

Guardianship Services

SIGNATURE DOCUMENT FOR
TEXAS HEALTH AND HUMAN SERVICES
CONTRACT No. HHS001313900003
UNDER THE SOCIAL SERVICES BLOCK GRANT PROGRAM

I. PURPOSE

The **HEALTH AND HUMAN SERVICES COMMISSION** (“HHSC” or “System Agency”), an administrative agency within the executive branch of the State of Texas and having its principal office at 4900 North Lamar Boulevard, Austin, Texas 78751, and Family Eldercare (“Grantee”), having its principal office at 1700 Rutherford Lane, Austin, Texas 78754, each a “Party” and collectively “the Parties,” enter into the following contract for Guardianship Services (the “Contract”).

II. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of *Texas Government Code* Chapter 531 and *Texas Human Resource Code* §161.103.

III. STATEMENT OF SERVICES TO BE PROVIDED

Grantee shall perform or cause to be performed Guardianship Services in accordance with the Statement of Work and Payment for Services, attached hereto and incorporated herein as **Attachments A and B**, respectively.

IV. DURATION

The Contract is effective on September 1, 2023 and terminates on **August 31, 2024**. Thereafter, subject to the availability of funds, this contract shall **automatically renew for two (2) successive two (2) year terms**, unless terminated earlier pursuant to the terms and conditions of the Contract.

V. PAYMENT FOR SERVICES PROVIDED

All expenditures under the Contract will be in accordance with **Attachment B, Payment for Services Provided**.

VI. CONTRACT REPRESENTATIVES

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

Grantee

Family Eldercare
TIN 17422863872
Dr. Aaron Alarcon
1700 Rutherford Lane, Austin TX 78754
Guardianship Services
(512) 450-0844
Aalarcon@familyeldercare.org

HHSC

James Hendon, CTCM
622 S. Oakes Street; MC-2777
(325) 213 -3856
james.hendon@hhs.texas.gov

Either Party may change its designated contract Representative by providing written notice to the other Party.

VII. LEGAL NOTICES

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

Grantee

Family Eldercare
Dr. Aaron Alarcon
1700 Rutherford Lane
Austin, Texas 78754
Aalarcon@familyeldercare.org

System Agency

Office of Guardianship Services
James Hendon
622 South Oakes St., Ste. E-1
San Angelo, Texas 76903
james.hendon@hhs.texas.gov

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

VIII. ADDITIONAL GRANT INFORMATION

Federal Award Identification Number (FAIN): **93.667**
Federal Award Date: **FY 2024**
Name of Federal Awarding Agency: **U.S. Department of Health and Human Services**
CFDA Name and Number: **Maxine M. Maloney, (202) 401-7231**
Awarding Official Contact Information: **Office of Grants Management**
330 C Street, S.W. Washington, DC 20201

IX. Authority

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

X. DISPUTE RESOLUTION

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

**SIGNATURE PAGE FOR THIS HHSC CONTRACT
No. HHS 001313900003**

SYSTEM AGENCY
HHS - Office of Guardianship

GRANTEE
Family Eldercare

DocuSigned by:
Rosa Berumen
54AE728B1FE142A...

DocuSigned by:
Aaron Alacron
95DE08F420A44C4...

Signature

Signature

Printed Name: Rosa Berumen

Printed Name: Aaron Alacron

Title: OGS Director

Title: CEO

Date of Execution: July 20, 2023

Date of Execution: July 20, 2023

The following attachments to this contract are hereby attached and incorporated by reference:

Attachment A - Statement of Work and Payment for Services Provided

Attachment B - Open Enroll

Attachment C - Grantee's Solicitation Application

Attachment A
STATEMENT OF WORK

1. Program Purpose

The purpose of the HHSC's Office of Guardianship Services ("HHSC-OGS") program is to provide guardianship services for aged and disabled individuals: who are appropriate for and in need of HHSC guardianship services; having no less restrictive alternative or supports and services available and feasible to avoid guardianship; having no qualified alternate guardian; for whom guardianship provides an effective remedy to abuse, neglect or exploitation or effectively meets the individual's needs; having private assets to meet expenses or government benefits sufficient to provide support; and who have been found incapacitated by a court of law.

For the purposes of this Contract, Guardianship Services means giving the guardian limited or full authority over a ward, depending on the extent of the incapacity, for an indefinite term. The ward retains only those legal and civil rights not removed by the court order.

