



NOTICE OF OPEN ENROLLMENT

TEXAS CIVIL COMMITMENT OFFICE

Formerly known as:

OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT

POLYGRAPH SERVICES FOR CIVILLY COMMITTED SEX OFFENDERS

OE # HHS0000311

Enrollment Period Opens: 04/15/2015

Enrollment Period Closes: 08/31/2019

Class/Item: 990-70

Addendum #1 November 16, 2016

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I. INTRODUCTION AND DEFINITIONS

A. Introduction

The State of Texas by and through the Texas Health and Human Services Commission (HHSC) on behalf of the Texas Civil Commitment Office (TCCO), formerly known as the Office of Violent Sex Offender Management (OVSOM), announces this notice of Open Enrollment (OE) requesting applications to provide polygraph services for civilly committed sex offenders.

TCCO will utilize a rotation schedule to select OE polygraph examiners for client polygraphs. An OE polygraph examiner may perform up to 5 polygraphs in one business day. A TCCO client identified as requiring a Polygraph (instant offense, sexual history, maintenance or monitoring) will be referred to an approved OE polygraph examiner based on the following:

1. Geographic proximity to the client's residence
2. Polygraph examiners' availability
3. Polygraph Examiner's last exam date with the client
4. Past Contractor performance

This OE contains standardized requirements that all respondents must meet to be considered for contracts under this OE. Failure to comply with these requirements will result in disqualification of the respondent without further consideration. Each respondent is solely responsible for the preparation and submission of an enrollment application in accordance with instructions contained in the OE.

The enrollment period begins upon execution, and will remain open through August 31, 2019. TCCO may, at its sole discretion, extend the closing date of this OE. As stated in Sec. II, the TCCO may also, at its sole discretion, withdraw this OE before the stated date the enrollment period ends.

If web links in this document do not open, copy and paste them into your internet browser window.

READ ALL MATERIALS BEFORE COMPLETING THIS OE.

B. Definitions

Appendix – Additional information and/or forms that are available in the back of this solicitation document.

Case Manager - A person employed by or under contract with the TCCO to perform duties related to the treatment and supervision of a person civilly committed pursuant to Title 11, Health and Safety Code, Chapter 841.

Child Safety Zone - The 1,000 foot buffer zone that must be maintained between sex offenders and any premises where children commonly gather, including schools, day-care

facilities, playgrounds, public or private youth centers, or public swimming pools. Any area within 1,000 feet of these types of premises is considered a child safety zone.

Clinical Polygraph Examination - The employment of an instrumentation complying with the required minimum standards of the Texas Polygraph Examiners Act and used for the purpose of detecting deception or verifying truth of statements of any person under supervision and/or treatment for the commission of sex offenses. The Clinical Polygraph Examination is specifically intended to assist in the treatment and supervision of sex offenders.

Contingency Contract – Also called a “contract” in this OE, a written agreement referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties. An TCCO contract is assembled using a core contract (base), one or more program attachments, and other required exhibits (general provisions, etc.).

Contract Term – The period of time during which the contract or program attachment will be effective from begin date to end, or renewal date. The contract term may or may not be the same as the budget period.

Days - Calendar days, unless otherwise specified.

Debarment – An exclusion from contracting or subcontracting with state agencies on the basis of cause set forth in Title 34, Texas Administrative Code Chapter 20, Subchapter C, §20.105 et seq.

Deliverables – Goods or services contracted for delivery or performance.

Due Date – Established deadline for submission of a document or deliverable.

Effective Date – The date the contract term begins.

Fee For Service – Payment mechanism for services that are reimbursed on an agreed rate per unit of service.

Fiscal Year – The duration of the fiscal year (stated in the number of months the contract will reflect from begin date to end date of the term of the contract). Each renewal will have its own fiscal year. State fiscal year is from September 1 through August 31 of each year.

Fully Executed – A contract is signed by each of the parties to form a legal binding contractual relationship. No costs chargeable to the proposed contract will be reimbursed before the contract is fully executed.

Instant Offense Examination - Refers to a polygraph regarding the sexual offense(s) for which the client is civilly committed.

JPCOT - Joint Polygraph Committee on Offender Testing.

Maintenance Examination - Covers the time frames from release or since the last polygraph to the present time. It deals with any issues related to treatment or supervision compliance.

Monitoring Examination - Used to determine if the client has not committed additional sexual offenses while in the program.

TCCO - Texas Civil Commitment Office.

TCCO Policies - All written policies, procedures, standards, guidelines, directives, and manuals of the TCCO applicable to providing the services specified under this Contract.

Payment(s) - The amount(s) agreed to be paid by the TCCO to Contractor for services under this Contract.

Procurement and Contracting Services - The division within the Health and Human Services Commission (HHSC) that provides direction and support of purchasing, contracting and HUB services. PCS oversees, coordinates, and assists the TCCO with procurement needs, issues open enrollments and competitive procurements. PCS maintains the official contract file from procurement to contract closeout.

Project – All work to be performed as a result of a contract or solicitation.

Project Manager – The TCCO employee responsible for being the liaison between this contract and PCS. The project manager partners with PCS in the development, management and logistical coordination of a solicitation and the resultant contracts.

Quarter - Unless specifically noted otherwise, references to quarters and quarterly activities relate to the TCCO's Fiscal Year, with quarters beginning September 1, December 1, March 1, and June 1.

Respondent – A person or entity that submits a response to a solicitation. For purposes of this document, "respondent" is intended to include such phrases as "offeror", "applicant", "bidder", "responder", or other similar terminology employed by the TCCO to describe the person or entity that responds to a solicitation.

Scope of Work – A description of the services and/or goods, if any, for each service type, to be obtained as a result of this solicitation for a project period. The scope of work is a document written in the early stages of procurement to explain what TCCO plans to purchase.

Services - Delivery by the Contractor of Sex Offender Polygraph Services in accordance with the terms and conditions of the Contract.

Sexual History Examination - Refers to the timeframe of the client's lifetime, excluding the sexual offense(s) for which the client has been civilly committed.

Solicitation – The process of notifying prospective contractors of an opportunity to provide goods or services to the state (e.g., OE).

Special Provisions – Modifications and additions to the General Provisions for a funded program activity; which are usually customized for TCCO's requirements and contain provisions specific to the contract.

Statement of Work – A part of the contract that describes the services and/or goods to be delivered by the TCCO contractor specifying the type, level and quality of service, that directly relate to program objectives.

Subcontractor – A written agreement between the contractor and a third party to provide all or a specified part of the services, goods, work, and materials required in the original contract. The contractor remains entirely responsible to the TCCO for performance of all requirements of the contract with the TCCO. The contractor must closely monitor the subcontractor's performance. Subcontracting can be done only when approved by TCCO.

Texas Identification Number (TIN) – The TIN is required for an entity requesting to contract with, or to receive payment from, the State of Texas. The TIN components are the prefix, base, and self-check digit. The base is the core nine digits that can be a Comptroller-assigned number (as with State agencies), or the Federal Tax ID Number. The prefix digit is a 1, 3, or a 7 and the self-check digit is computer generated.

Unit Rate – Payment mechanism for services that are reimbursed at a set rate per unit of service; for example, treatment services at a prescribed rate per hour. Also known as fee-for-service.

Vendor – A type of contractor or subcontractor that provides services, and goods, if any, that assist in, but are not the primary means of, carrying out the TCCO-funded program. Under a vendor contract, the vendor will have few if any administrative requirements. (For example, a vendor might be required only to submit a summary report of services delivered and an invoice.) A vendor generally will deliver services to TCCO-funded clients in the same manner the vendor would deliver those services to its non-TCCO funded clients.

A vendor contractor generally has most of the following characteristics: a) provides goods and services within normal business operations, b) provides similar goods and services to many different purchasers, c) operates in a competitive environment, d) is not subject to compliance requirements of the federal or state program, e) provides goods and services that are ancillary to the operation of the program. Note: Characteristics a, b, c, and d do not apply to vendor contractors that are universities.

Vendor Identification Number (Vendor ID No.) – Fourteen-digit number needed for any entity, whether vendor or subrecipient, to contract with the State of Texas and which must be set up with the State Comptroller's Office. It consists of a ten-digit identification number (IRS number, state agency number, or social security number) +check digit + 3 digit mail code. The Vendor ID No. includes all the numbers in the TINs (defined above), including a three digit mail code for a total of 14-digits.

Year - Fiscal Year, unless otherwise specified.

