

INTERLOCAL COOPERATION CONTRACT
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001440800001

THE DEPARTMENT OF STATE HEALTH SERVICES (“System Agency”) and WICHITA FALLS-WICHITA COUNTY PUBLIC HEALTH DISTRICT (“Local Government”), each a “Party” and collectively the “Parties,” enter into the following contract for the HIV-STI-Rural Healthcare Pilot (the “Contract”) pursuant to the provisions of the “Interlocal Cooperation Act,” Chapter 791 of the Texas Government Code.

I. PARTIES

System Agency

Department of State Health Services
Attention: Lacy Alexander
1100 W. 49th Street, MC 1990
Austin, Texas 78756
Lacy.Alexander@dshs.texas.gov

Local Government

Wichita Falls-Wichita County Public Health District
Attention: Amy Fagan
1700 3rd Street
Wichita Falls, Texas 76301
Amy.Fagan@wichitafallstx.gov

II. STATEMENT OF SERVICES TO BE PROVIDED

The Parties agree to cooperate to provide necessary and authorized services and resources in accordance with the terms of this Contract. Specific services provided are described in **Attachment A – Statement of Work.**

III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on September 1, 2024 and terminates on August 31, 2025, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. The Parties may extend this Contract subject to mutually agreeable terms and conditions.

IV. AMENDMENT

The Parties to this Contract may modify this contract only through the execution of a written amendment signed by both parties.

V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES

The total amount of this Contract shall not exceed \$138,272.00, as provided for in **Attachment B – Budget.**

VI. LEGAL NOTICES

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

System Agency

Department of State Health Services
1100 W. 49th Street, MC 1919, M526
Austin, Texas 78756
Attention: General Counsel

Local Government

Wichita Falls-Wichita County Public Health District
1700 3rd Street
Wichita Falls, Texas 76301
Attention: Amy Fagan

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

VII. CERTIFICATIONS

The undersigned contracting parties certify that:

- (1) The services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;
- (2) Each Party executing this Contract on its behalf has full power and authority to enter into this Contract.
- (3) The proposed arrangements serve the interest of efficient and economical administration of state government; and
- (4) The services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The System Agency further certifies that it has statutory authority to contract for the services described in this contract under Chapters 81, 85, 121, and 1001 of the Texas Health and Safety Code.

The Local Government further certifies that it has statutory authority to contract for the services described in this contract under Chapter 791 of the Texas Government Code.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001440800001**

DEPARTMENT OF STATE HEALTH SERVICES

**WICHITA FALLS-WICHITA COUNTY PUBLIC
HEALTH DISTRICT**

DocuSigned by:
Josh Hutchison
2C308B50E881450...
Signature

DocuSigned by:
Amy Fagan
9DB2DB6BB2474F8...
Signature

Josh Hutchison

Amy Fagan

Printed Name

Printed Name

Associate Commissioner, Infectious Disease Prevention Division

Director of Health

Title

Title

April 19, 2024

April 16, 2024

Date

Date

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO.
HHS001440800001 ARE HEREBY INCORPORATED BY REFERENCE:**

ATTACHMENT A – STATEMENT OF WORK

ATTACHMENT B – BUDGET

ATTACHMENT C – UNIFORM TERMS AND CONDITIONS – GRANT VERSION 3.3

ATTACHMENT D – DATA USE AGREEMENT – TACCHO

ATTACHMENT E – CONTRACT AFFIRMATIONS – VERSION 2.3

ATTACHMENT A STATEMENT OF WORK

I. PROGRAM REQUIREMENTS

Services under this award will be structured to support the following activities:

- HIV, syphilis, and Hepatitis C Virus “HCV” outreach and testing with linkage to HIV care and referral for syphilis and HCV;
- Engagement in care for persons living with HIV;
- Augmented support of HIV and syphilis public health follow-up activities and;
- Provider outreach and education related to HIV, STIs, and HCV.

DEFINITIONS

“Care Plan” means a plan that documents the assistance provided to clients in engaging in care rapidly. These plans are to be developed with clients newly diagnosed with HIV or previously diagnosed who are not currently in care. The plan will have the following components: documenting client need; creation of no more than 3 goals and timelines for completing these goals; documenting tasks, referrals, and services delivered; and identification of supports available to the individual. For the specific requirements of these plans go to “EIS Care Planning” at <https://www.dshs.texas.gov/hivstd/taxonomy/eis.shtm>.

“Engagement in Care” means assisting previously diagnosed clients who are not currently in care with entering HIV related medical care and assistance with making medical appointments and addressing barriers to maintenance in care. May include referrals to non-HIV related services.

“Focused Testing” means programs that are designed to promote testing to priority populations (formerly known as Targeted HIV Testing).

“Linkage to Care” means persons who are tested and receive a positive result for HIV (including preliminary positive results) will be linked to, and assisted in, scheduling an appointment with a provider of the client’s choosing. Successful linkage is measured as attendance at an HIV related medical appointment with a prescribing provider. May include referrals to non-HIV related services.

“Priority Populations” means groups of people that are the primary client population for an intervention or program which are determined by local epidemiological data.

“Referral” means directing clients, regardless of their HIV test result, to relevant and available resources to address their healthcare and social needs. Referrals include but are not limited to Pre-Exposure Prophylaxis (PrEP), HIV case management, mental health services, etc.

“Tangible Reinforcement” means useful tools for reaching underserved populations and engaging vulnerable communities to promote uptake of program services and/or behavioral

health outcomes.