2. Grantee Requirements

To participate as a provider under this Contract, a Non-Profit Grantee must:

- 2.1 Ensure the duties set forth in the court order are followed.
- 2.2 Ensure the Grantee, rather than the Grantee's employee or volunteer, must be a appointed by the court as guardian of the person.
- 2.3 Not request the guardianship be modified or ask the court to appoint its employee or volunteer as guardian without the express written consent of HHSC- OGS
- 2.4 Manage the individual according to the court order appointing the Grantee
 - 2.4.1 Having physical possession of the individual;
 - 2.4.2 Caring for, supervising, and protecting the individual;
 - 2.4.3 Providing food, clothing and shelter paid for by the individual's estate or government benefits;
 - 2.4.4 Consenting to medical, surgical, and psychiatric care, except for in-patient psychiatric commitment;
 - 2.4.5 Developing an annual service plan that ensures appropriate habilitation and rehabilitation services, including therapy, counseling, education, and training to the extent permitted by the individual's funds;
 - 2.4.6 Encouraging the individual to participate in the development of the service plan to he extent he or she is capable;
 - 2.4.7 Building an adequate support system for the individual, including family, friends, and other appropriate collaterals;

- 2.4.8 Having monthly status contacts with the individual, which must occur in the individual's various environments;
 - 2.4.9 Consulting with service providers periodically;
 - 2.4.10 Documenting case actions in files maintained for each individual; and
 - 2.4.11 Complying with the requirements of Texas Estates Code Chapter 1151, regarding, Rights, powers, and duties under guardianship of the person that is available online and can currently be accessed at:

<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1151.htm>.
- 2.5 Arrange for care and services for the individual based upon the individual's identified needs and with the goal of enhancing the individuals quality of life.
- 2.6 Ensure the individual has access to basic care and services to the extent the Individuals resources will allow, including:
- 2.6.1 A safe, clean environment;
 - 2.6.2 Assistance in performing basic life functions;
 - 2.6.3 Regular, nutritious meals;
 - 2.6.4 Any needed medical, psychiatric, habilitative, or other services; and
 - 2.6.5 Adequate supervision.
- 2.7 Ensure a service plan is developed by a certified guardian to address the needs of each of each individual referred by HHSC-OCS and ensure the service plan is updated at least annually.
- 2.7.1 The certified guardian must develop an initial service plan within 90 calendar days from taking the oath of guardianship.
 - 2.7.2 The certified guardian must update the service plan annually.
 - 2.7.3 The service plan must include the following:
 - a. Brief description of the current status of the individual; and
 - b. Description of the needs of the individual in each of the following areas:
 - i) Living arrangements and basic care;
 - ii) Medical, dental, vision, mental health, and intellectual disability services;
 - iii) Family, social and recreational needs;
 - iv) Financial and legal services;
 - v) Diet and clothing preferences and needs;
 - vi) The plan or strategy for meeting the needs of the individual; and
 - vii) Actions taken to date to accomplish the plan.
 - 2.7.4 The Grantee must ensure the service plan is developed:
 - a. In a culturally competent manner to meet the individual's needs within the individual's cultural context; and
 - b. Using resources such as family systems, natural helping networks, and formal institutions within the individual's community, churches and social organizations whenever possible and appropriate.
 - 2.7.5 The Grantee must ensure services are provided by persons who can adequately communicate with the individual.
 - 2.7.6 The Grantee must address, and whenever possible, reflect the cultural differences in the individual's diet and clothing.

- 2.7.7 The Grantee must ensure the religious needs of the individual are reflected in the service plan.
- 2.7.8 Funeral planning for the individual must reflect the cultural and religious values of the individual and the individual's family whenever possible.

2.8 The Grantee must perform the following case management responsibilities:

- 2.8.1 The Grantee must assign a certified guardian to each individual served under the contract with HHSC-OGS.
- 2.8.2 The Grantee must assign a person who is a certified guardian as a back-up for the primary certified guardian to ensure the ability to respond in a timely fashion in the event of an emergency.
- 2.8.3 The Grantee must ensure the certified guardian performs all duties in accordance with the responsibilities outlined in the order granting guardianship. The certified guardian:
 - a. Ensures each individual referred by HHSC-OGS has access to adequate care protection, and services based upon identified needs and the service plan;
 - b. Makes medical decisions such as authorizing major surgery, addressing life-threatening illness, or approving treatment options;
 - c. Completes annual reports of the guardian of the person;
 - d. Resolves issues or problems impacting the individual;
 - e. Considers the individual's wishes and choices when decisions are being made about the individual;
 - f. Maintains documentation of face-to-face visits;
 - g. Informs the appropriate HHSC and agency staff concerning major issues involving the individual and documents all actions in the individual's record;
 - h. Ensures cases are closed or transferred with documentation that is complete and up-to-date;
 - i. Ensures transfers are pre-approved by HHSC; and
 - j. Ensures each individual is given a copy of the Texas Guardianship Bill of Rights annually and has it explained to them in their native language and is furnished contact information for various entities as established in the Bill of Rights.
- 2.8.4 The Grantee must assess and document the status of the individual monthly beginning with the month of referral from HHSC-OGS and continuing throughout the duration of the guardianship. A certified guardian is the only one who can perform these monthly assessment duties. The monthly face-to-face status contact must be made in the individual's various environments such as home, day care, workshop, etc. The monthly status contact documentation must address:

The location and the individuals present appearance;
Date of the face-to-face meeting;
A review of needs and services;
The current status of the individual;
Any changes regarding service needs of the individual; and
Any efforts to resolve areas of concerns and issues.

2.8.5 The Grantee must also:

- a. Ensure the individual referred by HHSC-OGS receives income and benefits to which he or she is entitled;
- b. Establish and monitor financial accounts, including trust accounts;
- c. Arrange for payment of bills;
- d. If the Grantee is the U.S. Social Security Administration (“SSA”) representative payee or U.S. Department of Veterans Affairs (“VA”) fiduciary, keep a register current for checking and savings accounts and include such items as bank drafts, automatic payments, amount of check, interest earned, payee, and other appropriate financial entries, as information becomes available;
- e. If the Grantee selects a SSA representative payee or VA fiduciary other than the Grantee, ensures the payee or fiduciary is appropriate and able to serve, monitors the service including trust accounts, changes the payee or fiduciary as needed, reports issues to HHSC-OGS and SSA or VA, law enforcement or other agencies as applicable, and Establish an audit trail and maintain accurate and complete records for, but not limited to, the Internal Revenue Service, United States Social Security Administration, and U.S. Department of Veterans Affairs, to ensure the Grantee accounts for financial activity.

2.9 The Grantee is required to complete the Report of a Death/Service Termination (Ward Status update to report the death or termination of a guardianship of an individual referred by HHSC-OGS). The Grantee is require to email the report form to the attention of the HHSC designed contract Representative or designee by the next working day after learning of the death The 60-day time frame allowing the Grantee to complete case activities and be discharged as guardian begins on the date of death. When a guardianship is terminated, HHSC-OGS will remove the individual's name from the billing system on the date indicated on the reporting form. If an Overpayment occurs due to a delay in the Grantee reporting a death, the overpayment may be recovered in a variety of ways at the discretion of HHSC-OGS up to and including a possible vendor hold. It is of the utmost importance for deaths to be reported promptly by the Grantee.

2.10 Develop and submit for approval, a quality assurance plan to monitor internal and external systems of operations. This quality assurance plan must describe the Grantee's internal and external systems forongoing monitoring of policies and procedures to ensure the following:

- 2.10.1 Consistency and quality of care provided to individuals referred by the HHSC - OGS; and
- 2.10.2 Compliance with:
 - a. The Texas Estates Code as appropriate;
 - b. Judicial Branch Certification Commission Minimum Standards of Guardianship;

- c. Other requirements imposed by the courts; and
- d. Other program policies, rules, standards, and Guardianship Provider

Handbook. The Grantee must review its quality assurance plan annually for improvement in the program's operations and revise the plan in accordance with best practices and acceptable standards. Revised and updated plan must be submitted to HHSC-OGS for approval.

2.11 The Grantee must report allegations of abuse, neglect, or exploitation of an individual referred by HHSC-OGS to the appropriate investigative authority and to the HHSC-OGS designee. The report must be made immediately, but not more than 24 hours after learning of the allegation, to the appropriate investigative authority. The report to the HHSC-OGS designee must indicate the specific suspected abuse, neglect, or exploitation reported to the investigating authority and what actions have been taken to ensure the health and safety of the individual.

If the alleged perpetrator is the Grantee's employee, the Grantee must:

- 1) Remove the employee from contact with HHSC-OGS individual until all allegations have been investigated and resolved;
- 2) Take appropriate action if an allegation of abuse, neglect, or exploitation is found to be valid;
- 3) Document the findings; and
- 4) Re-orient the employee before he or she works again with HHSC-OGS individuals if the appeal process determines the employee was not the perpetrator.

2.12 The Grantee must ensure documentation requirements are met. These records must meet the following requirements:

2.12.1 The Grantee must maintain financial and contract-related records:

- a. According to recognized fiscal and accounting practices; and
- b. In accordance with HHSC-OGS rules and contract requirements.

2.12.2 The Grantee must document interactions with an individual referred by HHSC-OGS

- a. as soon as possible after the interactions. The documentation must:
- b. Be dated the day it is written;
- c. Indicate the date of the interaction; and
- d. Be signed by or otherwise identify the individual having contact.

2.12.3 The Grantee must have data readily accessible, and there must be reasonable means to retrieve the data in case of electrical outage or equipment failure.

2.12.4 The Grantee must not pre-print or pre-enter any record of time on a form used to document all required elements of the services delivered, as provided in the program rules.

2.12.5 Records must include:

- a. Identifying information for the individual including: (1) name, (2) address, (3) date of birth, (4) phone number, (5) guardianship status, (6) sex, (7) race, (8) citizenship, (9) marital status, (10) social security number, (11) Medicaid number, (12) a list of allies, and (13) involved family members;
- b. Copies of all legal documents related to the individual, preferably file-stamped copies of documents that are file-stamped by the court in the local area when submitted;
- c. Copies of all financial records, including trust fund statements receipts of disbursements, bank accounts and investment statements, and other similar financial records;
- d. Documentation of all case actions, including monthly status updates; the documentation presents a sequential record of events occurring in the ward's life; documentation discuss all of the following main areas: physical, mental, legal, social, environmental and medical;
- e. Case actions, including the monthly status update, which must be documented within ten (10) working days after the activity;
- f. Significant incidents regarding progress, illnesses, and accidents that may be used as part of the service plan for the individual;
- g. Termination records and transfer summaries;
- h. Copies of information documenting that the Grantee is performing its duties as representative payee, which are identified in Section 2.8 above; and
- i. Individual status updates identifying abuse, neglect, or exploitation incidents referred to the appropriate investigative authority.

2.12.6 The Grantee must maintain personnel records on every employee and volunteer.

2.12.7 The Grantee must maintain a complaint log that includes, at a minimum, the name of the reporter, date of the complaint, the type of complaint, and the outcome.

2.13 The Grantee must ensure each new employee and volunteer receives an orientation, initial training, and ongoing training. The training must comply with the requirements in the HHSC Guardianship Services Program rules in 26 Texas Administrative Code, Part 1, Chapter 361. Guardianship Services Program rules in 40 Texas Administrative Code, Part 1, Chapter10, Subchapters 311 and 313.

2.14 The Grantee must ensure a volunteer who serves as a guardian for HHSC-OGS individuals must be certified by the Judicial Branch Certification Commission. Volunteers who are not certified guardians may only be used to provide life enhancement services to HHSC-OGS individuals. All volunteers who serve HHSC-OGS individuals must be trained, supervised, and monitored by a certified guardian.

2.14.1Grantees designating volunteers to perform guardianship duties must:

- a. Ensure the volunteer is a certified guardian;
- b. Ensure the volunteer does not assume responsibility for a HHSC-OGS

individual until documentation and observation indicate the volunteer is qualified to work with the individual;

- c. Ensure documentation of activities is thorough and complete and is reviewed and signed by the volunteer's supervisor;
- d. Ensure the volunteer completes and documents monthly status contacts; and
- e. Ensure the volunteer protects the health and safety of the individual.

2.14.2 Grantees designating volunteers to perform life enrichment services to HHSC-OGS individuals must ensure the following:

- a. The assigned supervisor does not allow the volunteer to provide guardianship services to the individual and only approves the provision of life enhancement services;
- b. The volunteer's work is reviewed through documentation that is co-signed by the supervisor and by observation of the volunteer's assigned individuals and of the activities performed;
- c. Contacts with the individual are documented;
- d. A monthly supervision session with the volunteer occurs and is documented; and
- e. The volunteer protects the health and safety of the individual.

2.15 The Grantee must ensure that the records and related information of individuals

referred by HHSC-OGS are maintained in a confidential manner. The Grantee must comply with the confidentiality requirements set forth in the HHSC-OGS rules, 26 *Texas Administrative Code*, Part 1, Subchapter D.

3. Service Delivery Area(s)

Geographical area(s) to be served- The Non-Profit Grantee must identify the HHSC region(s) by number intending to serve including a table of all counties within those HHSC region(s) to be served. See list below. The Grantee may serve all counties identified in each region(s) or may select one or more counties to serve. The Grantee may not serve a part of a county. The Grantee must maintain a physical address in the HHSC region(s) served under the contract. If service is proposed for an area not listed in the table below, the Grantee must identify the region(s) and county on the application submitted for this enrollment.

HHSC Service Region(s) Counties Served Maximum Number of Wards Served: 53

Table 1: Counties Currently Serviced by HHSC Guardianship Contractors		
PROVIDER AREA	HHSC REGION SERVED	COUNTIES SERVED
A	02	Brown, Callahan, Coleman, Comanche, Eastland, Erath, Fisher, Jones, Nolan, Runnels, Shackelford, Stephens and Taylor.
B	03	Tarrant.
C	03	Cooke, Denton, Fannin, and Grayson.
D	03	Collin, Dallas, Hunt, Kaufman, and Rockwall.
E	04	Anderson, Cherokee, Gregg, Henderson, Rusk, Smith, Upshur, and Van Zandt.
F	05	Angelina
G	06	Ft Bend and Wharton
H	07	Travis, Hayes and Williamson
I	07	Bastrop, Bell, Bosque, Brazos, Brown, Burleson, Caldwell, Coryell, Falls, Fayette, Freestone, Hamilton, Hill, Lee, Lampasas, Leon, Limestone, McLennan, Milam, Navarro, Robertson, and Washington
J	08	Bexar, Comal, Guadalupe, Kendall, Medina and Real
K	10	Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, and Presidio
L	11	Nueces

Harris County has been excluded from this procurement.

Eligible Population

Individuals who receive guardianship services (wards) who are appropriate for and in need of HHSC guardianship services; having no less restrictive alternative or supports and services available and feasible to avoid guardianship; having no qualified alternate guardian; for whom guardianship provides an effective remedy to abuse, neglect or exploitation or effectively meets the individual's needs; having private assets to meet expenses or government benefits sufficient to provide support; and who have been found incapacitated by a court of law as defined by the *Texas Estates Code* §1002.017.

4. Service Delivery (Handling Referrals and Initiating Services)

A Grantee must accept all referrals from HHSC-OGS for individuals who satisfy the criteria identified in its contract and take the oath of guardianship if appointed as guardian by a court with authority over the guardianship.

When making referrals to a Grantee, HHSC-OGS will determine which individuals meet the Grantee's criteria. If the Grantee believes that HHSC-OGS has erred in making this determination, the Grantee may seek to have the referral rescinded by notifying the HHSC designated contract Representative by email. HHSC-OGS program manager will decide whether or not to rescind the referral. HHSC-OGS will furnish the Grantee a notice of its decision by email. HHSC designated contract Representative will make this decision within seven (7) calendar days from the date of referral. If the referral is not rescinded by HHSC, the Grantee must accept the referral.

For each referral, HHSC-OGS will provide the Grantee with the information described in section 1000 of the Guardianship Provider Handbook, which is available online and can currently be accessed at: <https://www.hhs.texas.gov/handbooks/guardianship-provider-handbook/section-1000-a-referral-guardianship-contractors-procedures>.

The Grantee shall visit each individual referred by HHSC-OGS within seven (7) calendar days of receiving the referral for the initial face-to-face contact. If the Grantee seeks to have the referral rescinded and HHSC-OGS program manager does not rescind the referral, the Grantee must visit the individual referred by HHSC-OGS within seven (7) calendar days of receiving the notice of the HHSC-OGS program manager's decision.

5. Responsibilities

The responsibilities as outlined in the proceeding sections are not all-inclusive but reflect a high-level overview of items required to establish qualified Grantees as the successor guardian. The responsibilities outlined in Section 6.2 below represent the process for deliverables associated with accepting referrals from HHSC-OGS. The successor guardianship process is complete and this deliverable has been met when the court appoints the Grantee as successor guardian, the oath of guardianship is taken, and the letters of guardianship are issued to the Grantee.

HHSC-OGS reserves the right to authorize Grantee to serve any number of individuals up to the number indicated in the Grantee's response to Open Enrollment. HHSC-OGS cannot guarantee a minimum number of referrals each month. It is in HHSC-OGS's sole discretion to determine if the individuals who need guardianship services are appropriate for referral to a Grantee.

6. HHSC Responsibilities

- 6.1.1 HHSC-OGS will file an application to resign as guardian;
- 6.1.2 HHSC-OGS will file a Final Report of the Person;
- 6.1.3 HHSC-OGS will transfer case related information as appropriate and within the scope of statute to the Grantee;
- 6.1.4 HHSC-OGS will monitor contract performance and compliance, at least annually; and
- 6.1.5 Prior to making a referral to a qualified Grantee, HHSC-OGS will review the circumstances of the individual to determine if they appear to be appropriate for referral to the Grantee. For each referral, HHSC will provide to the Grantee a copy of the:
 - a. Grantee Referral Form, which includes the contact information for the referred individual, the names of known family members, known financial resources and benefits, other interested parties, type of guardianship needed, and other relevant, available information;
 - b. Certificate of medical examination or determination of intellectual disability from a physician or psychologist;
 - 1. HHSC-OGS guardianship assessment; and
 - 2. Other documents determined to be helpful and appropriate.
- 6.1.6 HHSC-OGS will only refer Guardian of the Person referrals.

6.2 Grantee Responsibilities

- 6.2.1 Accept all referrals from HHSC-OGS unless the OCS Unit Manager agrees to rescind.
- 6.2.2 Apply with a court to be appointed as successor guardian.
- 6.2.3 Serve the referred individuals only in the service areas identified in the contract unless the HHSC-OGS OCS Unit Manager approves alternate service area. The Grantee must continue to serve the individual in the approved alternate service area.
- 6.2.4 Not transfer an individual to an area not served by the Grantee without the express written permission of HHSC-OGS.
- 6.2.5 Not resign as Guardian without the expressed written permission of HHSC-OGS.
- 6.2.6 At the discretion of HHSC-OGS, a ward currently being served by one HHSC-OGS grantee may be successored to another HHSC-OGS grantee due to necessary relocation of the individual being served. The following requirements must be met before successor action is taken:
 - a. Move must be approved by HHSC-OGS in advance;
 - b. Grantee has the option to decline; and
 - a. Grantee must have an open slot available
- 6.2.7 A Grantee must develop, implement and adhere to the requirements outlined in the scope of work, any specific contract provisions, and the Guardianship Provider Handbook. The handbook is available online and can currently be accessed at: <https://www.hhs.texas.gov/handbooks/guardianship-provider-handbook/section-1000-a-referral-guardianship-contractors-procedures>

6.2.8 The disaster plan must be maintained and updated annually unless significant changes are made. Plan will be reviewed annually during the Grantee's Annual Contract Monitoring Review. If no Disaster plan exists, the Grantee must provide one within 90 days of being awarded a contract. The plan must include, at a minimum, eight core functions from the following list:

- a. Emergency evacuation transportation;
- b. Adequate sheltering arrangements;
- c. Supplies;
- d. Staffing;
- e. Emergency equipment;
- f. Identification of residents (and, for adult day care facilities, transfer of records);
- g. Responding to HHSC-OGS inquiries; and
- h. Post-disaster activities (including emergency power, food, water, and transportation).

The disaster plan must be approved by the HHSC-OGS. Once approved, the plan must be maintained and updated annually unless significant changes are made. Plan will be reviewed annually during the Contractor's Annual Contract Monitoring Review.

This plan should be implemented during natural disasters or any other emergency situation, where the health, safety, and security of each individual is at risk. If plan is not adhered to during an emergency, HHSC may put Grantee on referral hold until further review and/or termination.

6.2.9 Grantee will not use subcontractors to perform any part of work covered under this Grant.

7. Guardianship Certification

Grantee and all grantee agents providing guardianship services must have and maintain a guardianship certification and meet the JBCC requirements and the definition of a non-profit. For more information on the Judicial Branch Certification Commission's Guardianship Certification requirements please see the JBCC website. <https://www.txcourts.gov> Per the IRS tax code and for the exempt purposes set forth in Section 501(c)(3) are charitable, religious, educational, scientific, literary testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. For more information on the definition of a 501(c)(3) please see the IRS website. <http://www.irs.gov>

7.1 Definitions

- a. Certified guardian means a person who is certified by the Commission to provide guardianship services in this State.

- b. Corporate fiduciary has the meaning assigned by Section 1002.007 of the Estates Code.
- c. Engaged in the business of providing guardianship services means to perform, offer to perform, or advertise the performance of guardianship services for compensation.
- d. Guardian has the meaning assigned by Section 1002.012 of the Estates Code.
- e. Guardianship program means a corporation; partnership; firm; other business entity; local, county, or regional agency; or nonprofit entity that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs. This definition does not apply to service-providers that provide guardianship services pursuant to a contract with the Health and Human Services Commission Office of Guardianship.
- f. Guardianship services means conducting, performing, or administering the duties and powers prescribed by the Estates Code or under a court order in a guardianship matter.
- g. Incapacitated person has the meaning assigned by Section 1002.017 of the Estates Code.
- h. Code of Ethics and Minimum Standards for Guardianship Services means the document titled "Code of Ethics and Minimum Standards for Guardianship Services" promulgated under Section 155.101 and Section 155.152 of the Government Code.
- i. Mediator means a person who mediates disputes arising under Title 3 of the Estates Code.
- j. Mediation Trainer means a person who trains Mediators.
- k. Private professional guardian means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.
- l. Provisionally certified guardian means a person who has received provisional certification to provide guardianship services in this State from the Commission.
- m. Supervisor means a certified guardian who has notified the Commission that he or she will be responsible for overseeing a provisionally certified guardian.
- n. Volunteer means a person who renders guardianship services on behalf of a guardianship program or on behalf of the Health and Human Services Commission Office of Guardianship and who does not receive compensation that exceeds the authorized expenses that the person incurs in performing those services.
- o. Ward has the meaning assigned by Section 1002.030 of the Estates Code.

8. Program Requirements

8.1 To participate as a provider under this Contract, a Non-Profit Grantee must meet the definition of a “guardianship program” as defined by *Texas Government Code* §155.001(4). A guardianship program is defined as a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs. In addition, the Grantee must agree to the following:

8.1.1 To comply with the HHSC-OGS rules for guardianship services in 26 *Texas Administrative Code*, Part 1, Chapter 361.

- 8.1.2 To have employees or volunteers who are certified guardians through Judicial Branch Certification Commission (“JBCC”) and meet the minimum standards for guardianship services established by the JBCC.

8.2 Requirements of Certification

- a. To provide guardianship services in this State, the following individuals must be certified by the Commission:
 1. an individual who is a private professional guardian;
 2. an individual who will provide those services to a ward of a private professional guardian or to a ward of an attorney who is appointed guardian on the guardian's behalf;
 3. an individual who will supervise the provision of those services to a ward of a guardianship program;
 4. an individual who will provide or supervise the direct provision of those services to a ward on behalf of the Health and Human Services Commission Office of Guardianship; and
 5. a person who at any time supervises direct providers of guardianship services, unless the person is an attorney or corporate fiduciary exempt under Section 155.001(6) of the Government Code
- b. To be eligible for certification, a person must:
 1. satisfy the requirements of Section 3.0 of these rules;
 2. be at least 21 years of age;
 3. be a high school graduate or possess the GED equivalent;
 4. satisfy the requirements of (A), (B), or (C) below:
 - A. have two years of relevant work experience related to guardianship or;
 - B. have met the following education or training requirements:
 - i. a minimum of a bachelor's degree conferred by a college or university accredited by an organization recognized by the Texas Higher Education Coordinating Board in a field related to guardianship; or
 - ii. completion of a course curriculum or training specifically related to guardianship approved by the Commission; or
 - C. have one year of work experience related to guardianship and completion of a course curriculum or training specifically related to guardianship approved by the Commission;
 5. successfully pass, after no more than four exam attempts, an examination approved by the Commission that covers Texas law and procedure related to guardianship and any other examination required and approved by the Commission testing knowledge of guardianship issues;
 6. attest under penalty of perjury whether he or she has ever been adjudged guilty of, or entered a plea of guilty or no contest in return for a grant of deferred adjudication with respect to, any felony or misdemeanor offense, which will be considered using the factors listed in Rule 3.5 of the Judicial Branch Certification Commission;
 7. attest under penalty of perjury whether he or she:

- A. has ever been relieved of responsibilities as a guardian or fiduciary by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion;
 - B. has ever been found civilly liable or settled a claim in an action, including but not limited to a surcharge action, that involved allegations of fraud, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion on the applicant's part;
 - C. has ever been denied certification or had his or her certification revoked or suspended in Texas or any other jurisdiction that requires certification, registration, or licensure to provide guardianship services; or
 - D. has ever surrendered his or her certification in Texas or any other jurisdiction that requires certification, registration, or licensure to provide guardianship certification; and
8. complete the online training available on the Judicial Branch Certification Commission website under Rule 10.3
- c. If any of the circumstances described in (b)(6) or (7) exist, the applicant must describe the circumstances with particularity and provide any related documentation requested by the Commission.
 - d. Examination.
 1. An individual who has failed the exam four times is not eligible for certification unless the individual petitions the Commission in writing for permission to take the exam again. The petition must set out in detail all facts that support the request, demonstrate that the individual has completed all other requirements for certification except for passing the exam and demonstrate that no other impediments to certifications exist.
 2. The Commission must consider the petition at its next regularly scheduled meeting and determine, without a formal hearing, whether permission to take the exam again will be granted or denied. The Commission may impose conditions to granting permission, including requiring the petitioner to provide additional information or complete specified continuing education prior to taking the exam again. If an individual fails or refuses to strictly and completely comply with the conditions specified by the Commission, permission to take the exam again will be denied.
 3. An individual may petition the Commission only one time for permission to take the exam following four unsuccessful attempts. An individual who is granted permission to take the exam again and who fails the exam again is not eligible for certification. If the Commission denies permission to take the exam again, the individual is not eligible for certification.
 4. The decision of the Commission is final and is not subject to appeal, reconsideration, or any further action.
 - e. Notwithstanding Rule 7.2(a), an individual who must be certified but does not meet the requirements for certification under Rule 7.2(b) may provide guardianship services in this State if the person obtains provisional certification pursuant to Rule 7.4 of the Judicial Branch Certification Commission.
 - f. Notwithstanding any other provision of these rules:
 1. pursuant to Section 1104.253 of the Estates Code, a family member or friend of an incapacitated person is not required to be certified under these rules to serve as the

- person's guardian; and
- 2. an employee of the United States Department of Veterans Affairs appointed to serve as a guardian for an incapacitated person is not required to be certified under these rules to serve as the person's guardian.
- g. A certified guardian may use the designation "TxCG" to indicate that the guardian is certified by the Commission. Provisionally certified guardians may not use such designation.

9. Staff Qualifications

- 9.1 The Grantee must employ an adequate number of qualified case managers to provide guardianship services to the individuals referred by HHSC-OGS. The case managers who serve as agents for the Grantee (Guardian) for individuals or who supervise those who serve as agents for the Grantee (Guardian) for individuals must be certified by the Judicial Branch Certification Commission, as required in *Texas Government Code* §155.102.
- 9.2 Background Checks- The Grantee must submit a request for a background check through HHSC-OGS, for any prospective employees or volunteers who may have access to a ward or the benefits of a ward referred from HHSC-OGS. A Grantee must not make an offer of employment to a prospective employee or to allow a prospective employee or volunteer to have access to a HHSC-OGS ward or the benefits of the ward until HHSC notifies the Grantee of the person's eligibility for employment or eligibility to serve as a case manager or volunteer with HHSC-OGS wards; and
 - 9.2.1 On an annual basis, the Grantee must request a background check through HHSC- OGS for an employee or volunteer with access to a ward or the benefits of a ward referred by the HHSC Office of Guardianship Services.
- 9.3 On a monthly basis, the Grantee must search the Federal and State List of Excluded Individuals/Entities ("LEIE") for the names of any individuals the Grantee pays to perform services under the contract with HHSC-OGS. This includes the names of volunteers who perform services under the contract with HHSC-OGS and who are reimbursed for expenses associated with providing those services. If the Grantee finds the name of any individual the Grantee pays to perform services under the contract on the Federal or State LEIE, the Grantee must stop paying the individual to perform services under the contract and immediately report the identity of the individual to HHSC Office of Inspector General ("HHSC-OIG"). The Grantee must also maintain documentation of the monthly searches and its actions in response to the results of the monthly searches. Detailed information is provided in Section 3700 of the HHSC Guardianship Services Program Handbook regarding making reports to HHSC-OIG and maintaining documentation. The Guardianship handbook is available on the HHSC website currently accessible. <https://www.hhs.texas.gov/handbooks/guardianship-provider-handbook/section-1000-a-referral-guardianship-contractors-procedure>. The Federal LEIE is publicly available on the U.S. Department of Health and Human Services Office of Inspector General Website maintained at: https://oig.hhs.gov/exclusions/exclusions_list.asp.

10. Performance Measures and Associated Remedies

10.1 HHSC-OGS will actively monitor the performance of this Contract. All services and deliverables under this Contract shall be provided at an acceptable quality level and in a manner consistent with the Estates Code, the Human Resources Code, HHSC rules and policies applicable to guardianship grantees, and with acceptable industry standard, custom, and practice. The services provided will be measured against the standards of practice established by the JBCC, the guardianship services standards promulgated by the HHSC Guardianship Services Program, and the contracted entity's quality assurance plan.

10.2 Contract Performance Reviews- Grantee will comply with contract performance review efforts by HHSC-OGS contract personnel. Contract performance reviews will include, at a minimum, the activities listed below:

10.2.1 Review of individual's case records and other service documentation of the Grantee;

10.2.2 Interviews with agency staff, collaterals, individuals served, caregivers, and family members;

10.2.3 Review of the Grantee's personnel records, including records pertaining to minimal qualifications and training;

10.2.4 Review of the Grantee's policies and procedures manual;

10.2.5 Review of the Grantee's quality assurance plan for internal and external validations of systems and operations;

10.2.6 Review of the Grantee's complaint logs and tracking procedures; and 9.2.7 Review of reported allegations of abuse, neglect, and exploitation.

PAYMENT FOR SERVICES PROVIDED

1. Payment for Services

HHSC-OGS will reimburse Grantee at the fixed rate of \$275.00 per month per individual for serving as guardian of the person. Funding is contingent upon allocation by legislature and is not guaranteed.

All payments by the HHSC-OGS under this Contract will be made in accordance with the "Texas Prompt Payment Act," *Texas Government Code* Chapter 2251,

2. Invoicing Process

2.1 Fiscal Management- The Grantee must accept payment from HHSC-OGS as payment in full for services rendered and must:

2.1.1 Not duplicate billing or receipt of other funds;

2.1.2 Not seek or accept reimbursement from a HHSC-OGS individual to whom it provides purchased services; and

2.1.3 Not collect:

a. Payment from an individual referred by HHSC-OGS;

b. Payment under Title 42, Section 405(j)(4), of the United States Code for serving as a representative payee for Social Security or Supplemental Security Income;

c. Payment authorized by the court in accordance with the Texas Estates Code; or

d. Any reimbursement for legal fees or other expenses incurred in providing services under this contract.

2.1.4 Not use HHSC-OGS funds or HHSC-OGS reimbursed staff time to provide guardianship or other services to an individual who has not been referred by HHSC-OGS;

2.1.5 Provide all legal support necessary for the guardianship services contracted by HHSC-OGS;

2.1.6 Provide HHSC-OGS staff access to the results of audits performed on the assets of HHSC individuals; and

2.1.7 Maintain the following documentation to support the monthly billing for guardianship services through HHSC-OGS:

a. Monthly contact notes signed and dated by the case manager;

b. File stamped or other officially sanctioned copy of the letters of guardianship and

c. A current service plan.

2.2 Electronic Billing- HHSC will pay the Grantee monthly using the Claims Management System (CMS), through Texas Medicaid Healthcare Partnership (TMHP). The billing application for HHSC-OGS is TexMed Connect, which is a web-based application. Access requires using the latest version for all web browsers.

HHSC-OGS will enter the name of an individual referred to a Grantee in the CMS when the referral is made to a Grantee. After an individual's name is accepted by the CMS system, the payments will be generated automatically following an on-line request by the Grantee. The information in the CMS system and the Grantee's records must match. The Grantee must notify the HHSC-OGS immediately of any discrepancies.

2.3 HHSC reserves the right to modify this process for billing if necessary. Any changes to the billing process will be communicated to the contracted providers via email. This is a web based program, and there is no access cost for the Grantees. The hardware and software requirements may be updated by HHSC in the future. Notice of any updates will be provided to the Grantees.

3. Reimbursement Timeframes

When the Grantee accepts a referral between the 1st and 15th day of the month, the Grantee will be paid the full monthly rate. Referrals will not be made to a Grantee after the 15th day of a month. If an individual served under this Contract dies or the guardianship is otherwise terminated by the court, the Grantee may bill HHSC for a maximum of sixty (60) days following the death of the individual or termination of the guardianship.

(Remainder of Page Intentionally Left Blank)