II. LIMITATIONS

The resulting contract will be subject to the availability of state funds. Contracts awarded under this OE and any anticipated contract renewals are contingent upon the continued availability of funding. The TCCO reserves the right to alter, amend or withdraw this OE at any time prior to the execution of a contract if funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the appropriations act, Health and Human services agency consolidations, or any other disruption of current appropriations. If a contract has been fully executed and these circumstances arise, the provisions of the Termination Article in the contract will apply.

Issuance of this OE in no way constitutes a commitment by the TCCO or the State of Texas to execute a contract or to pay any costs incurred by any provider who may submit an enrollment application.

III. FUNDING AND TERM

A. Use of Funds

Contingency contracts will be awarded for the purpose specifically defined in the OE. TCCO will review applications in the order in which they are received. TCCO does not guarantee a minimum amount to be paid to a contractor pursuant to a contingency contract awarded through this OE.

Contracts will be determined without regard to whether or not respondents have previously had a contract with the TCCO under this program.

B. Term of Contract

Contingency contracts awarded under this OE will begin on the date of execution through August 31, 2019. TCCO may, at its sole discretion, renew a contingency contract after the initial term. Contracts may be renewed up to four additional one- year period contract terms. Renewal is contingent upon the availability of funds and the satisfactory performance of the contractor during the prior contract period. Pricing may vary and may be subject to change each renewal period.

IV. ELIGIBLE RESPONDENTS, SCOPE OF WORK AND REQUIRED ACTIVITIES

A. Eligibility Requirements

Eligible respondents include organizations established as a legal entity under state statutes and have the authority to do business in Texas. Eligible respondents include Polygraph Examiners who hold a current Texas Polygraph Examiners License in accordance with the Texas Polygraph Examiners Act, Occupations Code Chapter 1703, Subchapter E, must be recognized by the Joint Polygraph Committee on Offender Testing (JPCOT) and be identified on the JPCOT Roster. The respondent must adhere to the guidelines as outlined

by JPCOT (<http://www.texaspolygraph.org>) and the American Polygraph Association (APA) Post-Conviction Sex Offender Testing (PCSOT) (<http://www.polygraph.org/section/about-us/laws-and-standards-practice>). The respondent must comply with the criteria listed below.

1. Respondent must be established as an appropriate legal entity as described in the paragraph above, under state statutes and must have the authority and be in good standing to do business in Texas and to conduct the activities described in the OE.
2. Respondent must have a Texas address. A post office box may be used when the enrollment application is submitted, but the respondent must conduct business at a physical location in Texas prior to the date that the contract is awarded.
3. Respondent must be in good standing with the U.S. Internal Revenue Service.
4. Respondent is ineligible to apply for funds under this OE if currently debarred, suspended, or otherwise excluded or ineligible for participation in Federal or State assistance programs.
5. In compliance with the Comptroller of Public Accounts and Texas Procurement and Support Services rules, a name search will be conducted using the websites listed in this section prior to the development of a contract.
6. A respondent is not considered eligible to contract with the TCCO if a name match is found on any of the following lists:
 - a. Search the federal excluded list at the following website: <https://www.sam.gov/portal/public/SAM>; and
 - b. Texas Comptroller of Public Accounts (CPA) Debarment List located at http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.
7. Respondents **must be** listed on the following list if they are Professional Corporations, Professional Associations, Texas Corporations, and/or Texas Limited Partnership Companies. Secretary of State (SOS) at <https://direct.sos.state.tx.us/acct/acct-login.asp>.
8. Respondent must provide a copy of each examiner's current Texas Polygraph license and documentation of JPCOT recognition. The polygraph examiner license and recognition by the JPCOT shall remain in effect through the contract period and any renewal period.
9. Respondent must maintain professional malpractice insurance in accordance with the current standards established by the provider's applicable professional licensing board. Professional malpractice insurance must be maintained by all Polygraph Examiners during the term of this contract; refer to Form H. The Contractor shall disclose to the TCCO the amount of professional malpractice insurance its examiners maintain and the insurance company with whom they carry the policy. The Contractor shall submit to the TCCO a copy of the declaration page of each examiners "Professional Malpractice Insurance" policy or "Errors and Omissions Insurance" policy.

The Respondent must submit to the TCCO changes to the examiner's policy of professional malpractice insurance including, but not limited to, insurance renewal information or policy expiration or termination information and the reasons for such expiration or termination of the policy.

Except as expressly provided in A.2. above, respondent is not considered eligible to apply unless the respondent meets the eligibility requirements to the stated criteria listed above at

the time the enrollment application is submitted. Respondent must continue to meet these conditions throughout the selection and funding process. The TCCO expressly reserves the right to review and analyze the documentation submitted and to request additional documentation, and determine the respondent's eligibility to compete for the contract award.

B. Scope of Work

The TCCO clients are sex offenders that have been civilly committed pursuant to Chapter 841 of the Texas Health and Safety Code. The clients have been adjudicated to be sexually violent predators that suffer from a behavioral abnormality which makes it likely that the client would engage in repeated predatory acts of sexual violence. The clients have a history of at least two convictions for a sexually violent offense and have been released from prison to the TCCO's supervision and treatment.

The TCCO requires a contractor to provide polygraph examination services (hereinafter referred to as Services) for civilly committed clients (hereinafter referred to as Clients) which may include the following examinations: instant offense, sexual history, maintenance and monitoring. The TCCO is primarily seeking services in the following counties: **Dallas, El Paso, Harris, Tarrant and Travis**; however TCCO reserves the right to add additional counties as needed.

The respondent must provide the Services in accordance with applicable federal and state law, including all constitutional, legal, and court ordered requirements whether now in effect or hereinafter implemented. The respondent must comply with the TCCO policies, procedures, and regulations during the term of the contract as referenced in Appendix D. The respondent must comply with all applicable local and state standards, codes, and regulations including zoning, fire, health, and sanitation.

Services shall be rendered at the most practical and cost-effective site for the delivery of services. When the Client's community residential facility or treatment location are the most practical and cost effective sites for delivery of services, those sites are available for contractors to use for the purpose of providing Services. Any proposed change in the site for Services must be submitted in writing and approved by the TCCO. The contractor must be willing to travel within the State of Texas to perform scheduled polygraph examinations.

The TCCO shall refer clients and schedule the polygraph examination with the contractor in accordance with the TCCO policy. The referral packet will be submitted to the contractor and shall contain:

- A referral specifying the reason for the examination;
- Offense Reports;
- Copies of available social and criminal history documentation of the client;
- A polygraph agreement signed by the client;
- Copies of the client's order of civil commitment: and
- The Offense Summary Worksheet or the Sexual History Questionnaire, if applicable

The treatment provider and/or case manager will develop the questions for the examination.

Performance Measures

STANDARD	PAYMENT ADJUSTMENT
The contractor shall provide the polygraph report to the case manager within 15 days of the examination.	Reports received between the 16 th and 25 th day – 10% reduction in payment per late report. Reports received after the 25 th day -25% reduction based on the reduced amount.
Each contractor/examiner shall maintain a current Texas Polygraph Examiners License and maintain recognition with the Joint Polygraph Committee on Offender Testing (JPCOT)	Cost of each polygraph exam performed without a license or JPCOT recognition and suspension of service until such license is renewed.
Each contractor/examiner shall maintain professional malpractice insurance.	Cost of each polygraph exam performed without insurance and suspension of service until such insurance is renewed.

Contractor's failure to meet the standard will result in a deduction to the monthly contractor payment.

C. Required Activities

The respondent must accept all referrals made by the TCCO.

Respondent must polygraph the client to determine if the client is being deceptive or manipulative with compliance of civil commitment requirements of supervision and treatment. Polygraph tests shall be conducted as follows, unless approved otherwise by the TCCO:

- An instant offense examination, which covers the most recent sexual offense(s) and prior convictions, shall be conducted as scheduled by the TCCO.
- A sexual history disclosure examination which covers the client's lifetime prior to the most recent sexual offense shall be conducted as scheduled by the TCCO.
- An annual maintenance or monitoring examination which covers the timeframe from the most current sexual offense to the present time or from the last polygraph to the present shall be conducted as scheduled by the TCCO.

The respondent must videotape all polygraph examinations and maintain each videotape for a minimum of two (2) years. The respondent must provide copies of the videotape to the TCCO upon request.

Within fifteen (15) days of the polygraph examination, the respondent must submit a written report to the case manager, treatment provider, and the TCCO.

The respondent must notify the case manager upon conclusion of the session when any client:

- Fails to attend an examination session;
- Displays disruptive behavior; or
- Manifests signs of re-offending.

The respondent must schedule the examination within thirty (30) days of the date of referral.

The respondent must ensure the examination location site is not within a Child Safety Zone; refer to Form G. If the location of the examination site is determined to be in a Child Safety Zone, the respondent must be required to seek an alternative location subject to the approval by TCCO.

The respondent must obtain approval from the TCCO for each polygraph examiner, prior to performing Services for the TCCO clients.

Respondent must abide by applicable federal and state laws, regulations, and rules relating to activities listed above.

The respondent must allow the TCCO staff to attend polygraph examinations for monitoring purposes on an as needed basis. Scheduling shall be coordinated between the Contractor and the TCCO staff. The respondent must provide entry at all times by the TCCO Board Members and the TCCO authorized employees/agents for inspections and other official purposes. The Governor, members of the Legislature and all other members of the Executive and Judicial departments of the State, as well as any other persons designated by the TCCO, to monitor the delivery of services.

Any re-examinations require the approval of the TCCO prior to performing the service.

Security of Records and Disclosure of Information

The contractor shall require that staff providing Services specified meet sufficient standards of integrity to ensure that:

- The confidentiality of client records is not compromised.
- Unauthorized access to client records is not allowed and no information is disclosed to any third party without written authorization from the TCCO.

The contractor shall not divulge or make known, in any manner to any person, any personal information concerning clients, except as may be necessary in the performance of the Contract. The contractor shall ensure that all individuals have access to or custody of records sign a statement containing the confidentiality requirements of this Contract.

The contractor shall notify the TCCO immediately upon receipt of any legal process requiring disclosure of participant records. The contractor shall provide the TCCO notification and a copy of any subpoena served.

The Contractor shall, upon request of the TCCO or in response to a subpoena appear or submit an affidavit and testify in any legal proceedings convened by a court of competent jurisdiction. The cost associated with such request or subpoena will be determined on a case by case basis.

Reports Required from Contractor (note: under development)

FREQUENCY	DUE DATE	REPORT ITEM	AUTHORITY
Monthly	By the 15 th day after submission of the polygraph examination	Services Invoice with required information	Section IV, C Required Activities
Other	Prior to Service Commencement Date and upon renewal/replacement	Insurance Certificates Texas Polygraph Examiner's License	Section IV, A Eligibility Requirements
Quarterly	30 th calendar day of the month following the end of each quarter (Due - Dec. 30 th , March 30 th , June 30 th , Sept. 30 th)	Quarterly Compliance Standards Report Quarterly Performance Report	Appendix B

V. PROGRAM INFORMATION**A. Legal Authority**

The TCCO is authorized to enter into contracts through Texas Health and Safety Code Chapter 841.

B. Program Requirements

Contractors are required to conduct Services in accordance with federal and state laws prohibiting discrimination. Guidance for adhering to non-discrimination requirements can be found on the *Health and Human Services Commission (HHSC) Civil Rights Office* website at: http://www.hhsc.state.tx.us/about_hhsc/civil-rights/laws-policies.shtml

Upon request, a contractor must provide the HHSC Civil Rights Office with copies of all the contractor's civil rights policies and procedures. Contractors must notify HHSC's Civil Rights Office of any civil rights complaints received relating to performance under the contract no more than 10 calendar days after receipt of the complaint. Notice must be directed to:

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

A contractor must ensure that its policies do not have the effect of excluding or limiting the participation of persons in the contractor's programs, benefits or activities on the basis of national origin, and must 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.

Inspections and Acceptance of Service

The TCCO has the right to inspect and test all services called for by this Contract, to the extent practicable at all times and places during the Contract Term. The TCCO shall perform inspections in a manner that will not unduly interfere with the Contractor's performance of services. The Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable assistance for the safe and convenient performance of these duties.

From time to time the TCCO shall, subject to limitations provided by law with respect to rights of privacy, have the right to reasonably prompt access and to examine all records of Contractor, including without limitation, all financial books and records, maintenance records, employee records, and offender records generated by the Contractor and its subcontractors in connection with performance of this Contract. If subject to the outcome of an audit, it is determined that the Contractor is in non-compliance with any provisions of this Contract and/or money is owed to the TCCO by the Contractor, then the TCCO may exercise its rights of recovery of money owed as authorized in this Contract.

If any of the services are non-compliant with the contract requirements, the Contractor shall be notified describing specific areas of non-compliance. The Contractor shall have a twenty (20) day period to file a written response to all such items of non-compliance. For all items of non-compliance satisfactorily resolved by agreement between the Contractor and the TCCO, no further action regarding such items shall be taken. If an item of non-compliance cannot be resolved between the Contractor and the TCCO, and such item remains uncorrected for a period of twenty (20) days or longer after written notification to the Contractor, then such item may be declared to be an Event of Default.

C. Method of Payment

Contract Amount

TCCO will pay for services in accordance with Form F. In consideration of the services required by this contract, TCCO hereby agrees to pay to contractor a maximum fee not to exceed Ten Thousand Dollars (\$10,000) per state fiscal year (September through August). TCCO does not guarantee any minimum number of polygraph examination assignments or amount of compensation under this Contract.

Reimbursable Expenses

Contractor may be required to travel outside of their base county to complete assigned polygraph examinations. TCCO shall compensate contractors for authorized travel expenses, when traveling outside of their base county, at the state rates in effect at the time of travel and in accordance with the Texas Comptroller of

Public Accounts guidelines at <https://fm.x.cpa.state.tx.us/fmx/travel/index.php>. Reimbursements for travel shall be per trip and not per client receiving services.

The TCCO will make every effort to notify the respondent of cancellations in a timely manner. In the event the client fails to appear for the appointment and the failure to appear is not excused by the TCCO, the TCCO will pay the polygraph examiner for travel expenses incurred and a missed appointment fee of \$25.00.

Additional Services

The contractor must, upon request of the TCCO or in response to a subpoena appear or submit an affidavit and testify in any legal proceedings convened by a court of competent jurisdiction. Any cost reimbursement associated with such request or subpoena will be determined on a case by case basis.

Payments and Invoices for Polygraph Examination Services

The contractor must submit a properly completed invoice and supporting documentation that meets the requirements of the TCCO and as set forth in the State Comptroller's Vendor Guide (www.window.state.tx.us/procurement/pub/vendor_guide.pdf). Invoices must be submitted to the TCCO by the 15th day after completion of the polygraph report. The TCCO shall not pay an invoice if a report has not been completed, submitted and received. Payment will be made after all services are rendered, required reports have been received and accurate and complete invoices have been received.

Services performed by the contractor that cannot be verified will be disallowed for reimbursement. Illegible or incomplete documentation, which cannot be verified, will be disallowed for reimbursement. Payment shall be made within thirty (30) days of receipt of a correct invoice for services satisfactorily provided to TCCO. Interest shall accrue in accordance with Texas Government Code §2251.025 on late payments.

Invoices must contain, at a minimum: the contract number, the contractor name, address, telephone number and email, the client's name, the amount billed for the service, date of polygraph examination and type of examination. All invoices shall be sent to:

The Texas Civil Commitment Office
Mail Code 4300
P.O. Box 149347
Austin, Texas 78714-9347

It is recommended that the contractor receive payments via electronic funds transfer (EFT), also known as direct deposit. If the contractor elects to be set up for Direct Deposit, a vendor direct deposit authorization form must be completed by the contractor and be submitted to the following address:

The Texas Civil Commitment Office
Mail Code 4300
P.O. Box 149347
Austin, Texas 78714-9347

VI. PROCUREMENT AND ADMINISTRATIVE REQUIREMENTS

A. OE Point of Contact

For purposes of **submitting questions** concerning this OE, the only contact is Michelle Bias. All questions concerning this OE must be submitted by hand-delivery, mail or email to:

Texas Civil Commitment Office
ATTN: Michelle Bias, Special Projects Coordinator
OE: HHS0000311
4616 West Howard Lane, Suite 350
Austin, Texas 78728
Email: michelle.bias@tcco.texas.gov
Phone: (512) 341-4241

B. Submission

The completed enrollment application must be submitted to the OE point of contact at the physical address specified in Section VI. A. OE Point of Contact will not accept enrollment applications by fax.