II. GENERAL REQUIREMENTS

Grantee for ALL activities funded under this award will:

- A. Provide a combination of public health activities to support the prevention, diagnosis, and treatment of HIV, syphilis, and HCV within the Wichita Falls Health Services Delivery Area (WF-HSDA) unless noted in Section III: Requirements by Activity;
- B. Conduct activities in accordance with this Program Attachment to ensure activities are provided to appropriate priority populations as directed by DSHS;
- C. Comply with the terms of the approved Work Plan for this Program Attachment;
- D. Ensure activities begin no later than 90 days following the contract start date;
- E. Support local efforts to coordinate prevention, education, testing, and medical or treatment services for HIV, HCV, and syphilis (and other STIs);
- F. Participation in locally relevant Advisory Boards or other community collaboratives to inform programmatic activities;
- G. Make free condoms readily available to those served by this award;
- H. Maintain formal agreements that include active collaboration and coordination with local providers of services that are relevant to the needs of those served including, but not limited to emergency centers, behavioral health programs (including Medication Assisted Treatment programs), detoxification centers, adult and juvenile detention facilities, mental health programs, homeless shelters, migrant health centers, community health centers, health services for the homeless, family planning grantees, nonprofit private entities that provide comprehensive primary care services to populations at risk for HIV, HCV, STI clinics/programs, DSHS Program's HIV prevention contractors, and other venues where HIV infection may be diagnosed;
- I. Establish a Memorandum of Agreement (MOU) with each local HIV direct service agency and/or providers within designated Service Area within 30 days of the effective date of the contract. This memorandum must be designed to facilitate linking individuals who meet Ryan White HIV AIDS Program eligibility criteria (see relevant documents listed in M and N of this section) to local HIV care services programs so that such individuals may receive appropriate services from those programs. The MOU must contain provisions to establish rapid linkage and engagement into care within 72 hours for individuals diagnosed with HIV so that such individuals may obtain medical care, treatment, and antiretroviral treatment (ART) prescriptions quickly and achieve viral suppression;

- J. Ensure staff and volunteers (if applicable) are appropriately and adequately trained to provide relevant services. Participate in DSHS-identified trainings and coaching sessions as directed by DSHS (refer to Section VIII. Training Requirements for additional details);
- K. Provide services to people that are living with HIV that are equitably available and accessible to all people needing services and/or care. Grantee shall not set up eligibility criteria that favor one demographic over another. Grantee will make reasonable efforts to provide office hours and service locations that are accessible to as many clients as possible;
- L. Deliver all services in a culturally competent and sensitive manner, taking low health literacy into account, using the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care. Grantee must implement strategies to ensure that the program is culturally, linguistically and educationally appropriate to meet the needs of the priority population(s), and ensure that program staff have strong socio-cultural identification with the priority populations(s);
- M. Comply with all applicable state and federal policies, standards and guidelines, including, but not limited to:
 - 1. DSHS HIV, STI, and HCV Program Operating Procedures and Standards (POPS) Chapters 1, 2, 3, 7, 9, 14, 15, and 17, as appropriate, including any revision, located at <https://dshs.texas.gov/hivstd/pops/>;
 - 2. DSHS TB/HIV/STI Confidential Information Security policy, TB/HIV/STI Breach of Confidentiality Response Policy, and Breach Report Form/Breach Report Instruction at: <https://www.dshs.texas.gov/hivstd/policy/security.shtm>;
 - 3. DSHS HIV Testing POPS Chapter 1 (<https://www.dshs.texas.gov/hivstd/pops/chap01>);
 - 4. Texas Family Code chapter 261 – Child Abuse Reporting located at <https://www.hhs.texas.gov/providers/wic-providers/child-abuse-reporting>;
 - 5. CDC STI Program Operations Guidelines, located at <http://www.cdc.gov/std/program/gl-2001.htm>;
 - 6. CDC STI Treatment Guidelines, located at [STI Treatment Guidelines \(cdc.gov\)](http://www.cdc.gov/std/treatment-guidelines);
 - 7. Ryan White Part B Contract Guidance, issued December 14, 2011, posted at www.dshs.texas.gov/hivstd/funding/default.shtm;
 - 8. DSHS HIV Assurances located at https://www.dshs.texas.gov/sites/default/files/hivstd/funding/docs/HIV_Contractor_Assurances.pdf;

9. Health Resources Services Administration (HRSA) Program Policy and Clarification Notices located at <https://hab.hrsa.gov/program-grants-management/policy-notice-and-program-letters>;
 10. HIV Core and Support Service Categories (DSHS Standards of Care) and Universal Standards, Sections 1, 2, 3, 4, 5, and 6 contained in the HIV-STI Program Policies located at www.dshs.texas.gov/hivstd/taxonomy/default.shtm;
 11. HIV Core and Support Service Categories (DSHS Standards of Care) and Universal Standards, Sections 1, 2, 3, 4, 5, and 6 contained in the HIV-STI Program Policies located at www.dshs.texas.gov/hivstd/taxonomy/default.shtm;
 12. DSHS Eligibility to Receive HIV Services, contained in the HIV-STI Program Policies located at <https://www.dshs.texas.gov/hivstd/policy/policies/220-001>;
 13. HIV Health Insurance Assistance, contained in the HIV-STI Program Policies located at <https://www.dshs.texas.gov/hivstd/policy/policies/260-002>;
 14. DSHS Funds as Payment of Last Resort, contained in the HIV-STI Program Policies, located at <https://www.dshs.texas.gov/hivstd/policy/policies/590-001>;
 15. Ryan White HIV/AIDS Program Part B Manual, located at <http://hab.hrsa.gov/sites/default/files/hab/Global/habpartbmanual2013.pdf>;
 16. Clinical Quality Management Policy Clarification Notice, located at <http://hab.hrsa.gov/sites/default/files/hab/Global/clinicalqualitymanagementpcn.pdf>; and
 17. Any additional relevant letters or memos with additional directions and policies issued by DSHS.
- N. Comply with all applicable federal and state regulations and statutes including, but not limited to:
1. Texas Health and Safety Codes:
 - a. [§81 - Communicable Diseases](#);
 - b. [§85 - Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus Infection](#) (paying particular attention to §85.085 - Physician Supervision of Medical Care, to ensure a licensed physician supervises any medical care or procedures provided as part of the testing activities conducted under this Program Attachment); and
 - c. [§94 - State Plan for Hepatitis C; Education and Prevention Program](#).

