agency or entity;
- iii. Effective start date of the grant agreement/contract;
- iv. Date of suspension or termination; and
- v. Grant agreement/contract or case reference number.

#### **21. NOTICE OF BANKRUPTCY**

Grantee shall notify in writing the assigned System Agency contract manager of its plan to seek bankruptcy protection within five business days of such action by Grantee.

#### **22. NOTICE OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL**

The Grantee shall notify in writing the assigned System Agency contract manager within ten business days of any change to the Grantee's Contact Person or Key Personnel.

#### **23. NOTICE OF INSOLVENCY, INCAPACITY, OR OUTSTANDING UNPAID OBLIGATIONS**

Grantee shall notify in writing its assigned System Agency contract manager of any insolvency, incapacity, or outstanding unpaid obligations of Grantee owed to the Internal

Revenue Service or the State of Texas, or any agency or political subdivision of the State of Texas within five business days of the date of Grantee's becoming aware of such.

#### **24. HHSC VENDOR ACCESS**

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.

#### **25. HHSC APPROVAL OF STAFFING**

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

#### **26. NOTICE OF IRS OR TWC INSOLVENCY**

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

#### **27. BREACH OF CONTRACT AND LIQUIDATED DAMAGES**

##### **A. Contract Monitoring**

##### **System Agency:**

- i. Will monitor Grantee for programmatic and financial compliance with this Contract and;
- ii. May impose liquidated damages for any breach of this Contract.
- iii. At its discretion, may place Grantee on accelerated monitoring, which entails more frequent or more extensive monitoring than ordinarily conducted by System Agency.

- iv. May allow the Grantee the opportunity to correct identified deficiencies prior to imposing actions stated in this section.

**B. Liquidated Damages**

Grantee agrees that noncompliance with the requirements specified in the Contract causes damages to System Agency are difficult or impossible to determine or quantify with precise accuracy. Grantee further agrees that System Agency may impose liquidated damages each month for so long as the noncompliance continues. The liquidated damages prescribed in this section are not intended to be in the nature of a penalty but are intended to be reasonable estimates of System Agency's projected financial loss and damage resulting from the Grantee's nonperformance, including financial loss. Accordingly, in the event Grantee fails to perform in accordance with the Contract, System Agency may assess liquidated damages as provided in this section. System Agency may impose liquidated damages of:

- i. \$500 for the first occurrence of noncompliance during a fiscal year;
- ii. \$750 for the second occurrence of noncompliance with the same requirement during the same fiscal year; and
- iii. \$1,000 for the third and subsequent occurrence(s) of noncompliance with the same requirement during the same fiscal year.

**C. Contract Repayment**

System Agency may elect to collect liquidated damages as set-off against payments then due to Grantee or that become due at any time after assessment of liquidated damages. System Agency may take repayment from funds available under this Contract, active or expired, or any subsequent renewal, in amounts necessary to fulfill Grantee's repayment obligations. System Agency may also elect to collect liquidated damages through direct assessment and demand for payment delivered to Grantee.

**D. Notice of Liquidated Damages**

System Agency will formally notify Grantee in writing when liquidated damages actions are imposed, stating the nature of the action, the reasons for imposing, and the method of appealing. Grantee must submit a written appeal, within ten (10) calendar days of receipt of the notice, to the SUD email box, [SUD.Contracts@hhs.texas.gov](mailto:SUD.Contracts@hhs.texas.gov) and copied to the assigned Contract Manager.

A submitted appeal must:

- i. Include documented proof that Grantee submitted the information by the due date or received an exemption from the System Agency.
- ii. Demonstrate the findings on which the Liquidated Damage are based are either invalid or do not warrant the action(s).

If System Agency determines the liquidated damage is warranted, System Agency's decision is final, and the remedy shall be imposed.



## 28. BLOCK GRANT SUPPLEMENT

The following are important details regarding federal award requirements for Grantees funded with Substance Use Prevention, Treatment and Recovery Services (SUPTRS) Block Grant (SUPTRS) funds:

1. The Assistance Listing Number for the SUPTRS is 93.959.
2. The award period covers the term identified in the Contract.

As a subrecipient of the SUPTRS, the Grantee must adhere to each of the applicable requirements below:

### A. 45 CFR § 96.127 REQUIREMENTS REGARDING TUBERCULOSIS (TB)

- a. The Grantee receiving substance abuse block grant funds for operating a substance use disorder treatment program must follow procedures as directed by the System Agency, which addresses how the Grantee:
  - i. Will, directly or through referral to public or nonprofit private entities, make available tuberculosis services to each client receiving treatment. Tuberculosis services include, but are not limited to:
    - 1) Counseling on tuberculosis;
    - 2) Testing to determine infection with mycobacteria tuberculosis; and
    - 3) Providing for or referring for medical evaluation and treatment;
  - ii. Will locate tuberculosis services for infected individuals and ensure the individual is admitted into services and not to a waitlist; and
  - iii. Will implement infection control procedures established by the System Agency, which are designed to prevent the transmission of tuberculosis, including the following:
    - 1) Screening of clients;
    - 2) Identification of those individuals who are at high risk of becoming infected; and
    - 3) Meeting all State reporting requirements while adhering to Federal and State confidentiality requirements, including the Code of Federal Regulations (CFR) [42 CFR Part 2](#).
- b. Grantee will conduct case management activities to ensure that individuals receive such services.
- c. Grantee will develop strategies for monitoring the program compliance with this section.
- d. Grantee will ensure individuals identified with active tuberculosis will be reported to the appropriate State official as required by law and consistent with [paragraph \(a\)\(3\)\(iii\)](#) of

CFR §96.122.