If an enrollment application is sent by mail or hand-delivered to the address, the respondent should request a receipt at the time of delivery to verify the enrollment application was received. Enrollment applications must be delivered to:

Health and Human Services Commission
ATTN: Bid Coordinator
OE: HHS0000311
1100 W. 49th Street, MC-2020
Austin, Texas 78756

C. Rejection of Enrollment Applications

1. The TCCO reserves the right to reject any or all enrollment applications and is not liable for any costs incurred by the respondent in the development or submission of the enrollment application.
2. Any attempt by an employee, officer, or agent of the respondent to influence the outcome of the TCCO's review through contact with any Board Member or staff member of the TCCO will result in rejection of the enrollment application.
3. Any material misrepresentation in an enrollment application submitted to the TCCO will result in rejection of the enrollment application.
4. Enrollment applications may be rejected for failure to meet respondent eligibility criteria or inability to perform required activities.

D. Right to Amend or Withdraw OE

The TCCO reserves the rights to alter, amend, or modify any provisions of this OE or to withdraw this OE at any time prior to the execution of a contract if it is in the best interest of

the TCCO and the State of Texas. The decision of the TCCO is administratively final. Amendment or notice of withdrawal of the OE will be posted to the PCS Open Enrollment Opportunities.

E. Authority to Bind the TCCO

For the purposes of this OE, the TCCO Board Members or the Executive Director is the only individuals who may legally commit the TCCO to the expenditure of public funds under the contract. No costs chargeable to the proposed contract will be reimbursed before the contract is fully executed.

F. Exceptions

Any exceptions to the requirements in the OE will be specifically detailed in writing by the respondent. The TCCO will accept or reject each proposed exception. The TCCO reserves the right to adjust the funding allocation to contractors pursuant to the terms of the contract.

G. Contracting with Subcontractors

The Contractor may subcontract for the performance of any of its responsibilities to provide services pursuant to this Contract. No subcontract may be entered into unless the TCCO provides prior written approval, which approval may not be unreasonably withheld. If a subcontractor is deemed to be needed for an event of an emergency nature, verbal approval may be obtained through an authorized TCCO representative. The Contractor shall submit a written request with supporting documentation for approval, by the TCCO as soon as possible. The Contractor shall furnish to the TCCO copies of all subcontracts, without regard to amount of annual payments. Any arrangement by the Contractor with an affiliate or member company to provide services shall be subject to the subcontractor provisions of this Section. No contractual relationship shall exist between the TCCO and any subcontractor and the TCCO shall accept no responsibility whatsoever for the conduct, actions, or omissions of any subcontractor selected by the Contractor. The Contractor shall be responsible for the management of the subcontractors in the performance of their work. A subcontractor shall not be included in contract awards, renewals, audit or any other discussions except at the request of the TCCO.

Unless waived in writing by the TCCO, the subcontract shall contain the following:

An acknowledgement that the subcontract is subject to the contract between the TCCO and the Contractor (the "Master Contract").

- The subcontractor shall agree to comply with the terms of the Master Contract to the extent applicable with respect to goods and services being provided under the subcontract. It is the intention of the parties of the subcontract that the subcontractor shall "stand in the shoes" of the Contractor with respect to fulfilling the duties and obligations of the Contractor to the TCCO under the Master Contract.

- The TCCO's approval of a subcontract does not relieve the Contractor of its duty to perform under the Master Contract.

The Contractor shall require all subcontractors to obtain, maintain, and keep in force insurance coverage in accordance with accepted industry standards and the Contract during the time they are engaged hereunder.

VII. APPLICATION INSTRUCTIONS AND CRITERIA FOR ACCEPTANCE

The following application documents are required:

FORM A: Face Page

FORM B: Open Enrollment Application Checklist

FORM C: Additional Polygraph Examiners

FORM D: Vendor Information Form

FORM E: Copy of the current Texas Polygraph Examiner License; Documentation Reflecting recognition by JPCOT

FORM F: Pricing

FORM G: Child Safety Zone Certification

FORM H: Copy of Professional Malpractice Insurance Policy or Errors and Omissions Insurance

Respondent must submit all documents required in this OE. An application must be complete to be considered. The TCCO expressly reserves the right to review and analyze the documentation submitted and determine the respondent's eligibility for open enrollment.

Respondent Signature. Applications must contain original signatures on all forms requiring signatures.

Application Preparation and Assembly. Submit one original and 3 copies of the application. A complete application consists of responses to all required forms and information listed on FORM B, Open Enrollment Application Checklist.

Place the Application Face Page (FORM A) at the front of the application packet followed by Open Enrollment Application Checklist (FORM B). Beginning with the Application Face Page, number every page of the application consecutively, in the lower right corner.

Applications must be submitted according to Section VI. A. OE Point of Contact.

Upon receipt, the application will be screened for completeness and accuracy and evaluated. Respondents that meet the eligibility requirements and submit the signed and completed forms included in this OE will pass the evaluation.

After the application and contract is signed by both parties, an executed copy of the contract will be mailed to the respondent.

VIII. BLANK FORMS AND INSTRUCTIONS

FORM A: Face Page

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

RESPONDENT INFORMATION																			
1) LEGAL NAME:																			
2) MAILING Address Information (include mailing address, street, city, county, state and 9-digit zip code):																			
3) PAYEE Mailing Address, including 9-digit zip code (if different from above):																			
4) Federal Tax ID No. (9-digit), State of Texas Comptroller Vendor ID No. (14-digit) or if an individual, Social Security Number (9-digit) : <small>*The vendor acknowledges, understands and agrees that the vendor's choice to use a social security number as the vendor identification number for the contract, may result in the social security number being made public via state open records requests.</small>																			
5) TYPE OF ENTITY (check all that apply): <table style="width: 100%; border: none;"><tr><td><input type="checkbox"/> City</td><td><input type="checkbox"/> Nonprofit Organization*</td><td><input type="checkbox"/> Individual</td></tr><tr><td><input type="checkbox"/> County</td><td><input type="checkbox"/> For Profit Organization*</td><td><input type="checkbox"/> FQHC</td></tr><tr><td><input type="checkbox"/> Other Political Subdivision</td><td><input type="checkbox"/> HUB Certified</td><td><input type="checkbox"/> State Controlled Institution of Higher Learning</td></tr><tr><td><input type="checkbox"/> State Agency</td><td><input type="checkbox"/> Community-Based Organization</td><td><input type="checkbox"/> Hospital</td></tr><tr><td><input type="checkbox"/> Indian Tribe</td><td><input type="checkbox"/> Minority Organization</td><td><input type="checkbox"/> Private</td></tr><tr><td></td><td><input type="checkbox"/> Faith-based Organization</td><td><input type="checkbox"/> Other (specify): _____</td></tr></table> <small>*If incorporated, provide 10-digit charter number assigned by Secretary of State:</small>		<input type="checkbox"/> City	<input type="checkbox"/> Nonprofit Organization*	<input type="checkbox"/> Individual	<input type="checkbox"/> County	<input type="checkbox"/> For Profit Organization*	<input type="checkbox"/> FQHC	<input type="checkbox"/> Other Political Subdivision	<input type="checkbox"/> HUB Certified	<input type="checkbox"/> State Controlled Institution of Higher Learning	<input type="checkbox"/> State Agency	<input type="checkbox"/> Community-Based Organization	<input type="checkbox"/> Hospital	<input type="checkbox"/> Indian Tribe	<input type="checkbox"/> Minority Organization	<input type="checkbox"/> Private		<input type="checkbox"/> Faith-based Organization	<input type="checkbox"/> Other (specify): _____
<input type="checkbox"/> City	<input type="checkbox"/> Nonprofit Organization*	<input type="checkbox"/> Individual																	
<input type="checkbox"/> County	<input type="checkbox"/> For Profit Organization*	<input type="checkbox"/> FQHC																	
<input type="checkbox"/> Other Political Subdivision	<input type="checkbox"/> HUB Certified	<input type="checkbox"/> State Controlled Institution of Higher Learning																	
<input type="checkbox"/> State Agency	<input type="checkbox"/> Community-Based Organization	<input type="checkbox"/> Hospital																	
<input type="checkbox"/> Indian Tribe	<input type="checkbox"/> Minority Organization	<input type="checkbox"/> Private																	
	<input type="checkbox"/> Faith-based Organization	<input type="checkbox"/> Other (specify): _____																	
6) WILLING TO TRAVEL: <input type="checkbox"/> yes or <input type="checkbox"/> no																			
7) COUNTIES SERVED:																			
8) CONTACT PERSON																			
Name: Phone: Fax: E-mail:																			
<small>The facts affirmed by me in this application are truthful and I warrant that the applicant is in compliance with the assurances and certifications attached in Appendix A, and will provide services in accordance with 25 Texas Administrative Code, §§37.51-37.65. This document has been duly authorized by the governing body of the applicant and I (the person signing below) am authorized to represent the applicant.</small>																			
9) AUTHORIZED REPRESENTATIVE Name: Title: Phone: Fax: E-mail:	10) SIGNATURE OF AUTHORIZED REPRESENTATIVE																		
	11) DATE																		

GENERAL INSTRUCTIONS FOR THE FACE PAGE

This form provides basic information about the applicant and the proposed project with the Texas Civil Commitment Office, including the signature of the authorized representative. It is the cover page of the enrollment application and is required to be completed. Signature affirms that the facts contained in the applicant's response are truthful and that the applicant is in compliance with the assurances and certifications contained in **FORM E: DSHS Assurances and Certifications** and acknowledges that continued compliance is a condition for the award of a contract. Please follow the instructions below to complete the face page form and return with the applicant's enrollment application.

- 1) **LEGAL NAME** - Enter the legal name of the applicant.
- 2) **MAILING ADDRESS INFORMATION** - Enter the applicant's complete street and mailing address, city, county, state, and 9-digit zip code.
- 3) **PAYEE MAILING ADDRESS** - Payee – Entity involved in a contractual relationship with applicant to receive payment for services rendered by applicant and to maintain the accounting records for the contract; i.e., fiscal agent. Enter the PAYEE's name and mailing address, including 9-digit zip code, if PAYEE is different from the applicant. The PAYEE is the corporation, entity or vendor who will be receiving payments.
- 4) **FEDERAL TAX ID/STATE OF TEXAS COMPTROLLER VENDOR ID/SOCIAL SECURITY NUMBER** - Enter the Federal Tax Identification Number (9-digit) or the Vendor Identification Number assigned by the Texas State Comptroller (14-digit). *The vendor acknowledges, understands and agrees that the vendor's choice to use a social security number as the vendor identification number for the contract, may result in the social security number being made public via state open records requests.
- 5) **TYPE OF ENTITY** - The type of entity is defined by the Secretary of State and/or the Texas State Comptroller. Check all appropriate boxes that apply.

HUB is defined as a corporation, sole proprietorship, or joint venture formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who have been historically underutilized (economically disadvantaged) because of their identification as members of certain groups: Black American, Hispanic American, Asian Pacific American, Native American, and Women. The HUB must be certified by the Texas Building and Procurement Commission or another entity.

MINORITY ORGANIZATION is defined as an organization in which the Board of Directors is made up of 50% racial or ethnic minority members.

If a Non-Profit Corporation or For-Profit Corporation, provide the 10-digit charter number assigned by the Secretary of State.

- 6) **WILLING TO TRAVEL** - Identify if the respondent is willing to travel to counties not identified in this OE.
- 7) **COUNTIES SERVED** - Enter the counties the contractor can serve.
- 8) **CONTACT PERSON** - Enter the name, phone, fax, and e-mail address of the person responsible for the contract.
- 9) **AUTHORIZED REPRESENTATIVE** - Enter the name, title, phone, fax, and e-mail address of the person authorized to represent the applicant. Check the "Check if change" box if the authorized representative is different from previous submission to TCCO.
- 10) **SIGNATURE OF AUTHORIZED REPRESENTATIVE** - The person authorized to represent the applicant must sign in this blank.
- 11) **DATE** - Enter the date the authorized representative signed this form.

FORM B: Open Enrollment Application Checklist

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Each Enrollment Application Must Contain the Following Completed Items:

Document	Check (√), if included
FORM A: TCCO Face Page – Signature Required	
FORM B: Open Enrollment Application Checklist	
FORM C: Additional Polygraph Examiners	
FORM D: Vendor Information Form – Signature Required	
FORM E: Copy of the current Texas Polygraph Examiner License; Documentation Reflecting recognition by JPCOT	
Form F: Pricing	
Form G: Child Safety Zone Certification	
Form H: Copy of Professional Malpractice Insurance Policy or Errors and Omissions Insurance	

FORM C: Additional Polygraph Examiners

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Legal Name of Respondent: _____

This form provides information about the appropriate contacts in the respondent's organization in addition to those on the FACE PAGE. If any of the following information changes during the term of the contract, please send written notification to the Contract Management Unit.

Polygraph Examiner: _____ Areas Covered: _____ Phone: _____ Ext. _____ Fax: _____ E-mail: _____	Mailing Address (incl. street, city, county, state, & zip): _____ _____ _____ _____ _____
Polygraph Examiner: _____ Areas Covered: _____ Phone: _____ Ext. _____ Fax: _____ E-mail: _____	Mailing Address (incl. street, city, county, state, & zip): _____ _____ _____ _____ _____
Polygraph Examiner: _____ Areas Covered: _____ Phone: _____ Ext. _____ Fax: _____ E-mail: _____	Mailing Address (incl. street, city, county, state, & zip): _____ _____ _____ _____ _____
Polygraph Examiner: _____ Areas Covered: _____ Phone: _____ Ext. _____ Fax: _____ E-mail: _____	Mailing Address (incl. street, city, county, state, & zip): _____ _____ _____ _____ _____
Polygraph Examiner: _____ Areas Covered: _____ Phone: _____ Ext. _____ Fax: _____ E-mail: _____	Mailing Address (incl. street, city, county, state, & zip): _____ _____ _____ _____ _____

*Copies of Texas Polygraph Examiners License and documentation of JPCOT Recognition must be included for all polygraph examiners.

Add additional pages if necessary.

FORM D: Vendor Information Form

Texas Civil Commitment Office
 Polygraph Examination Services
 Open Enrollment Application OE#
 HHS0000311

Please submit the completed Vendor
 Information Form to:
 PCS_CST_HHSC@hhsc.state.tx.us

VENDOR INFORMATION NEW ____ or Update Information ____	
1a. Legal name of Other Party (OP) as it appears on documentation from IRS, Comptroller, or Secretary of State. This is the name that will appear on the contract document either as "Contractor" or by name. If using an assumed name, please attach documentation from Office of the Secretary of State or County Attorney.	
1b. OP Address including Street and Mailing Addresses, City, County, State and 9-digit Zip Code:	
1c. PAYEE Name and Mailing Address including 9-digit zip code (as it should appear on financial instruments and remittances):	
1d. Federal Employer Identification No. [FEIN] (9- digit), name and Social Security Number (SSN), if individual, or State of Texas Comptroller Vendor Identification No. (14-digit). NOTE: *The respondent acknowledges, understands and agrees that the respondent's choice to use a social security number as the vendor identification number for the contract, may result in the social security number being made public via state open records requests.	
1e. Mail code , if known (3 digits):	
<div style="display: flex; justify-content: space-between;"> <div> 2. TYPE OF ENTITY (enter appropriate letter in box): </div> <div>Is your entity certified as a HUB? <input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> <div style="display: flex; flex-wrap: wrap; margin-top: 5px;"> <div style="width: 50%;">A. City or County (Governmental Entity)</div> <div style="width: 50%;">E. Texas Non-profit Corporation *</div> <div style="width: 50%;">I. Sole Proprietor</div> <div style="width: 50%;">M. Out-of-State Corp</div> <div style="width: 50%;">B. State Agency</div> <div style="width: 50%;">F. Texas For Profit Corporation*</div> <div style="width: 50%;">J. Individual</div> <div style="width: 50%;">N. Other ***</div> <div style="width: 50%;">C. State Institution of Higher Learning</div> <div style="width: 50%;">G. Professional Association*</div> <div style="width: 50%;">K. Partnership**</div> <div style="width: 50%;">D. Other Political Subdivision</div> <div style="width: 50%;">H. Regular Association</div> <div style="width: 50%;">L. Limited Partnership**</div> </div> <p style="margin-top: 10px;">*Please provide 10-digit charter or file number assigned by the Secretary of State: _____</p> <p>** Please provide the name and SSN or FEIN of each partner. _____</p> <p>***If "Other", specify. _____</p>	
3a. Legal name of person or entity authorized to contract with the Texas Civil Commitment Office	
3b. Typed Name & Title of Person Authorized to Sign Contracts:	3b. Telephone
3c. Typed Name & Title of Contact Person (Contract Documents and Correspondence)	3c. Telephone
3d. Contact Person's E-mail Address	
4a. Signature of person <i>Authorized to Sign Contracts</i> :	4b. Date

Form E: Texas Polygraph Examiner License

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Respondent must use this space to attach a copy of Texas Polygraph Examiner License; Documentation reflecting recognition by JPCOT.

*Copies of Texas Polygraph Examiners License and documentation of JPCOT Recognition must be included for all polygraphers examiners. Add additional pages if necessary.

Form F: Pricing

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Examination Type	*Price
Instant Offense, Sexual History, Annual Maintenance and Monitoring	

*Price will not exceed \$250.00

Travel Rates based on State Travel rates at:

<https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php>

Form G: Child Safety Zone Certification

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Contractor Name and Location(s) where services will be provided:

I certify that the above listed facility _____ **is** (or) _____ **is not** located in a child safety zone*.

Authorized Signature

Name

Title

Date

***CHILD SAFETY ZONE** The 1,000 foot buffer zone that must be maintained between sex offenders and any premises where children commonly gather, including schools, day-care facilities, playgrounds, public or private youth centers, or public swimming pools. Any area within 1,000 feet of these types of premises is considered a child safety zone unless TCCO modifies the distance requirement and gives written notice of this modification to the Contractor.

Note: This form is required to be completed for each location providing Services under this contract.

Add additional pages if necessary.

FORM H: Professional Malpractice Insurance Policy or Errors and Omissions Insurance

Texas Civil Commitment Office
Polygraph Examination Services
Open Enrollment Application OE# HHS0000311

Respondent must use this space to attach a copy of Professional Malpractice Insurance Policy or Errors and Omissions Insurance.

IX. APPENDICES

APPENDIX A: GENERAL PROVISIONS

- A. Contractor Status.** Contractor certifies by the execution of this Contract that it is not ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor further certifies that it has not been debarred from the receipt of an agency contract by any action taken by the State of Texas. A false statement regarding Contractor's status will be treated as a material breach of contract and may be grounds for termination.
- B. Compliance with Statutes and Rules.** Contractor shall comply with all applicable federal and state laws, rules, regulations, standards and guidelines in effect on the beginning date of this Contract unless amended, including but not limited to all child abuse reporting requirements in Chapter 261 of the Texas Family Code.
- C. Breach of Contract Claim.** Any claims for breach of this Contract by Contractor that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to the Office of General Counsel, Department of State Health Services, 1100 West 49th Street, Austin, TX 78756. Said notice shall also be given to all other representatives of DSHS and Contractor otherwise entitled to notice under this contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Government Code, Chapter 2260, Subchapter C and department rules.
- D. Subcontractors.** Contractor shall comply, and shall require its subcontractor(s) to comply, with the requirements set forth in this Contract and the Department's rules of general applicability and other applicable state and federal statutes and rules as such statutes and rules currently exist and as they may be lawfully amended.
- E. Reporting.** Contractor shall submit reports, if required, in accordance with the reporting requirements established by the Department.
- F. Applicable Contracts Law and Venue for Disputes.** Regarding all issues related to contract formation, performance, interpretation, and any issues that may arise in any dispute between the Parties, the Contract shall be governed by, and

construed in accordance with, the laws of the State of Texas. In the event of a dispute between the Parties, venue for any suit shall be Travis County, Texas.

G. Assurances. As required by Texas Government Code §2252.903, Contractor certifies by the execution of this Contract that it is not prohibited from entering into a contract because of indebtedness to the state, including but not limited to, tax delinquency, student loan delinquency, or child support delinquency. If the Contractor is indebted to the state or becomes indebted to the state during the terms of this Contract, Contractor agrees that any payments under the Contract will be applied directly toward eliminating the debt until it is paid in full.

As required by Texas Family Code, §231.006, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services or receive a state-funded grant or loan. Contractor agrees to comply with these provisions, certifies that it is not ineligible to receive the payments specified in this Contract, and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract under Texas Government Code § 2155.004 (concerning financial participation by a person who received compensation from DSHS related to this transaction) or Texas Government Code §§ 2155.006 or 2261.053 (concerning certain federal disaster-related contracts) and acknowledges that this Contract may be terminated and payment withheld if these certifications are inaccurate. Contractor further certifies that neither Contractor nor its principals is disqualified or ineligible for participation in a federal or state assistance program; neither Contractor nor its principals is debarred, suspended, or voluntarily excluded from participation in this transaction by federal or state department or agency.

Contractor certifies by execution of this Contract to the following:

- a) it is not disqualified under 2 CFR § 376.935 or ineligible for participation in federal or state assistance programs;
- b) neither it, nor its principals, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state department or agency in accordance with 2 CFR Parts 376 and 180 (parts A-I), 45 CFR Part 76 (or comparable federal regulations);
- c) it has not knowingly failed to pay a single substantial debt or a number of outstanding debts to a federal or state agency;
- d) it is not subject to an outstanding judgment in a suit against Contractor for collection of the balance of a debt;
- e) it is in good standing with all state and/or federal agencies that have a contracting or regulatory relationship with Contractor;
- f) that no person who has an ownership or controlling interest in Contractor or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or a federal block grant;
- g) neither it, nor its principals have within the three (3)-year period preceding this Contract, has been convicted of or had a civil judgment rendered against them for

commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private or public (federal, state or local) transaction or contract under a private or public transaction, violation of federal or state antitrust statutes (including those proscribing price-fixing between competitors, allocation of customers between competitors and bid-rigging), or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or false claims, tax evasion, obstruction of justice, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contactor or its principals;

- h) neither it, nor its principals is presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with the commission of any of the offenses enumerated in subsection g) of this section; and
- i) neither it, nor its principals within a three (3)-year period preceding this Contract has had one or more public transaction (federal, state or local) terminated for cause or default.

Contractor shall include these certifications in this Contract, without modification (except as required to make applicable to the subcontractor), in all subcontracts and solicitations for subcontracts. Where Contractor is unable to certify to any of the statements in this Contract, Contractor shall submit an explanation to the contract manager assigned to the Program Attachment. If Contractor's status with respect to the items certified in this Contract changes during the term of this Contract, Contractor shall immediately notify the contract manager assigned to the Program Attachment.

H. Acceptance as Payment in Full. Contractor shall accept reimbursement or payment from DSHS as payment in full for services or goods provided to clients. Contractor agrees to not seek additional reimbursement or payment for services or goods from clients.

I. Records Retention. Contractor shall retain records in accordance with the DSHS Records Retention Schedule, located at <http://www.dshs.state.tx.us/records/schedules.shtm>, Department rules and any other applicable state and federal statutes and regulations governing medical, mental health, and substance abuse information. At a minimum Contractor shall retain and preserve all records, including financial records that are generated or collected by Contractor under the provisions of this Contract, for a period of four (4) years after the termination of the Contract.

J. Survival of Obligations. The obligations of Contractor to retain records and maintain confidentiality of information shall survive this Contract.

K. Access. In addition to any right of access arising by operation of law, Contractor, and any of Contractor's affiliate or subsidiary organizations or subcontractors shall permit the Department or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, including the Office of the Inspector General at HHSC (OIG) and the State Auditor's Office (SAO), unrestricted access to and the right to examine any site where business is conducted or services are performed and all records (including client and patient records, if any), books, papers or documents related to the Contract.

- L. Gifts and Benefits Prohibited.** Contractor certifies that it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, present or future employment, gift, loan, gratuity, special discount, trip, favor, or service to a DSHS or HHSC official or employee in connection with this Contract.
- M. Program Site.** All Contractors shall ensure that the location where services are provided is in compliance with all applicable local, state and federal zoning, building, health, fire, and safety standards.
- N. Independent Contractor.** Contractor is an independent Contractor. Contractor shall direct and be responsible for the performance of its employees, subcontractors, joint venture participants or agents. Contractor is not an agent or employee of the Department or the State of Texas for any purpose whatsoever.
- O. Licenses, Certifications, Permits, Registrations, and Approvals.** Contractor shall obtain and maintain all applicable licenses, certifications, permits, registrations and approvals to conduct its business and to perform the services under this Contract. Any revocation, surrender, expiration, non-renewal, inactivation or suspension of any such license, certification, permit, registrations or approval shall constitute grounds for termination of this Contract or other remedies the Department deems appropriate. Contractor shall ensure that all its employees, staff and volunteers maintain in active status all licenses, certifications, permits, registrations and approvals required to perform their duties under this Contract and shall prohibit any person who does not hold a current, active required license, certification, permit, registration or approval from performing services under this Contract.
- P. Immunity Not Waived.** THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS CONTRACT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY DEPARTMENT OR THE STATE OF TEXAS OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT DEPARTMENT OR THE STATE OF TEXAS MAY HAVE BY OPERATION OF LAW.
- Q.** By entering a contract with TCCO, you agree to be bound by the terms of the HHS Data Use Agreement at http://www.hhsc.state.tx.us/about_hhsc/BusOpp/data-use-agreement.pdf

R. Special Provisions.

Availability of Funding

This Contract is expressly conditioned upon the availability of state and federal appropriated funds.

Contractor will have no right of action against TCCO in the event TCCO is unable to perform its obligations under this Contract as a result of the suspension, termination, withdrawal, or failure of funding to the TCCO or lack of sufficient funding of TCCO for any activities or functions contained in the scope of this Contract.

TCCO will use all reasonable efforts to ensure that such funds are available and will negotiate in good faith with Contractor to resolve any claims for payment that represented

accepted services or deliverables that are pending at the time funds became unavailable. TCCO shall make best efforts to provide reasonable written notice to Contractor upon learning that funding may be discontinued.

If funds for the continued fulfillment of this Contract by TCCO are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then TCCO will have the right to terminate this Contract at no additional cost and with no penalty whatsoever by giving prior written notice documenting the lack of funding.

Delegation of Authority

State and federal laws generally limit TCCO's ability to delegate certain decisions and functions to a contractor, including but not limited to: (1) policy-making authority; and (2) final decision-making authority on the acceptance or rejection of contracted services.

Indemnification

Contractor shall indemnify and save the TCCO, the State of Texas, and its officers, agents, and employees ("the State") harmless from and against:

- A. Any and all claims arising from the conduct, management, or performance of this Contract by Contractor, its agents, subcontractors, or employees, including without limitation, any and all claims arising from:
 - i. Any breach or default on the part of Contractor in performance of any covenant or agreement on its part to be performed pursuant to the terms of this Contract;
 - ii. Any act or negligence of Contractor or any of its agents, subcontractors, servants, employees, or licensees; and
 - iii. Any accident or injury, or damage whatsoever caused to any person, firm, or corporation.
- B. All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action, or proceeding brought thereon.
- C. Nothing herein is intended to deprive the State or Contractor of the benefits of any law limited exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into this Contract, the State does not waive its right of sovereign immunity, nor does Contractor waive any immunity that may extend to it by operation of law. The aforementioned indemnification shall not be affected by a claim that negligence of the State or its respective agents, contractors, employees, or licensees contributed in part to the loss or damage indemnified against.
- D. The parties agree that the terms, covenants, and provisions of this provision shall survive the termination of this Contract.

Compliance with Applicable Rules, Regulations, Procedures, and Laws

Contractor must comply with all laws, regulations, requirements, and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TCCO reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TCCO's or Contractor's compliance with all applicable State and federal laws, and regulations.

Contractor shall provide services to TCCO that are in compliance with all applicable, local, state, and federal laws, rules and regulations now in effect or that become effective during the term hereof including but not limited to: Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination in Employment Act; The Immigration Reform and Control Act of 1986; Code of Federal Regulations, Title 42, Part 2 (regarding information about drug and alcohol abuse); Environmental Protection Agency Rules and Regulations; Texas Health and Safety Code Chapters 85, 595, 611; the Americans with Disabilities Act of 1990; the Civil Rights Act of 1991; Occupational Safety and Health Act of 1970; Texas Family Code Section 231.006; Texas Government Code Chapters 783, 2254, 2259, and 2260; Health and Safety Code Chapter 841; Texas Administrative Code Title 37, Part 16, Chapter 810; any and all relevant federal and state financial cost principles and audit requirements; and any and all rules, policies, and procedures established from time to time by the TCCO regarding the operations of CRF facilities.

Criminal History Record Information Compliance

The parties hereto acknowledge and agree that in order for the Contractor to perform the services contemplated herein, the TCCO may have to provide the Contractor with or the Contractor may have access to, certain information regarding SVP clients and former SVP clients known as "criminal history record information" ("CHRI").

CHRI means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information and other formal charges and their dispositions. The term does not include information as to convictions, fingerprint information, and driving records.

In the event the TCCO provides the Contractor with CHRI, the Contractor agrees to comply with the confidentiality requirements of 28 CFR 20, Part 20, Subpart B, Section 201.21; Section 524(a) of the Omnibus Crime Control and Safe Streets Act, 47 USC 3701, et seq., as amended (the "Act"), Texas Government Code Chapter 411, Section 411.083 and with the FBI Criminal Justice Information Services Security Policy.

More specifically the Contractor agrees and acknowledges as follows:

- A. The TCCO hereby specifically authorizes the Contractor to have access to criminal justice history to the extent such access is necessary or appropriate to enable the Contractor to perform the services contemplated herein.

- B. The Contractor agrees to limit the use of such information for the purposes set forth herein.
- C. The Contractor agrees to maintain the confidentiality and security of the CHRI in compliance with state and federal statutes, rules and regulations, and to return or destroy such information when it is no longer needed to perform the services contemplated herein.
- D. In the event that the Contractor's employee fails to comply with the terms hereof, the Contractor shall take corrective action with the employee(s). Such corrective action must be acceptable to the TCCO. An intentional or knowing violation may also result in civil and criminal violations under federal and state laws. Additionally, the Contractor shall submit for TCCO's approval the Contractor's corrective action plan to ensure full compliance with the terms hereof.

Authority to Audit

Contractor understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. The Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested.

Contractor shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.

Contractor shall reimburse the State of Texas for all costs associated with enforcing this provision.

Fraud, Waste or Abuse

In accordance with Chapter 321, Texas Government Code, the State Auditor's Office is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds.

If there is reasonable cause to believe that fraud, waste, or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website: <http://www.sao.state.tx.us/>.

The Contractor shall comply with the Texas Comptroller of Public Accounts Anti-Fraud Policy found at <http://www.window.state.tx.us/ssv/ethics.html>.

Buy Texas

In accordance with Texas Government Code, Section 2155.4441, the State of Texas requires that during the performance of a contract for services, Contractor shall purchase

products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the State.

Certification Concerning Hurricane Relief

Sections 2155.006 and 2261.053, Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster as defined by Section 418.004, Texas Government Code, occurring after September 24, 2005. Under Section 2155.006, Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

Confidentiality and Public Information Act

Notwithstanding any provisions of this Contract to the contrary, Contractor understands that TCCO will comply with the Texas Public Information Act, Texas Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. TCCO agrees to notify Contractor in writing within a reasonable time from receipt of a request for information related to Contractor's work under this Contract. Contractor will cooperate with TCCO in the production of documents responsive to the request. TCCO will make a determination whether to submit a Public Information Act Opinion request to the Attorney General. Contractor will notify TCCO General Counsel within twenty-four (24) hours of receipt of any third party requests for information that were provided by the State of Texas for use in performing this Contract. The Contract and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Contractor agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Contract, including information which discloses confidential personal information, particularly, but not limited to social security numbers.

Dispute Resolution

The dispute resolution process provided for in Texas Government Code, Chapter 2260 shall be used by TCCO and Contractor to resolve any dispute arising under the Contract.

The dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, to attempt to resolve a claim for breach asserted by Contractor. If the Contractor's claim for breach cannot be resolved by the parties in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260 to the Deputy Comptroller or his or her designee. The notice shall also be given to the individual identified in the Contract for receipt of notices. Compliance by the Contractor with Chapter 2260 is a condition precedent for the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach by the TCCO if the parties are unable to resolve their disputes as described above.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practice and Remedies Code. Neither the execution of this Contract by the TCCO nor any other conduct of any representative of the TCCO relating to the Contract shall be considered a waiver of sovereign immunity to suit.

For all other specific breach claims or disputes under the Contract, the TCCO and the Contractor shall first attempt to resolve them through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by the TCCO and the Contractor within fifteen (15) days after written notice by one of them demanding mediation under this Section. Contractor shall pay all costs of the mediation unless the TCCO in its sole good faith discretion approves its payment of all or part of such costs. By mutual agreement, the TCCO and the Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this section is to reasonably ensure that the TCCO and the Contractor shall, in good faith, utilize mediation or another non-binding dispute resolution process before pursuing litigation. The TCCO participation in or, or the results of, any mediation or other non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by the TCCO of 1) any rights, privileges, defenses, remedies or immunities available to the TCCO as an agency of the State of Texas or otherwise available to the TCCO; 2) the TCCO termination rights; or 3) other termination provisions or expiration dates of the Contract.

Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the TCCO the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or dispute is pending under either of the above processes; however, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

Force Majeure

Neither Contractor nor TCCO shall be liable to the other from any delay in, or failure or performance, of any requirement resulting from this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform.

Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

Ownership/Intellectual Property, including Rights to Data, Documents, and Computer Software

For the purposes of this Contract, the term “work” is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, intellectual property, or other property developed, produced, or generated, in connection with this Contract.

All work performed pursuant to this Contract is made the exclusive property of TCCO. All right, title, and interest in and to said property shall vest in TCCO upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to this Contract. To the extent that title to any such work may not, by operation of law, vest in TCCO, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to TCCO. TCCO shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Contractor must give TCCO and/or the State of Texas, as well as any person designated by TCCO and/or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond those amounts payable to Contractor for the services rendered under this Contract.

Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other record relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Work as defined above. Contractor and any subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing or evaluating by TCCO and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.

APPENDIX B: QUARTERLY PERFORMANCE REPORT **TEXAS CIVIL COMMITMENT OFFICE** **POLYGRAPH EXAMINATION SERVICES**

Contractor: _____

Contract Number: _____

Quarter: _____ 1st (Sept.-Nov) _____ 2nd (Dec.-Feb.) _____ 3rd (March-May) _____ 4th
 (June – Aug.)

Cities/Areas Covered During this Quarter:

Name of Person Providing Polygraphs Under This Contract	Examiners Address	License Expiration Date	JPCOT Expiration Date

Attach a separate sheet if there are additional examiners.

1. Has the Texas Polygraph License and documentation for JPCOT recognition been submitted for each examiner providing services under this contract during the quarter?
 _____ Yes _____ No
2. Average length of time to conduct a polygraph exam during the period (including pre-test, in-test, and post-test) not including the written report: _____
3. Number of polygraph examinations conducted during the period: _____
4. Number of polygraph examinations submitted to the case manager by the 15th day after completion of the report: _____

 Signature of Person Completing the Report

 Date

 Printed Name of Person Completing the Report

APPENDIX C: MILEAGE LOG

DRIVER NAME: _____

MONTH: _____


PAGE: _____ OF _____

DATE	DEPARTURE LOCATION	DEPARTURE TIME	DEPARTURE MILEAGE	PASSENGER(S)	DESTINATION	ARRIVAL TIME	ARRIVAL MILEAGE	DROP-OFF OR WAIT	TOTAL TIME	TOTAL MILEAGE

HQ ADDRESS:

SIGNATURE: _____

APPENDIX D: TCCO POLICY & PROCEDURE

TEXAS CIVIL COMMITMENT OFFICE	
 POLICY AND PROCEDURE	NUMBER: 611 EFFECTIVE DATE: 3/20/2015 SUPERCEDES: 6.1 dated 9/1/05, 5/1/08, 9/1/10, 12/12; 9/1/2013

SUBJECT: CLINICAL POLYGRAPHS

PURPOSE: To establish the procedure and requirements for a clinical polygraph. PROCEDURE:

I. Polygraph Examiner Credentials

All polygraph examiners shall:

- A. Hold a current license approved by the Texas Department of Licensing and Regulation;
- B. Be recognized by and follow the guidelines of the Joint Polygraph Committee on Offender Testing (JPCOT); and
- C. Follow the guidelines of the American Polygraph Association (APA) Post-Conviction Sex Offender Testing (PCSOT) standards.

II. Referral Process

- A. Case managers and treatment providers shall jointly agree on the questions that will be asked of the client.
- B. The case manager shall complete the Polygraph Agreement (CCT015), discuss the reason, purpose, and questions with the client and obtain the client's signature prior to each polygraph.
- C. The case manager shall provide the following documents to the polygraph examiner within five (5) calendar days of scheduling the polygraph:
 1. The CCT015 specifying the reason for the polygraph and the questions to be asked;
 2. Offense report(s);
 3. Copies of available social and criminal history;
 4. Copy of the client's civil commitment order and any modifications; and
 5. The Offense Summary Worksheet(s) or the Sexual History Questionnaire when applicable.

III. Types of Polygraph Examinations

Clients shall submit to the following types of polygraph examinations:

- A. Instant Offense ~~-the~~ offenses for which the client is under civil commitment. An instant offense polygraph examination shall be scheduled using the following criteria:

1. When a client is in denial of an offense(s).
 2. If the client denies the sex offense(s) and has more than two (2) sexual offense victims, the treatment provider shall identify two (2) offenses the client shall be polygraphed on. The treatment provider shall identify the most recent and/or the most severe offenses and the case manager shall schedule the polygraphs based on that identification.
 3. When a client admits to the offense(s), he or she may be required to submit to an instant offense polygraph as determined by the case manager and treatment provider. This determination is to be made on a case-by-case basis and the case manager shall document the reason for the polygraph in the automated case management system.
- B. Sexual History -covers the client's lifetime, not including the sexual offenses for which he is under civil commitment.
 - C. Maintenance — covers the timeframe from release to the present or from the last polygraph to the present to determine compliance with treatment or supervision.
 - D. Monitoring — covers the timeframe from release to the present or from the last polygraph to the present to determine if a new sex offense has been committed.

IV. Re-Examinations

- A. The case manager shall obtain approval from the TCCO management prior to scheduling a re-examination polygraph when an exam's results indicate deception on an instant offense or monitoring polygraph.
- B. A sexual history re-examination may be scheduled only after the client has made additional disclosures.
- C. Excluding annual maintenance exams, the case manager shall obtain approval from the TCCO management prior to scheduling a maintenance polygraph re-examination when an exam's results indicate deception.

V. Polygraph Report

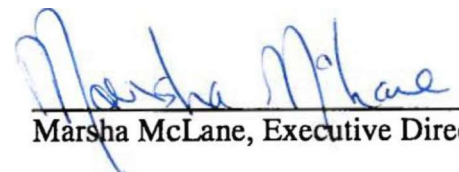
- A. The case manager shall obtain a copy of the written polygraph exam within fifteen (15) calendar days of testing.
- B. The case manager shall scan the report in the automated case management system and discuss the report with the treatment provider.

VI. Polygraph Frequency

- A. A client shall submit to a maintenance polygraph at least one (1) time per year.
- B. A polygraph examiner shall not conduct more than three (3) polygraphs of the same type (e.g., maintenance exam) on a client per year.

VII. Medically/Physically/Mentally Unable to Take Polygraph

After consultation with the polygraph examiner if a client is medically, physically or mentally unable to take a polygraph, the case manager shall document the reason(s) in the automated case management system. Each case shall be re-evaluated every six (6) months to determine if the client's circumstance has changed. If a client's situation has changed earlier than six (6) months, the case manager shall schedule a polygraph as soon as the client is able to submit to the polygraph.


Marsha McLane, Executive Director

Texas Civil Commitment Office
Polygraph Agreement

Polygraphs are required by the order of commitment and my treatment plan. I understand and agree to the following:

1. I understand that I will be taking one of the following polygraphs:
 - ☐ **Instant Offense** - Covers the offense(s) of conviction.
 - ☐ **Sexual History** – Covers your sexual autobiography and victim list but does not include any post-conviction acts or the instant offense.
 - ☐ **Maintenance** - Covers compliance with conditions of civil commitment.
 - ☐ **Monitoring** – Covers any illegal sex act(s) or contact with children or adults from release or from the last polygraph.
2. I understand that my case manager has set the appointment for a polygraph. I agree to be on time for my appointment and take the polygraph on the following date & time: Click here to enter text.
3. I agree to take the polygraph from a polygraph examiner approved by TCCO:

Name: Click here to enter text.

Address: Click here to enter text. Phone Number: Click here to enter text.
4. I understand I have the right to refuse to answer incriminating questions during the polygraph examination.
5. I understand that my polygraph questions will cover the following topics:
 - 1) Click here to enter text.
 - 2) Click here to enter text.
 - 3) Click here to enter text.
 - 4) Click here to enter text.

I understand that the questions may be revised or changed at the polygraph exam but I will be informed prior to the exam.

Client Signature

Date

Case Manager Signature

Date

Dist: Treatment Provider

Polygraph Examiner

Case Manager File/CSS/Central file Client

Form CCT015