2. [Texas Administrative Code \(TAC\) Title 25, Chapters 97 \(Subchapter A, F\) and 98;](#)
 3. Ensure the delivery of comprehensive support services to meet the identified needs of persons living with HIV disease and their families, for Early Intervention Services and Outreach Services in accordance with Health Resources Services Administration (HRSA) Program Policy found at http://hab.hrsa.gov/sites/default/files/hab/Global/service_category_pcn_16-02_final.pdf;
 4. Chapter 6A (Public Health Service) of Title 42 (The Public Health and Welfare) of the United States Code as amended, located at <https://www.gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap6A>; and
 5. As an update to provision of services, according to Texas House Bill Number 4, where there is delivery of an in-person service, there must also be an option of that service via telecommunications or through the use of information technology. [Texas DSHS HIV/STD Program - Interim Guidance for the Use of Telemedicine, Teledentistry, and Telehealth for HIV Core and Support Services.](#)
- O. All documents named in items M and N above are hereby incorporated by reference and made a part of this Program Attachment. Grantee must receive advance written approval from DSHS before varying from any of these requirements and, must update its implementation documentation within forty-eight (48) hours of making approved changes so that staff working on activities under this program attachment, know of the change(s);
- P. Submit data on program activities and client contacts using timelines, systems and formats specified by DSHS;
- Q. Use collected data, together with input from clients and stakeholders, to improve services and assure they meet intended outcomes and emerging needs of the priority population;
- R. Submit written reports to DSHS that summarize the activities and services delivered and discuss the barriers and facilitators of the effective delivery of services (refer to Section V. Program Data Reporting, Security and Confidentiality Requirements);
- S. Submit literature/materials to be used in prevention activities funded by DSHS for review and approval by a locally constituted review panel that meets DSHS requirements found at <https://www.dshs.texas.gov/hivstd/info/pmrp>;
- T. Ensure that content in publications partially or fully funded by this award are verified by DSHS and that DSHS is acknowledged;

- U. Perform other activities as may be reasonably requested by DSHS to meet the goals of this grant award;
- V. Grantee shall maintain an inventory of equipment, supplies defined as Controlled Assets, and real property. Submit an annual cumulative report of the equipment and other property on HHS System Agency Grantee's Property Inventory Report to the designated DSHS Contract Manager by email not later than October 15 of each year. 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 and do not include a capitalized asset, real property, an improvement to real property, or infrastructure;
- W. Grantee shall provide notification of budget transfers by submission of a revised Categorical Budget Form and Budget Change Request Form to the designated DSHS Contract Manager, highlighting the areas affected by the budget transfer. Grantee is advised as follows:
 - 1. For any transfer between budget categories, Grantee shall provide notification of transfer between budget categories by submission of a revised Categorical Budget Form to the DSHS Contract Representative, highlighting the areas affected by the budget transfer and written justification for the transfer request. After DSHS review, the designated DSHS Contract Representative will provide notification of acceptance or rejection to Grantee by email;
 - 2. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, that cumulatively exceeds twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Budget Change Request Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized, until an amendment is executed by the Parties; and
 - 3. Any transfer between budget categories that includes 'Equipment' and/or 'Indirect Cost' categories must be incorporated by amendment. Grantee shall submit timely written notification to DSHS Contract Representative using the Budget Change Request Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized, until an amendment is executed by the Parties.

III. REQUIREMENTS BY ACTIVITY

- A. HIV, Syphilis and HCV outreach and testing with linkage to HIV care and referral to medical care for syphilis and HCV care.

Grantee will:

1. Conduct activities to prevent the transmission of, and increase diagnosis and linkage to care for HIV, syphilis, and HCV in accordance with relevant DSHS Prevention and Testing requirements, DSHS Ryan White Part B Early Intervention Services and Outreach Service Standards, and HRSA Policy Change Notice (PCN) 16-02;
2. Use data to identify priority populations and places that have a high probability of reaching PLWH who have never been tested and are undiagnosed, OR have been tested, diagnosed as living with HIV, and have not received their test results, OR have been tested and know their HIV positive status, and are not in medical care;
3. Identify and outreach to priority populations at locations with high probability of reaching PLWH through community and public awareness activities (e.g., posters, flyers, billboards, social media, TV, or radio announcements) to provide information about testing availability;
4. Establish specific points of entry to identify individuals who are unaware of their HIV status or, who know their HIV status and are not in care, to facilitate access to and retention in medical and support services appropriate to their HIV status;
5. Provide outreach, testing, and linkage to care services for HIV to the priority population(s) identified in the approved Work Plan;
6. Provide outreach, testing, and referral services for syphilis and HCV to the priority population(s) identified in the approved Work Plan;
7. Conduct activities in coordination with other local and state HIV, HCV, and syphilis outreach and testing programs (when applicable) to avoid duplication of effort;
8. Provide focused HIV, HCV, and syphilis education tailored to the needs of the person being tested during the encounter;
9. Ensure all test results are given in a timely manner and in accordance with the Texas Health and Safety Code §85, and DSHS HIV, STI, and HCV Program Operating Procedures and Standards (POPS) Chapter 1;
10. Provide referrals to persons who test HIV-negative to risk reduction activities including:
 - a. PrEP and/or nPEP;
 - b. Medical care or the provision of treatment for persons who are diagnosed with HCV and/or syphilis; and
 - c. Other needed health and social services (as appropriate).