B. 45 CFR § 96.128 REQUIREMENTS REGARDING HUMAN IMMUNODEFICIENCY VIRUS (HIV)

- a. Grantee awarded HIV treatment funding must perform the following:
- i. Establish linkages with a comprehensive community resource network of related health and social services organizations to ensure a wide-based knowledge of the availability of these services;
  - ii. Follow all procedures developed by System Agency, in consultation with the State Medical Director for Substance Abuse Services, and in cooperation with the State Department of Health/Communicable Disease Officer;
  - iii. Comply with [§ 96.137](#) regarding payment and [§ 96.135](#) regarding restrictions on expenditure of grant; and
  - iv. Ensure all services will be undertaken voluntarily by, and with the informed consent of, the individual, and undergoing such services will not be required as a condition of receiving treatment services for substance abuse or any other services.

C. 45 CFR § 96.129 REVOLVING FUNDS FOR ESTABLISHMENT OF HOMES IN WHICH RECOVERING SUBSTANCE ABUSERS MAY RESIDE

- a. If the Grantee is awarded a contract to implement and maintain housing, the Grantee will ensure ongoing operation of a revolving fund and oversight of the housing as follows:
- i. The purpose of the revolving loan fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol and drug abuse may reside in groups of not less than six individuals;
  - ii. Not less than \$100,000 will be available for the revolving fund;
  - iii. Loans made from the revolving fund do not exceed \$4,000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;
  - iv. Each such loan is repaid by such residents through monthly installments by the date specified in the loan agreement involved;
  - v. The use of alcohol or any illegal drug in the housing provided by the program will be prohibited;
  - vi. Any resident of the housing who violates such prohibition will be expelled

from the housing;

- vii. The costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and
  - viii. The residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.
- a. Expenditure in this project will be for, but not limited to:
    - i. First month's rent, necessary furniture (e.g., beds),
    - ii. Facility modifications (e.g., conversion of basement into a game room or extra bedrooms), and
    - iii. Purchase of amenities which foster healthy group living (e.g., dishwasher).
  - b. Grantee will abide by all Federal, State, and local laws and regulations when managing the revolving loan fund.
  - c. Grantee shall establish a procedure and process for applying for a loan under the program which may include completion of the application, personal interviews, and submission of evidence to support eligibility requirements, as well as establish a written procedure for repayment which will set forth reasonable penalties for late or missed payments and liability and recourse for default.
  - d. Grantee will keep a written record of the number of loans and amount of loans provided, the identities of borrowers and the repayment history of each borrower and retain it for no less than three years or the state's retention policy.

#### D. 45 CFR § 96.131 TREATMENT SERVICES FOR PREGNANT WOMEN

- a. Grantee must give preference in admission to pregnant women who seek or are referred for and would benefit from SUPTRS-funded treatment service.
- b. If the Grantee serves an injecting drug-abusing population, the Grantee must give preference to treatment as follows:
  - i. Pregnant injecting drug users.
  - ii. Other pregnant substance abusers.
  - iii. Other injecting drug users.
  - iv. All others.
- c. The Grantee must refer pregnant women to System Agency when the Grantee has insufficient capacity to provide services to any such pregnant women who seek the services of the program.

- d. Grantee must make interim services available within forty-eight (48) hours to pregnant women who cannot be admitted because of lack of capacity.
- e. Grantee must offer interim services, when appropriate, that include, at a minimum, the following:
  - i. Counseling and education about HIV and TB, the risks of needle-sharing, the risks of transmission to sexual partners and infants, and steps that can be taken to ensure that HIV and TB transmission does not occur.
  - ii. Referral for HIV or TB treatment services, if necessary.
  - iii. Counseling pregnant women on the effects of alcohol and other drug use on the fetus.
  - iv. Refer pregnant women for prenatal care.

E. 45 CFR § 96.132 ADDITIONAL REQUIREMENTS

- a. Grantee must make continuing education in substance abuse treatment and prevention available to employees who provide the services.
- b. Grantee must have in effect a system to protect patient records from inappropriate disclosure, and the system must:
  - i. Comply with all applicable state and federal laws and regulations, including 42 CFR Part 2; and
  - ii. Include provisions for employee education on confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosure.

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**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 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

<p>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>DocuSigned by:    <small>44E60E40218E463</small></p>	<p>TITLE</p> <p>Chief Executive Officer</p>
<p>APPLICANT ORGANIZATION</p> <p>Permian Basin Community Centers for MHMR</p>	<p>DATE SUBMITTED</p> <p>August 28, 2023</p>

### 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**

Permian Basin Community Centers for Mental Health & Mental Retardation

**\* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE**

Prefix:  \* First Name: Chris Middle Name:

\* Last Name: Barnhill Suffix:

\* Title: Chief Executive Officer

**\* SIGNATURE:**

DocuSigned by:  
*Chris Barnhill*  
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\* DATE: August 28, 2023