11. Ensure linkage to medical care when activities identify someone living with HIV, including:
 - a. Linking to or assisting with enrollment activities for eligible clients to Ryan White funded medications programs, and medical and support services;
 - b. Addressing barriers to successful linkage to HIV medical care and coordinate with area providers that offer services to facilitate access to HIV-related care; and
 - c. Confirming clients are linked to care. Successful linkage requires documentation of attendance to medical appointment with prescribing provider.
12. For persons who receive a positive HIV test result and are enrolled in RW-EIS, develop a care plan that meets RW-EIS standards. Assistance will be provided to clients with referrals and follow-up to necessary services to achieve successful linkage to care;
13. Ensure that all persons who are pregnant who do not report being in prenatal care are actively referred to prenatal care; and
14. Maintain an unexpired CLIA Certificate of Waiver if performing any type of rapid testing.

B. Engagement in Care for Persons Living with HIV

Grantee will:

1. Conduct activities to assist persons who are living with HIV to fully engage in, or remain in, HIV medical care in accordance with relevant DSHS Prevention and Testing requirements, DSHS Ryan White Part B Early Intervention Services and Outreach Service Standards, and HRSA Policy Change Notice (PCN) 16-02;
2. Identify and outreach to priority populations at locations with high probability of reaching PLWH through community and public awareness activities (e.g., posters, flyers, billboards, social media, TV or radio announcements) that meets HRSA Outreach standards and include explicit and clear links to and information about available HRSA RWHAP services;
3. Increase access to care for underserved PLWH by providing enhanced engagement, navigation, and retention support to successfully bring people living with HIV into medical care including the following:
 - a. Use data sources in partnership with DSHS to identify persons who have no record of support services or who have been out of care (no record of a CD4 or Viral Load) for a minimum of 6 months or longer;

b. Create formal agreements and coordinate with local medical providers to be notified when a person who is scheduled for an HIV medical care appointment misses said appointment without notification;

c. Address barriers to successful linkage to HIV medical care and coordinate with area providers that offer services to facilitate access to HIV-related care;

d. Create and maintain a primary client record and care plan that meet RW-EIS Standards of Care for PLWH. The plan will include what assistance will be provided to clients with referrals and follow-up to necessary services to achieve successful linkage to care; and

e. Confirm PLWH are linked to care. Successful linkage requires attendance to medical appointment with prescribing provider;

4. Establish formal systems and standing procedures for linking PLWH to medical services to assure that all clients have a provider for non-HIV related illnesses.

C. Provider Outreach and Education Related to HIV, STIs, and HCV

Grantee will:

1. Ensure local providers have the most current HIV, STIs, and HCV testing and treatment information; and

2. Provide key public health messages related to HIV viral suppression, the promotion of prevention services, encouraging the provision of PrEP and nPEP, the prevention of congenital syphilis, medical services for persons living with HIV, and other related and locally relevant topics to local medical providers.

IV. TANGIBLE REINFORCEMENTS

A. Receive approval for tangible reinforcements in advance in writing by DSHS program. ONLY DSHS Prevention Funds may be used to purchase tangible reinforcements (bus tokens, movie gift cards, food gift cards, t-shirts, grocery store gift cards, etc.) to encourage at-risk clients to participate in prevention programs; and

B. Maintain a policy regarding the use of tangible reinforcements and a log for tracking the purchase and distribution of tangible reinforcements. The policy and log are subject to review by DSHS Program during program reviews and at any other time. The policy must limit the use of tangible reinforcements to the following types of situations: for participation in rapid assessment activities; for recruitment of clients into prevention with PLWH, testing and linkage programs and EBIs; for retention of clients in EBIs and prevention with PLWH; for clients upon completion of all sessions of an EBI; for recruitment and retention of peer volunteers; for clients

who return for HIV testing; for participation in community assessments or focus groups; and to encourage clients to return for test results. Funds may not be used to make cash payments or cash-equivalent payments to intended recipients of services except as noted above.

V. PROGRAM DATA REPORTING, SECURITY AND CONFIDENTIALITY REQUIREMENTS

DSHS may make alterations to reporting systems and requirements or require the use of new reporting systems or collection methods, at its sole discretion. In the event of such a change, Grantee will be notified at least thirty (30) days in advance of the changed requirements, except in cases where the system in use suffers some kind of technical failure. Information submitted through the DSHS systems will be considered the performance data of record in evaluating attainment of goals and programmatic performance.

Data may be included in Grantee reports to parties other than DSHS provided DSHS is acknowledged, and the information is aggregated in such a way that no individual client may be identified. Data may not be used for research purposes by Grantee or any other party without prior approval of DSHS' Institutional Review Board and pre-approval by DSHS Program. Grantee may not share electronic data sets with other parties without advance written permission of DSHS.

Grantee will:

- A. Follow requirements for prevention data collection, submission, and quality assurance found in the DSHS data workplan located on the DSHS data resource website page at <https://www.dshs.texas.gov/hivstd/prevdata/>;
- B. Comply with the following DSHS Policies and procedures:
 1. 2016.01 HIV/HIV/STI Sectional Confidential Information Security Procedures <https://www.dshs.texas.gov/hivstd/policy/procedures/2016-01.shtm>;
 2. 2011.01 TB/HIV/STI Section Confidential Information Security <https://www.dshs.texas.gov/hivstd/policy/policies/2011-01>;
 3. 2011.04 TB/HIV/STI Section Breach of Confidentiality Response <https://www.dshs.texas.gov/hivstd/policy/policies/2011-04>; and
 4. 302.001 Release of TB/HIV/AIDS and STI Data <https://www.dshs.texas.gov/hivstd/policy/policies/302-001>;
- C. Grantee must create policies and procedures to comply with the following:
 1. Local Responsible Party Handbook <https://www.dshs.texas.gov/sites/default/files/hivstd/policy/policies/LRPHandbook.pdf>; and

2. DSHS TB/HIV/STI Bi-Annual LRP Security Assessment [Texas DSHS TB/HIV/STD Bi-Annual Security Assessment \(LRP Report\) \(office.com\)](#)

- D. Submit data on all program activities and client contacts using systems, formats and submission deadlines specified by DSHS. DSHS may change the program reporting requirements or formats during the project period based on program evaluation or reporting needs. For example, use of the AIDS Regional Information and Evaluation System (ARIES) to enter client-level data for services provided to persons living with HIV;
- E. Ensure that all data submitted to DSHS are complete and accurate. Grantee must conduct data quality assurance prior to monthly submissions following the DSHS workplan quality assurance procedures. Data quality assurance activities must be documented and made available for review by DSHS staff upon request;
- F. Protect the security of program reporting data and the confidentiality of client information;
- G. Protect paper records and electronic data collected and stored at its facility from security breaches, and keep such data confidential;
- H. Ensure client privacy is maintained and data is collected confidentially when data/information is elicited verbally from clients;
- I. Ensure that data entry into program reporting systems will occur in a confidential environment, safeguarding against unauthorized disclosure of client information and ensure that such environments are consistently maintained;
- J. Ensure data entered into program reporting systems are input only by properly authorized staff;
- K. Assure data integrity is maintained and that data entered in program reporting systems is entered accurately;
- L. Understand that users of the program data systems will require user identification and authentication (such as challenge passwords);
- M. Ensure that persons entering data do not circumvent such security measures;
- N. Ensure data are accessed only by authorized persons;
- O. Ensure program data are used in a manner that protects client privacy and is in accordance with federal and state law and the terms of this contract;
- P. Implement policies and procedures for use of data in a secure manner that protects client privacy and prevents against unauthorized access to, and use of, program data;
- Q. Implement policies and procedures (consistent with the requirements and constraints

- listed herein) for publication and redistribution of data if program data are shared with other parties or providers;
- R. Protect data transported within your entity or to external parties consistent with the constraints and requirements listed herein;
 - S. Protect data transmitted electronically within your entity or to external parties (when not using DSHS' data reporting systems) consistent with the constraints and requirements listed herein;
 - T. Maintain retention and disposal policies and procedures consistent with state and federal retention requirements and the requirements of this contract, and assure that program data cannot be inappropriately accessed;
 - U. Agree to publish, implement, and make available policies on data security and client privacy, and train staff regularly regarding those requirements (Grantee must maintain records documenting such training);
 - V. Require each individual member of Grantee's staff, and volunteers, to sign an agreement pledging to abide by Grantee's policies and procedures pertaining to data security and client privacy. Grantee will maintain these written agreements and make them available upon request to DSHS in a timely manner;
 - W. Abide by rules of conduct/data security guidelines provided by DSHS to safeguard the program reporting data;
 - X. Develop a personnel sanction policy to hold Grantee staff and volunteers and subgrantee staff responsible for any violations of these policies. If Grantee uses subgrantees: Grantee accepts full responsibility and accountability for each subgrantee's performance under this contract including all provisions related to confidentiality;
 - Y. Agree to make staff available for training on the use of program reporting systems and data security;
 - Z. Comply with DSHS' efforts to maintain lists of staff under this contract authorized to use the program reporting systems;
 - AA. Immediately report breaches of confidentiality involving the program data reporting systems to DSHS, and fully assist DSHS in any investigation resulting from such breach;
 - BB. Comply with all requests by DSHS to inspect, or require copies of, any of the documentation referenced herein at any time, and comply with such requests in a timely manner. All documentation under this contract will be readily available for inspection by DSHS staff during site visits;
 - CC. Use data collected through the above mechanisms for program planning, evaluation,

quality assurance, and monitoring, consistent with confidentiality restrictions in state and federal law. Grantee shall use evaluation, quality assurance and monitoring of data to make appropriate adjustments to program activities so that the Grantee performs quality services and meets performance standards; and

DD. A minimum of 10% of the total contract amount must be dedicated to planning, reporting, and evaluation of the proposed activities. This includes expenditures for needs assessment and consultation with community members to design or revise program design and implementation; collection and reporting of required program data; evaluation of progress towards program goals; and assessment of client satisfaction.

VI. PROGRAM MONITORING AND PROGRESS REPORTS

Grantee will:

- A. The Grantee (and each subcontractor or volunteer, if applicable) shall cooperate with the direct monitoring by DSHS. Monitoring will be conducted via site visits using DSHS monitoring tools and may be announced or unannounced. This monitoring may consist of the review of records (including client records) and reports, interviews of staff, required forms, educational materials and other materials pertaining to this project, including testing documents (if applicable);
- B. Submit required Interim and Annual Progress Reports in a format approved by DSHS, and by deadlines given by DSHS, that include: a cumulative data summary of its compliance with the performance measures for the appropriate activities detailed on Form G: Performance Measures and a detailed response to all items listed in the report;
- C. Provide the required reports to hivstdreport.tech@dshs.texas.gov with copies to the designated DSHS HIV/STI Program Consultants and the Public Health Regional HIV/STI Program Manager/Coordinator per request by DSHS;
- D. The Grantee shall provide to the DSHS Program Consultant and appropriate Contract Management Section staff, the names of the contact person(s) responsible for programmatic concerns, all communications regarding this program, the contact person for fiscal issues, and the names of the contact persons for each of the sub-grantees/vendors (if applicable);
- E. The Grantee shall maintain expertise in any subcontracted project content, protocols and methods, and provide technical assistance to subcontractor staff as needed;
- F. The Grantee and any relevant subcontractor(s) or volunteer(s) shall cooperate with the Department's policies for addressing any and all concerns or problems identified during the award period;
- G. If Grantee performance is deficient, the DSHS will notify the Grantee in writing. The Program Consultant will work with the Grantee to identify the corrective action required by the Grantee to address the deficiency. The Program Consultant will deliver, or coordinate the delivery of, additional technical assistance to support the Grantee in

taking the corrective action. If the corrective action is successful in resolving the problem, DSHS will notify the Grantee in writing that resolution has been achieved. If the corrective action is unsuccessful in resolving the problem, DSHS has all of the following options:

1. Revise deliverables (e.g., requiring Grantees to report with increased frequency);
2. Require the Grantee to provide a revised staffing plan that demonstrably supports the realization of program requirements;
3. Progressively reduce the total award in response to repeated failures to comply with requirements;
4. Suspend payment on the contract pending correction of the deficiency by the Grantee; or
5. Terminate the award.

VII. QUALITY ASSURANCE ACTIVITIES

Grantees that enter into contracts with subcontractors are entirely responsible to DSHS for the performance of those subcontractors. If subcontractors are used, Grantee is expected to adequately monitor the implementation of interventions and other funded activities under this contract, the efficient and effective use of resources by the subcontractor(s), the capacity and performance of subcontractor staff implementing interventions and other funded activities under this Program Attachment and, ensure that subcontractors are properly collecting and reporting data. DSHS' staff may also monitor the subcontractor's activities and conduct periodic site visits, with notification to the Grantee.

Grantee will:

- A. Ensure that performance of activities under this Program Attachment is of a high quality and consistent with all the requirements of this contract, in order to meet DSHS' high-performance expectations;
 1. Run the "HIV Data QA" report available in Evaluation Web, monthly, to assure compliance with standards; and
 2. Contact DSHS if assistance is needed to review HIV Data QA report or to assist with how to improve the completeness of their data.
- B. Review records of persons living with HIV monthly to ensure:
 1. Preliminary tests results have been updated;
 2. Provision of test results has been indicated and/or updated;
 3. Linkage to medical care has been indicated and/or updated;

4. If the client attended a medical appointment, the date of medical appointment has been updated; and
 5. Contact DSHS if assistance is needed review these records.
- C. Develop an orientation plan for Grantee's new staff (i.e., new hires involved in activities funded under this Program Attachment), which will be reviewed by DSHS staff during monitoring visits. The plan shall be consistent with all the terms of this Program Attachment;
 - D. Solicit feedback (e.g., client surveys) from clients being served by Grantee under this Program Attachment and, create a summary of the client feedback for each intervention at least once during the term of this Program Attachment. This summary must be available for review during DSHS site visits;
 - E. Designate and train staff to be responsible for quality assurance activities, including ensuring accurate and consistent data collection and reporting;
 - F. Follow DSHS quality assurance requirements for all activities related to this funding. Refer to Section II: General Requirements above for links to relevant documents;
 - G. Perform the Quality Monitoring activities for all staff members performing direct client services to ensure compliance. Refer to Section II: General Requirements above for links to relevant documents;
 - H. Maintain written monitoring and evaluation records of all staff involved in contract activities, including those of subcontractors. DSHS may specify evaluation and monitoring tools to be used. Information related to quality assurance activities, along with any other documentation associated with activities under this Program Attachment, are subject to review by DSHS Program during program reviews and at any other time.

VIII. TRAINING REQUIREMENTS

Grantee will:

- A. Authorize and require staff to attend training, conferences, and meetings as directed by DSHS;
- B. Appropriately budget funds in order to meet training requirements in a timely manner, and ensure staff and volunteers are trained as specified in the training requirements listed at <https://www.dshs.texas.gov/hivstd/training/> and/or as otherwise specified by DSHS. Contractor shall document that these training requirements are met; and
- C. Ensure that staff hired are trained within three (3) months of employment.

IX. PERFORMANCE MEASURES

Performance Measures as outlined in Form G: Performance Measures table will be used, in part, to assess the Grantee's and their subcontractor's effectiveness in providing the services described in this contract, without waiving the enforceability of any of the other terms of the contract. The Performance Measures outlined in Form G and approved by DSHS are hereby incorporated by reference and made a part of this Program Attachment.

Performance of the Grantee including, but not limited to, compliance with program policies and procedures referenced herein, attainment of performance measures, maintenance of adequate staff, and submission of required data and narrative reports will be regularly assessed. Failure to comply with stated requirements and contractual conditions will constitute a breach of contract.

X. REPORTING REQUIREMENTS

System Agency will monitor Grantee's performance, including, but not limited to, through review of financial and programmatic reports and performance measures, under any Grant Agreement awarded as a result of this Contract.

Grantee shall submit the following reports by the noted due dates:

REPORT	REPORTING PERIOD	DUE DATE
LRP Security Assessment	September 1, 2024 – February 28, 2025	March 15, 2025
Financial Status Report	September 1, 2024 – February 28, 2025	March 31, 2025
Interim Progress Report	September 1, 2024 – February 28, 2025	March 31, 2025
LRP Security Assessment	March 1, 2025 – August 31, 2025	September 15, 2025
Financial Status Report	March 1, 2025 – August 31, 2025	September 30, 2025
Annual Progress Report	March 1, 2025 – August 31, 2025	October 5, 2025

**All reporting due dates may be subject to change based on CDC and System Agency reporting requirements.*

- A. The Grantee shall submit the above-referenced LRP Security Assessment Reports to hivstdreport.tech@dshs.texas.gov with a copy to the designated DSHS Prevention Program Consultant;
- B. The Grantee shall submit the above-referenced Financial Status Report (FSR-269A) to the following email addresses: FSRgrants@dshs.texas.gov and cmsinvoices@dshs.texas.gov simultaneously. The Final Financial Status Report is due no later than thirty (30) days following the end of each Contract term and the FSR-269A form can be found at: <https://www.dshs.texas.gov/sites/default/files/hivstd/contractor/prev/269-FSR.xlsx>;
- C. Grantee shall maintain an inventory of equipment, supplies, and real property. Grantee shall submit an annual cumulative report on DSHS Grantee's Property Inventory Report (GC-11) to the DSHS Contract Representative and FSOequip@dshs.texas.gov by email not later than October 15 of each year; and
- D. Grantee shall provide all applicable reports in the format specified by System Agency in an accurate, complete, and timely manner and shall maintain appropriate supporting backup documentation. Failure to comply with submission deadlines for required reports, Financial Status Reports (FSRs) or other requested information may result in System Agency, in its sole discretion, placing the Grantee on financial hold without first requiring a corrective action plan in addition to pursuing any other corrective or remedial actions under the Grant Agreement.

XI. FUNDS MANAGEMENT, INVOICING AND PAYMENTS

- A. Grantee shall submit invoices monthly, on the 30th day of the following month, or next business day if the 30th day falls on a weekend or holiday, to prevent delays in processing a subsequent month's invoicing. System Agency requires Grantee to submit, on a timely basis, a "zero dollar" invoice for a month in which it did not incur expenses. Grantee shall email invoices and System Agency provided voucher support documentation to invoices@dshs.texas.gov and cmuinvoices@dshs.texas.gov simultaneously. Invoices received after the 30th of the month, or the next business day, are subject to denial of payment;
- B. Unless otherwise directed by System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice no later than thirty (30) calendar days following the end of the term of the Grant Agreement. Reimbursement or payment requests received after the deadline may not be paid;
- C. System Agency reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls. System Agency Program will monitor Grantee's expenditures on a biannual basis. If expenditures are below the amount in Grantee's total grant award, Grantee's Budget may be subject to a decrease for the remainder of the Grant Agreement term. Vacant positions existing after ninety (90) days may result in a decrease in funds;

- D. Grantee will be paid on a cost reimbursement basis and in accordance with the budget for the corresponding year under this Contract;
- E. Grantee shall submit to DSHS an annual forecast of all program income generated from DSHS funds and activities. Program income should be expended prior to drawing down or requesting reimbursement from DSHS. Grantee must also make available documentation to show how all program income is allocated and expended during any DSHS and/or federal grantor monitoring visits;
 - 1. Report to the contract manager assigned to the Contract, any knowledge of debarment, suspected fraud, program abuse, possible illegal expenditures, unlawful activity, or violation of financial laws, rules, policies, and procedures related to performance under this Contract;
 - 2. Make such report no later than three (3) working days from the date the Grantee has knowledge or reason to believe such activity has taken place;
 - 3. Report any credible evidence that a principal, employee, subgrantee or agent of Grantee, or any other person, has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds; and
 - 4. Make this report to the SAO at <http://sao.fraud.texas.gov>, and to the HHS Office of Inspector General at <http://www.oig.hhs.gov/fraud/hotline/> no later than three (3) working days from the date the Grantee has knowledge or reason to believe such activity has taken place.
- F. Conduct periodic examinations of utilization and expenditure data;
- G. Agree to read DSHS Contractor Procedures Manual (CPM) and work with DSHS staff regarding the management of funds received under this Contract. <https://www.dshs.texas.gov/hivstd/funding/default.shtm>;
- H. Not use funds to make payments directly to clients OR use funds to purchase or majorly improve any building or other facility;
- I. Bill according to the activities and amounts defined in the Allocation by Code document located at <http://www.dshs.texas.gov/hivstd/funding/default.shtm>;
- J. Ensure that the following conditions have been met when providing Early Intervention Services (EIS):
 - 1. Federal, State, and Local Funds are otherwise inadequate for the EIS an entity proposes to provide; and
 - 2. The entity will supplement, not supplant, other funds available to the entity for the provision of providing EIS.

- K. If expenditures are below that projected in Grantee's total contract amount as approved for this Program Attachment, Grantee's budget may be subject to a decrease for the remainder of the Program Attachment term. Vacant positions existing after ninety (90) days may result in a decrease in funds; and
- L. DSHS Program will monitor Grantee's expenditures on a quarterly basis.

**ATTACHMENT B
BUDGET (FY2025)**

BUDGET FY 2025 September 1, 2024, through August 31, 2025	
CATEGORY	AMOUNT
PERSONNEL	\$91,191.00
FRINGE BENEFITS	\$38,419.00
TRAVEL	\$2,645.00
EQUIPMENT	\$0.00
SUPPLIES	\$2,197.00
CONTRACTUAL	\$0.00
OTHER	\$3,820.00
TOTAL DIRECT COSTS	\$138,272.00
INDIRECT COSTS	\$0.00
TOTAL	\$138,272.00

DSHS Contract No. HHS001440800001



TEXAS

Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.3

Published and Effective – November 2023

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

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS.....	6
1.1 DEFINITIONS	6
1.2 INTERPRETIVE PROVISIONS.....	7
ARTICLE II. PAYMENT PROVISIONS.....	8
2.1 PROMPT PAYMENT.....	8
2.2 TAXES	8
2.3 ANCILLARY AND TRAVEL EXPENSES	8
2.4 BILLING.....	9
2.5 USE OF FUNDS	9
2.6 USE FOR MATCH PROHIBITED.....	9
2.7 PROGRAM INCOME	9
2.8 NONSUPPLANTING.....	9
2.9 INDIRECT COST RATES.....	9
ARTICLE III. STATE AND FEDERAL FUNDING	10
3.1 EXCESS OBLIGATIONS PROHIBITED.....	10
3.2 NO DEBT AGAINST THE STATE.....	10
3.3 DEBTS AND DELINQUENCIES	10
3.4 REFUNDS AND OVERPAYMENTS	10
ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS.....	10
4.1 ALLOWABLE COSTS.....	10
4.2 AUDITS AND FINANCIAL STATEMENTS.....	11
4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS	11
ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS.....	12
5.1 WARRANTY	12
5.2 GENERAL AFFIRMATIONS.....	12
5.3 FEDERAL ASSURANCES.....	12
5.4 FEDERAL CERTIFICATIONS	12
5.5 STATE ASSURANCES.....	12
ARTICLE VI. INTELLECTUAL PROPERTY.....	13
6.1 OWNERSHIP OF WORK PRODUCT.....	13
6.2 GRANTEE’S PRE-EXISTING WORKS.....	13
6.3 THIRD PARTY IP	14

6.4	AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS	14
6.5	DELIVERY UPON TERMINATION OR EXPIRATION	14
6.6	SURVIVAL	14
6.7	SYSTEM AGENCY DATA	14
ARTICLE VII. PROPERTY		15
7.1	USE OF STATE PROPERTY.....	15
7.2	DAMAGE TO STATE PROPERTY	15
7.3	PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT	15
7.4	EQUIPMENT AND PROPERTY.....	16
ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY.....		16
8.1	RECORD MAINTENANCE AND RETENTION.....	16
8.2	AGENCY’S RIGHT TO AUDIT.....	17
8.3	RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS	17
8.4	STATE AUDITOR’S RIGHT TO AUDIT	18
8.5	CONFIDENTIALITY	18
ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES.....		18
9.1	REMEDIES.....	18
9.2	TERMINATION FOR CONVENIENCE	19
9.3	TERMINATION FOR CAUSE	19
9.4	GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY’S TERMINATION COSTS....	19
9.5	INHERENTLY RELIGIOUS ACTIVITIES	20
9.6	POLITICAL ACTIVITIES.....	20
ARTICLE X. INDEMNITY		20
10.1	GENERAL INDEMNITY.....	20
10.2	INTELLECTUAL PROPERTY	21
10.3	ADDITIONAL INDEMNITY PROVISIONS	21
ARTICLE XI. GENERAL PROVISIONS.....		21
11.1	AMENDMENTS	21
11.2	NO QUANTITY GUARANTEES.....	21
11.3	CHILD ABUSE REPORTING REQUIREMENTS	22
11.4	CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS	22
11.5	INSURANCE AND BONDS	22

11.6	LIMITATION ON AUTHORITY	23
11.7	CHANGE IN LAWS AND COMPLIANCE WITH LAWS	23
11.8	SUBCONTRACTORS	23
11.9	PERMITTING AND LICENSURE	23
11.10	INDEPENDENT CONTRACTOR	24
11.11	GOVERNING LAW AND VENUE	24
11.12	SEVERABILITY	24
11.13	SURVIVABILITY	24
11.14	FORCE MAJEURE	24
11.15	NO IMPLIED WAIVER OF PROVISIONS	25
11.16	FUNDING DISCLAIMERS AND LABELING	25
11.17	MEDIA RELEASES	25
11.18	PROHIBITION ON NON-COMPETE RESTRICTIONS	25
11.19	SOVEREIGN IMMUNITY	25
11.20	ENTIRE CONTRACT AND MODIFICATION	26
11.21	COUNTERPARTS	26
11.22	PROPER AUTHORITY	26
11.23	E-VERIFY PROGRAM	26
11.24	CIVIL RIGHTS	26
11.25	ENTERPRISE INFORMATION MANAGEMENT STANDARDS	27
11.26	DISCLOSURE OF LITIGATION	27
11.27	NO THIRD PARTY BENEFICIARIES	28
11.28	BINDING EFFECT	28

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’ website relative to travel reimbursements under this Contract, if any.

“[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 *Textravel* guidelines, which can currently be accessed at: <https://fmx.cpa.texas.gov/fmx/travel/textravel/>

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.

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.

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 all information required to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes. Grantee shall ensure these same requirements are included in all subcontracts.
- 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. Grantee shall ensure these same requirements are included in all subcontracts.

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. Grantee shall ensure these same requirements are included in all subcontracts.
- 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. Grantee shall permit the System Agency or any of its duly authorized federal, state, or local authorities unrestricted access to and the right to examine all external contracts and or pricing models or methodologies related to the Grant Agreement. Grantee shall ensure these same requirements are included in all subcontracts. 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 oversight, including, but not limited to, reviews, inspections, audits and investigations, 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 and payments related to the Grant Agreement, including those related to a Subcontractor.
- E. Grantee shall include the System Agency's and any of its duly authorized representatives', as well as duly authorized federal, state, or local authorities, unrestricted 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, inspection or investigation 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.

- C. Grantee shall include the requirement to provide to System Agency (and any of its duly authorized federal, state, or local authorities) internal audit reports related to this Grant Agreement in any Subcontract it awards. Upon request by System Agency, Grantee shall enforce this requirement against its Subcontractor. Further, Grantee shall include in any Subcontract it awards a requirement that all Subcontractor Subcontracts must also include these provisions.

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. Grantee shall ensure the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

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 Article VIII will survive termination or expiration of this Grant Agreement. Further, the obligations of Grantee under this Article VIII 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

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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK