



TEXAS

Health and Human Services

Phil Wilson, Acting Executive Commissioner

**Request for Proposals (RFP)
for
Durable Medical Equipment (DME) and Services**

RFP No. HHS0004979

**Date of Release: July 9, 2020
Responses Due: August 7, 2020 2:00 p.m.**

NIGP Class-Item Codes

Class-Item	Description
430-48	Medical Gases, Anesthesia and Respiration Therapy: Carbon Dioxide, Cyclopropane, Nitrous Oxide, Pure Oxygen, etc.
465-00	Hospital and Surgical Equipment, Instruments, and Supplies
470-00	Hospital, Nursing Home or Residential Specialized Equipment for the Disabled
475-00	Hospital, Surgical, and Medical Related Accessories and Sundry Items
710-00	Prosthetic Devices, Hearing Aids, Auditory Testing Equipment, Electronic Reading Devices, etc.
936-45	Hearing Devices, Aids, Auditory Training Equipment, etc.
948-15	Audiology Services, Including Hearing Aid Services

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ARTICLE I. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY

1.1 EXECUTIVE SUMMARY

The State of Texas, by and through the Texas Health and Human Services Commission (HHCS or System Agency), seeks to award Master Contracts for Durable Medical Equipment (DME) Goods and/or Services in accordance with the specifications contained in this Request for Proposal (RFP). The intent of this RFP is to identify a pool of Successful Respondents who are able to provide these Goods and Services. Awarded Respondents will be issued a Master Contract under this RFP. Each Master Contract is to be used on an “as needed basis” by the HHSC Comprehensive Rehabilitation Services (CRS) program. Successful Respondents are not guaranteed work except as awarded through the WOQ process that is defined within this RFP.

Successful Respondents from this RFP will have the opportunity to submit responses for Goods and Services for HHSC WOQ requests. This RFP does not contain the initial order for Goods and Services. Any initial order under the Master Contracts will be identified and issued through a subsequent WOQ process that will include detailed description of Goods and Services needed. The WOQ process is further defined within the RFP.

The focus of the CRS program service arrays is to provide the Eligible Person for CRS supports who have a traumatic brain injury (TBI) and/ or traumatic spinal cord injury (TSCI) with services that will promote independence in their home and community. CRS services assist in improving the ability to function independently in the home and community in terms of self-care, mobility and communication and/or establishing new patterns of cognitive activity or compensatory mechanisms, including focus on mobility, self-care, and communication.

HHSC seeks to establish a statewide network of DME providers who can assess/evaluate, deliver, set-up/install, modify and provide training on the equipment requested in a timely, professional, efficient and cost-effective manner while ensuring the highest standards of performance, integrity, customer service and fiscal accountability. HHSC wishes to contract with Respondents who understand the importance and availability of the goods and services they provide, and the impact that they have on the Eligible Person who receive those goods and services.

To be considered for award, Respondents must execute **Exhibit A, Affirmations and Solicitation Acceptance** and provide all other required information and documentation as set forth in this Solicitation.

Information regarding HHSC and its programs is available online at <https://hhs.texas.gov/>.

1.2 DEFINITIONS

Refer to **Exhibit B, Health and Human Services (HHS) Uniform Terms and Conditions – Vendor, Version 3.0** for additional definitions

Additionally, as used in this Solicitation, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

"Addendum" means a written clarification or revision to this Solicitation issued by the System Agency.

"Ancillary Services" means Goods and Services that support core CRS services but are not primary interventions. Examples of Ancillary Services include supplies, medications and transportation.

"Assistive Technology Device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a disability.

"Audiological Services" means the evaluation and treatment of disorders related to hearing and balance.

"Comparable Benefits" means benefits that are similar to services provided by the CRS program but are provided or paid for by another entity such as employers, Medicaid programs and waivers, Medicare, private health insurance, workers compensation or another agency or services.

"Competitive Bid" means an offer to contract with the State to provide specific services or products that are available for purchase through multiple dealers or distributors for the manufacturer or owner of the services.

"Compliance" means adhering to the state laws, regulations, guidelines, and specifications that are outlined in this Solicitation and the CRS Standards for Providers Manual.

"Durable Medical Equipment" or "DME" means any prescribed and medically necessary equipment and training/services that can withstand repeated use that provides therapeutic benefits to a person with a traumatic brain injury and/or a traumatic spinal cord injury that can be utilized to improve independence in the home and the community to aid in improved functional quality of living. DME consists of items which:

- a. Are primarily and customarily used to serve a medical purpose;
- b. Are not useful to a person in the absence of illness or injury;
- c. Are ordered or prescribed by a physician;
- d. Are reusable;
- e. Can stand repeated use;
- f. Are appropriate for use in the home, and
- g. Generally, have an expected lifetime of at least three (3) years.

DME, includes, but is not limited to, wheelchairs (manual and electric), hospital beds, traction equipment, canes, crutches, walkers, respiratory supplies, oxygen, monitors, pressure mattresses, shower chairs, grab bars, ramps, technology, generalized adaptive equipment and lifts.

"Eligible Person" means a person approved by Comprehensive Rehabilitation Services (CRS) that has a traumatic brain injury (TBI) or a traumatic spinal cord injury (TSCI) due to external force to receive limited services and supports that assist with rehabilitation and recovery to live more independently in the home and community.

"ESBD" means the Electronic State Business Daily, the electronic marketplace where State of Texas bid opportunities over \$25,000 are posted. The ESBD may currently be accessed at <http://www.txsmartbuy.com/sp>.

"Free on Board (FOB) Destination" is a designation applied to the delivery of goods whereby the receiver does not own the goods until they arrive at their destination. The FOB Destination refers to the point at which the title to goods transfers. This term does not relate to freight charges.

"Functional Unit" means the fully constructed or fabricated DME unit that can be immediately put into operational use by the HHSC client. For example, a wheelchair would include the frame, seating system, controls, batteries and other parts necessary to make it immediately usable by the client.

"HUB Subcontracting Plan" or "HSP" means written documentation regarding the use of subcontractors, which is required to be submitted with all responses to state agency contracts with an expected value of \$100,000 or more where subcontracting opportunities have been determined by the state agency to be probable. The HUB Subcontracting Plan subsequently becomes a provision of the awarded Contract and shall be monitored for compliance by the state agency during the term of the Contract.

"Individualized Program Plan" or "IPP" means a document developed by a consumer's interdisciplinary team for the consumer, based on the consumer's individual needs. At a minimum, the IPP identifies the consumer's long-term and short-term goals and objectives; the treatment modalities to be used in achieving the goals and objectives; the individuals responsible for each treatment modality; the target date by which each goal and objective is to be achieved; and the discharge plan.

"Individualized Rehabilitation Plan" or "IRP" means a plan developed by CRS program staff members that outlines the goals, services, and other aspects of the services provided by the CRS program. A consumer's IRP may include elements of the IPP developed by the Contractor and other members of the interdisciplinary team.

"Interdisciplinary Team (IDT)" or "IDT" means a team of professionals that coordinates services intended to achieve treatment goals that minimize a consumer's physical or cognitive disabilities and maximize the consumer's ability to function.

"Lead Item" means the item in the product category with the highest total allowed charges nationwide (all states, District of Columbia, Puerto Rico, and the US Virgin Islands) implemented by the Centers for Medicare & Medicaid Services (CMS) for all product categories in the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program.

"Master Contract" also known as "Master Services Agreement" or "MSA" means a contract or agreement reached between parties, in which the parties agree to terms that will govern future transactions or future agreements known as Work Order Quotes and Service Authorizations.

“Orthosis” means a custom-fabricated or custom-fitted medical device designed to provide for the support, alignment, prevention, or correction of a neuromuscular or musculoskeletal disease, injury, or deformity, consistent with the Orthotics and Prosthetics Act, Texas Occupations Code, [Chapter 605](#).

“Preauthorization” means approval by a CRS counselor before Services are provided.

“Prosthesis” means a custom-fabricated or custom-fitted medical device used to replace a missing limb, appendage, or other external human body part but that is not surgically implanted, consistent with the Orthotics and Prosthetics Act, under the Texas Occupations Code, [Chapter 605](#). Accordingly, the term includes an artificial limb, hand, or foot.

“Rehabilitation Technology” means equipment or technology designed to help persons with disabilities perform tasks that would otherwise require assistance.

“Respondent” means the entity responding to this Solicitation.

“Service Authorization” means authorizations for Services to be rendered. The Service Authorization identifies who is to receive Goods and/or Services, what Goods and/or Services are to be received, the dates for which they are to be rendered, and amount that is authorized. Providers must not provide Goods and/or Services until an approved Service Authorization has been received.

“State” means the State of Texas and its instrumentalities, including HHSC, the System Agency and any other state agency, their officers, employees, or authorized agents.

“Successful Respondent” means the entity that receives a Contract as a result of this Solicitation.

“Third-party Payer” means a company, organization, insurer, or government agency other than HHSC or its successor agency that pays for the Goods and Services provided to a consumer.

“Work Order Quote” or “WOQ” means a request for a quote for Goods and /or Services to be rendered under the Master Contract. The WOQ identifies the Goods and/or Services requested, applicable prescriptions and evaluation and other details relevant to the specific order. Contractors must not provide Goods/Services until a Service Authorization has been issued.

1.3 AUTHORITY

The System Agency is soliciting the Services listed herein under Texas Government Code Section 2155.144 and under [Title 40, Part 2, Chapter 107, Subchapter D, Rule §107.703](#) of the Texas Administrative Code.

ARTICLE II. SCOPE OF WORK

2.1 DESCRIPTION OF SERVICES

2.1.1 Project Scope

The CRS Durable Medical Equipment (DME) as defined in **Section 1.2** is any prescribed and medically necessary equipment and training that can withstand repeated use that provides therapeutic benefits for rehabilitation and/or supportive equipment to a person with a TBI or TSCI that can be utilized to improve independence in the home or community.

DME must assist the person supported by CRS with meeting their treatment goals and independence in the home and community. Parts and supplies to repair or maintain DME are also included. See **Exhibit K, DME Categories** for a complete categories list.

The Successful Respondent must be able to assess/evaluate the request, deliver, set-up/install, modify and provide education and training on use of the Goods and/or Services. The Goods and/or Services provided must be medically necessary for individuals with TBI and TSCI based upon comprehensive assessments, treatment goals and outcomes. This must be coordinated by the Interdisciplinary Team (IDT) and included in an IPP. All goods and services must have prescriptions and be pre-authorized by CRS staff prior to order and delivery. DME can be complex and multi-faceted to address simultaneous needs. The individual quotes for goods and services will be placed utilizing the WOQ process that is further explained in this RFP. A Service Authorization, see **Exhibit N, Service Authorization Template**, will be issued when the Work Order is awarded to the Successful Respondent(s).

2.1.2 Minimum Requirements

In order to be selected as a DME provider, in addition to meeting all applicable specifications and submitting all requested information, applicants must demonstrate the following:

- a. The ability to provide DME Goods and Services to CRS members in HHSC Service Areas;
- b. The guaranteed ability to provide DME Goods and Services covered under the Eligible Person's health plan;
- c. A proven track record of successful service to, including working with managed care organizations to effectively manage the medical needs of the Eligible Persons;
- d. The ability to meet prior authorization, claims submission, quality management and reporting requirements of CRS;
- e. The ability to comply with regulatory requirements;
- f. Texas medical device manufacturer or distributor license, as applicable;
- g. The ability to track, report and deliver exceptional Eligible Person satisfaction, effective management and oversight of use of equipment, Eligible Person and provider resource use patterns;
- h. The ability to set and adhere to delivery, service and other quality service levels;

- i. Processes and procedures that are in compliance with the Health Insurance Portability and Accountability Act and its accompanying regulations (“HIPAA”) and Texas privacy laws and regulations;
- j. Provide the HHSC contract manager up-to-date information on contact information including but not limited to the name(s) of contract point of contact(s), telephone number(s), fax number(s), and email address(s). HHSC must be notified of any changes to contract point of contacts within five (5) business days following a change in the contract contact;
- k. Maintain current documentation of certificate of insurance;
- l. A pricing proposal that provides HHSC with the opportunity to reduce the cost of DME Goods and Services without affecting the quality of care; and
- m. The ability to implement a provider agreement with HHSC prior to October 1, 2020.

HHSC reserves the right to reject any and all proposals; and nothing in this RFP, nor in any Solicitation Response, will be construed to require CRS to enter into any contractual relationship with any Respondent.

The Successful Respondents selected to provide DME Goods and Services will be invited to provide a quote to HHSC for DME Goods and Services in response to WOQ issued by HHSC. Where applicable, the Successful Respondents must itemize all projected payment(s) by the Eligible Person’s insurance or Medicaid/Medicare. Payment will not be made without pre-authorization, explanation of benefits (EOB) if applicable, and an itemized invoice as required. The Successful Respondents must adhere to all policy and procedures outlined in the [CRS Standards for Providers](https://hhs.texas.gov/laws-regulations/handbooks/comprehensive-rehabilitation-services-crs-standards-providers) at the following link: <https://hhs.texas.gov/laws-regulations/handbooks/comprehensive-rehabilitation-services-crs-standards-providers>.

2.1.3 Shipping/Receiving Procedures

- a. The System Agency has the following responsibilities before accepting delivery to an Eligible Person or CRS office:
 1. Verify that shipment is delivered to the correct Eligible Person or CRS office;
 2. Inspect the package for any signs of visible damage;
 3. Verify the shipment contains the correct number of packages per packing slip;
 4. Reserve the right to refuse damaged packages noting the refusal and the damages on packing slip; and
 5. Refuse shipment erroneously shipped collect or Cash on Delivery (COD).
- b. The Successful Respondent responsibilities include:
 1. Ship orders FOB Destination;
 2. Process orders according to Service Authorization instructions and related WOQ approved by HHSC; and
 3. All items must be delivered according to the Service Authorization instructions.

2.1.4 Performance Standards

In addition to the requirements set forth in this RFP, all DME providers are required to comply with the following performance standards. Additional performance standards related to specific DME Goods and Services are set forth in **Appendix 1, Additional Standards for Suppliers of Wheelchairs and Related Equipment**, and **Appendix 2, Additional Standards for Suppliers of Oxygen and Oxygen Related Equipment**.

All DME providers will be measured each fiscal year with an annual risk assessment. Based on the outcome of the annual risk assessment, CRS will complete a financial and programmatic review, which will include reviewing provider documentation and consumer service records for compliance. The DME providers will be notified at least one month prior to the review and instructions on what to provide to CRS.

As well as the monitoring review, when the DME provider invoice for the goods and/or services provided, CRS will review the invoice required billing documentation, outlined in the [CRS Standards for Providers](#), to ensure that DME providers are meeting all performance standards. These reviews will ensure that successful DME providers meet all of the following requirements:

- a. Provide a customer service number, with live voice response, for Eligible Persons to contact.
- b. Receive routine orders for specified DME Goods and/or Services via facsimile and/or secured email submission Monday through Friday from 8:00 am - 5:00 pm CST.
- c. Telephone services must demonstrate cultural competence by providing services in English and other languages as required by Eligible Persons supported by CRS.
- d. Successful Respondents must have the capacity to provide translation for various languages as necessary for Eligible Persons.
- e. Customer service representatives must be able to answer questions pertaining to specified DME Goods and/or Services, including but not limited to:
 1. Authorized services;
 2. Order processing;
 3. Delivery;
 4. Repairs; and
 5. Emergency services.
- f. Ensure that qualified staff deliver, set up, and pick up Goods and Services.
- g. Ensure that service is provided within a time frame consistent with the prescriber orders.
- h. Provide education and training to Eligible Persons and their caregivers about the use of Goods and Services upon its initial delivery, in accordance with the prescription and in the language readily understood by the Eligible Person and their caregivers.
- i. Education must be provided in a format and language readily understood by Eligible Persons and their caregivers. Supplemental written instructions should be provided as necessary.

- j. Education should include the return demonstration by the Eligible Persons and their caregivers of the safe and appropriate use and understanding of the Goods and Services.
- k. Provide Eligible Persons and their caregivers with any manufacturer-supplied information that explains proper functioning and maintenance of the Goods and Services.
- l. Establish a process that provides written verification from the Eligible Persons and their caregivers of receipt/delivery of DME Goods and Services.
- m. Initially assess Goods and Services use to ensure that they are consistent with each Eligible Person's prescribing physician's orders and do not exceed the amount being delivered.
- n. Document all delays in Goods and Services delivery.
- o. Maintain a return process that details the return of damaged, broken, or unused equipment and the timeliness of when these items will be picked up from Eligible Persons.
- p. Maintain a repair and replacement process that includes the following:
 - 1. Repair and/or replace specified DME Goods and Services upon notification of defect or malfunction;
 - 2. Provide replacement DME Goods and Services with the equivalent or better quality than the Goods and Services originally issued;
 - 3. Provide replacement (loaner) Goods and Services to Eligible Persons free of charge while the repairs are being undertaken; and
 - 4. Honor all warranties for DME Goods and Services provided through the contract.

2.1.5 Sanctions and Remedies Schedule Scope

2.1.5.1 General

Section 2261.101 of the Texas Government Code requires that all State contracts contain a remedies schedule, a graduated sanctions schedule, or both. In accordance with that statutory requirement, sanctions and remedies will apply for the incidents specified in this section. In some cases, the actual damage caused to HHSC as a result of Successful Respondent's failure to meet the responsibilities or performance standards of the Contract are difficult or impossible to determine with precise accuracy. Therefore, if specified in the Contract, liquidated damages may be assessed against Successful Respondent for failure to meet the applicable aspect of the Work or responsibilities of the Contractor. HHSC may elect to collect liquidated damages:

- a. Through direct assessment and demand for payment to Successful Respondent; or
- b. By deducting the amounts assessed as liquidated damages against payments owed to Contractor for Work performed.

In its sole discretion, HHSC may deduct amounts assessed as liquidated damages as a single lump sum payment or as multiple payments until the full amount payable by the Successful Respondent is received by HHSC. In compliance with Section 2261.101, System Agency reserves the right, in its sole discretion, to

include in each request for a WOQ a schedule of liquidated damages, or other remedies, alone or in an appropriate combination.

2.1.5.2 Waiver for Good Cause

Liquidated damages and other remedies may be waived for good cause shown at the discretion of System Agency. Successful Respondent shall not be liable for any failure or delay in the performance of this Contract for the period that such failure or delay is beyond the reasonable control of the Successful Respondent.

2.1.6 Audits and Oversight

HHSC will monitor the Successful Respondent to ensure compliance with all applicable federal and state laws and policy. Any information related to the performance of the resulting Contract, or other documentation deemed necessary by HHSC must be provided to HHSC as requested.

2.1.7 Confidentiality

Successful Respondent must maintain HIPAA compliant confidentiality for all consumer records and correspondence with CRS program representative.

2.1.8 Prompt Payment

All payments to a Successful Respondent by the System Agency, any payments by a Successful Respondent to any Subcontractor, and any payments by a Subcontractor to any other person or entity that provides Goods or Services under this Contract shall be made in compliance with Chapter 2251 of the Texas Government Code and Title 34 of the Texas Administrative Code (TAC), Part 1, Chapter 20, Subchapter F, Division 1, Rule §20.487.

2.2 CONTRACT AWARD, TERM AND AMOUNT

2.2.1 Contract Award and Execution

The System Agency intends to award multiple Master Contracts as a result of this Solicitation. Any award is contingent upon approval of the Executive Commissioner or his designee.

If the Eligible Person carries third-party insurance that only pays for DME Goods and Services procured from pre-authorized, in-network DME providers, and none of those DME providers were awarded a Master Contract as a result of this RFP, the System Agency reserves the right to procure needed DME goods and/or services outside of the Master Contract(s) awarded as a result of this RFP.

2.2.2 Contract Term

The System Agency anticipates that the initial duration of any Contract resulting from this Solicitation shall be for the period from the award for five (5) years. Following the base term and any allowable extensions, HHSC may extend any resulting Contract for not more than one additional option period to address immediate operational or service delivery needs. If the resulting Contract does not include a defined option period, the extension is limited to one year.

Individual Service Authorizations issued during the term of a resulting Contract may survive the termination or expiration of this Contract and may be extended for the purpose of completing any Work authorized thereunder.

2.2.3 Contract Amount

HHSC will initiate Work under the Master Contract as individual WOQs and Service Authorizations will be issued for the approved DME Goods and/Services to be provided. There is no guaranteed Contract amount as DME Goods and/or Services are based on individual need. The final Contract amount is equal to the aggregate of all executed WOQs not to exceed the amount authorized by HHSC.

2.2.4 WOQ Process

The procedure for the Work Order process that will be issued to the network of Successful Respondents for each Project is as follows:

2.2.4.1 WOQs

- a. Upon identifying a specific need for Goods and/or Services, System Agency will issue a WOQ, **Exhibit H, Work Order Quote Request Template**, to the Successful Respondents describing the Goods and/or Services required, the proposed schedule, and the method of compensation selected by System Agency. Each WOQ will include, but is not limited to the following:
 1. Description of Goods and/or Services;
 2. Statement of Medical Necessity;
 3. Prescription;
 4. Evaluations or recommendations from physician or therapist (as applicable);
 5. Recommendation resulting from the IDT;
 6. Requirements/Deliverables;
 7. Work Order timeline;
 8. Any other instructions and/or special conditions; and
 9. Evaluation factors for award, see RFP **Section 2.2.4.4**.
- b. All contract clauses contained in this Contract shall be incorporated in the WOQ and issued Service Authorization. If any conflict exists between the contract clauses and the information outlined in the WOQ and Service Authorization, the Contract language will control and govern.
- c. Successful Respondents are not required to submit a proposal pursuant to a WOQ. Those eligible Successful Respondents that decide not to submit a proposal shall advise the contract manager, in writing, of their intention not to submit a proposal on or before the closing date and time established in the WOQ. An election not to propose on a given WOQ will not negatively affect or prohibit a Successful Respondent from competing on future WOQs.

2.2.4.2 Competitive WOQ Process

- a. All Successful Respondents who were awarded Master Contracts for a region and category the Goods and/or Services are needed, will receive e-mail notification advising of the availability of each proposed WOQ. All proposed Work Orders will incorporate all terms of the Contract with the Successful Respondent unless otherwise specified in the proposed Work Order.
- b. Successful Respondents must provide responses to each WOQ by the times stated in that WOQ. Each WOQ will indicate the criteria, see RFP **Section 2.2.4.4**, for the evaluation of proposals. The responses shall demonstrate capability for each criterion to be evaluated. Generally, each Successful Respondent will be asked to demonstrate the following as appropriate:
 1. Plan for fulfilling and managing the WOQ, including meeting requirements and schedules, and performance measures (if applicable);
 2. Cost/price to perform the WOQ; and
 3. Past performance.

2.2.4.3 Successful Respondents Proposals

After being contacted by System Agency, the Successful Respondent may arrange a teleconference with System Agency to review the WOQ, as needed. Successful Respondents shall provide a proposal for the System Agency's WOQ utilizing **Exhibit I, Work Order Quote Response Template**. Additional documents may be attached with a proposal if needed. The Successful Respondent proposal must be submitted by the deadline stated in WOQ.

2.2.4.4 Evaluation and Award of WOQ

System Agency will evaluate the received WOQ against the requirements established in the WOQ. Generally, evaluation criteria will include:

- a. Cost (40%);
- b. Compliance with prescription and specifications (30%);
- c. Delivery (20%) (timeline, method, and in-home services for Eligible Person education, fitting and adjustment);
- d. Work Order specific requirements (5%); and
- e. Past performance (5%).

Upon completion of evaluations, the contract manager will issue a Service Authorization to the Successful Respondent(s) whose proposal is most advantageous to the System Agency. The contract manager will notify the Successful Respondent(s) of the selection decision in writing.

System Agency shall notify the Successful Respondent if the proposal is accepted or if revisions are needed. The approved Successful Respondent's proposal will be attached to the Service Authorization and may include a clarification of the Scope of Work and agreed upon compensation. Quotes may be adjusted based on the final

evaluation once awarded, but the adjustment must not exceed a ten percent (10%) increase.

System Agency reserves the right to consider Consumer Choice, in accordance with [CRS Standards For Providers](#), as a best value factor when applicable (Texas Government Code Section 2155.144(d)).

2.2.4.5 Comparable Benefits

If an Eligible Person has comparable benefits, the Successful Respondent must bill the comparable benefit before billing the CRS program. The Successful Respondent is required to obtain pre-authorization and bill any Third-party Payers, as CRS is the payer of last resort. Failure to obtain a pre-authorization may result in non-payment of the Goods and/or Services.

If comparable services and benefits are available, the CRS program may participate in the cost of Goods and Services if the combined amount of the CRS payment and the comparable benefit payment does not exceed the maximum amount allowed by the contracted payment rate.

If the comparable benefit is paid by:

- a. Major Medical Insurance, a Health Maintenance Organization, or Preferred Successful Respondent Organization: the CRS program may pay the Eligible Person's portion (co-payment, coinsurance, and any unmet deductible), not to exceed contract rate, or retail price, as applicable.
- b. Medicare: the CRS program may pay the Eligible Person's portion (co-payment, coinsurance, and any unmet deductible), not to exceed the contract rate, or retail price, as applicable.
- c. Medicaid: the CRS program pays nothing. The CRS program does not supplement a Medicaid payment for a specific service or procedure.
- d. Out of Network: the CRS program may pay up to but not exceeding the contracted rate.

2.2.4.6 Service Authorization

Successful Respondent must not provide Goods and/or Services until a Service Authorization has been received, see **Exhibit N, Service Authorization Template**. All Service Authorizations must include the following requirements:

- a. In writing;
- b. Successful Respondent's proposal;
- c. Signed by CRS representative;
- d. Time schedule;
- e. Description of Goods and/or Services;
- f. Contact information for CRS representative including address; and
- g. Any other information or special conditions as may be necessary for the provision of Goods and/or Services requested.

The System Agency will not pay for goods and/or services that were delivered outside of the Work Order scope.

2.2.4.7 Shipping/Receiving Procedures

- a. The System Agency responsibilities before accepting delivery to Eligible Person or CRS office:
 1. Verify that shipment is delivered to the correct Eligible Person or CRS office;
 2. Inspect the package for any signs of visible damage;
 3. Verify the shipment contains the correct number of packages per packing slip;
 4. Reserve the right to refuse damaged packages noting the refusal and the damages on packing slip; and
 5. Refuse shipment erroneously shipped collect or Cash on Delivery (COD).
- b. The Successful Respondent's responsibilities:
 1. Ship orders FOB Destination;
 2. Process orders according to WOQ instructions and related proposal approved by HHSC; and
 3. All items must be delivered according to the Service Authorization instructions.

2.2.4.8 Invoices

- a. All invoices associated with an issued Service Authorization, explanation of benefits or denial, and supporting documentation must be sent to the appropriate CRS office as indicated on the Service Authorization.
- b. Invoices must be submitted at least monthly, and no later than the fifteenth (15th) of each month following the service, using one of the following forms:
 1. UB-04 Centers for Medicare and Medicaid (CMS 1450);
 2. HHSC generated invoice; or
 3. Health Insurance Billing Form (CMS 1500).
- c. To receive a payment, a Successful Respondent must follow TAC, Title 34, Part 1, Chapter 20, Subchapter F, Division 1, Rule §20.487 and submit an invoice to the address on the CRS Service Authorization, comply with the terms and conditions of the CRS Contract, and include, at a minimum, the following information:
 1. Successful Respondent's complete name, mailing address, and e-mail address (if applicable);
 2. Successful Respondent's phone number;
 3. The name and phone number of a person designated by the Successful Respondent to answer questions regarding the invoice;
 4. HHSC agency number 529, CRS delivery address;
 5. CRS Service Authorization number;
 6. HHSC CRS Contract number;
 7. Successful Respondent's valid Texas Identification Number (TIN) issued by the Comptroller;
 8. A description of the Goods or Services provided, in sufficient detail to identify the order which relates to the invoice. This may include,

- but is not limited to, the CPT (current procedural terminology) codes;
9. Dates of Service;
 10. Quantity and unit-cost being billed, as documented on the Service Authorization;
 11. If submitting an invoice after receiving an assignment of a Contract, the TIN of the original Successful Respondent and the TIN of the successor vendor;
 12. Other relevant information supporting and explaining the payment requested;
 13. Participant's IPP, signed by the IDT (for initial billing for services only), if applicable;
 14. Summaries of monthly meetings, signed by the IDT (for monthly services that are not admission or discharge services), if applicable; and
 15. Discharge summary, signed by the IDT or other appropriate team member (upon final billing).
- d. The Successful Respondent must:
1. Respond to billing-related inquiries and disputed invoices from CRS program staff members within two (2) business days of receiving the inquiry/dispute; and
 2. Submit all documentation requested within five (5) to ten (10) business days following the request.
- e. The CRS Program must:
1. Confirm that Goods or Services were received in accordance with the Service Authorization;
 2. Receive, inspect, and accept delivery of Goods or Services covered by the invoice; and
 3. Receive and accept a complete accurate invoice to request payment from the Comptroller.

2.3 DATA USE AGREEMENT

By entering into a Contract, or purchase order with the System Agency as a result of this Solicitation, Respondent agrees to be bound by the terms of the Data Use Agreement attached as **Exhibit D**.

2.4 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION

The System Agency makes no guarantee of volume, usage, or total compensation to be paid to any Respondent under any awarded Master Contract, if any, resulting from this Solicitation. Any awarded Master Contract is subject to appropriations and the continuing availability of funds.

The System Agency reserves the right to cancel, make partial award, or decline to award a Master Contract under this Solicitation at any time at its sole discretion.

2.5 GOVERNMENTAL ENTITIES

The selected Respondent shall be bound to specific terms and conditions found in **Exhibit B, Health and Human Services (HHS) Uniform Terms and Conditions – Vendor, Version 3.0** and **Exhibit C, Health and Human Services (HHS) Additional Provisions, Version 1.0**. However, to the extent Respondent is a governmental entity, responding to this Solicitation in its capacity as a governmental entity, certain terms and conditions may not be applicable. Furthermore, to the extent permitted by law, if a Solicitation Response is received from a governmental entity, the System Agency reserves the right to enter into an interagency or interlocal agreement with the governmental entity in lieu of awarding a Contract as a result of this Solicitation.

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ARTICLE III. ADMINISTRATIVE INFORMATION

3.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Release Date	July 9, 2020
Optional HUB Subcontracting Plan Webinar Training (Vendor Conference)	July 14, 2020 at 10:00 AM Central Time
Deadline for Submitting Questions	July 16, 2020 at 3:00 PM Central Time
Tentative Date Responses to Questions Posted on ESBD	July 21, 2020 at 3:00 PM Central Time
Deadline for Submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by HHSC by the deadline.]	August 7, 2020 AT 2:00 PM Central Time
Evaluation Period	August 2020
Respondent Oral Presentation	August 2020
Anticipated Notice of Award	November 2020
Anticipated Contract Start Date	November 2020

Note: These dates are a tentative schedule of events. The System Agency reserves the right to modify these dates at any time upon notice posted to the ESBD. Any dates listed after the Solicitation Response deadline will occur at the discretion of the System Agency and may occur earlier or later than scheduled without notification on the ESBD.

3.2 CHANGES, AMENDMENT, OR MODIFICATION TO SOLICITATION

The System Agency reserves the right to change, amend, or modify any provision of this Solicitation, or to withdraw this Solicitation at any time prior to award if it is in the best interest of the System Agency. Any such revisions will be posted on the ESBD. It is the responsibility of Respondent to periodically check the ESBD to ensure full compliance with the requirements of this Solicitation.

3.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Sole Point of Contact listed in **Section 3.5.1** as soon as possible so corrective Addenda may be furnished to prospective Respondents.

3.4 INFORMALITIES

The System Agency reserves the right to waive minor informalities in a Solicitation Response if it is in the best interest of the System Agency. A "minor informality" is an omission or error that, in the System Agency's determination if waived or modified when evaluating Solicitation Responses, would not give a Respondent an unfair advantage over other Respondents or result in a material change in the Solicitation Response or Solicitation requirements.

3.5 INQUIRIES

3.5.1 Sole Point of Contact

All requests, questions, or other communication about this Solicitation shall be made in writing to the System Agency's Purchasing Department, addressed to the person listed below (Sole Point of Contact). All communications between Respondents and other System Agency staff members concerning the Solicitation are strictly prohibited. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

Name: Tomasz Gozdalski, CTCD, CTCM
Title: Contract Specialist V
Email: Tomasz.Gozdalski@hhsc.state.tx.us

See also, Section 3.5.3 below.

3.5.2 Prohibited Communication

On issuance of this Solicitation, except for the written inquiries described in **Sections 3.5.4** and **3.5.5** below, the System Agency, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). Attempts to ask questions by phone or in person will not be allowed or recognized as valid. Respondent shall rely only on written statements issued by or through the System Agency's designated staff as provided by this section. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

3.5.3 Exceptions to the Sole Point of Contact

The only exceptions to the Sole Point of Contact are the HUB coordinator, or, if expressly directed by the Sole Point of Contact, another designated System Agency representative, e.g., during contract negotiations, if any. Should Respondents have questions regarding proper completion of the HUB Subcontracting Plan, the HUB coordinator may be contacted at cheryl.bradley@hhsc.state.tx.us.

3.5.4 Questions

The System Agency will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by email to the Sole Point of Contact listed in **Section 3.5.1** above. Respondents' names will be removed from questions

in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

- a. Identifying Solicitation number;
- b. Section number;
- c. Paragraph number;
- d. Page number;
- e. Text of passage being questioned; and
- f. Question.

Note: Questions or other written requests for clarification must be received by the Sole Point of Contact by the deadline set forth in Section 3.1, Schedule of Events. Please provide company name, address, phone number, e-mail address, and name of contact person when submitting questions.

3.5.5 Clarification

Respondents must notify the Sole Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in the Solicitation in the manner and by the deadline for submitting questions. If a Respondent fails to properly and timely notify the Sole Point of Contact of such issues, the Respondent submits its Solicitation at its own risk, and if awarded a Contract: (1) shall have waived any claim of error or ambiguity in the Solicitation and any resulting Contract, (2) shall not contest the interpretation by any System Agency of such provision(s), and (3) shall not be entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

3.5.6 Responses

Responses to questions or other written requests for clarification will be posted on the ESBD. The System Agency reserves the right to amend answers prior to the deadline for submission of Solicitation Responses. Amended answers will be posted on the ESBD. It is Respondent's responsibility to check the ESBD. The System Agency also reserves the right to provide a single consolidated response to all similar questions in any manner at the System Agency's sole discretion.

3.5.7 Vendor Conference

The System Agency will conduct an optional pre-submittal vendor conference (webinar) on July 14, 2020 at 10:00 AM Central Time. The purpose of this conference is to explain to Respondents the proper completion of the HUB Subcontracting Plan. The vendor conference is optional and failure to attend will not result in disqualification.

People with disabilities who wish to attend the meeting and require auxiliary aids or services should contact the Sole Point of Contact identified in this RFP at least 72 hours before the meeting so appropriate arrangements can be made.

3.6 SOLICITATION RESPONSE COMPOSITION AND DELIVERY

3.6.1 Generally

- a. **Submission Option #1:** Respondent shall submit the following on two separate USB drives – one (1) labeled “Original” and one (1) labeled “Copy”- to delivery address listed in **Section 3.7.3** via U.S Postal Service, Overnight/Express Mail, or Hand Delivery.
 1. Each USB must contain one file named “Original Proposal” that contains the Respondent’s entire proposal in searchable portable document format (PDF).
 2. In accordance with **Section 8.1.5**, each USB must contain one file named “Public Information Copy” that contains the Respondent’s entire proposal in searchable PDF, if applicable.
 3. Each USB must contain one file named “Cost Proposal” that contains the Respondent’s Cost Proposal in Excel format with active formulas (compatible with Microsoft Office 2000).
 4. In accordance with **Section 6.7**, each USB must contain one file named “HUB Subcontracting Plan” that contains the Respondent’s HSP.
- b. **Submission Option #2:** Respondent shall submit the following through the Online Bid Room utilizing the procedures in **Exhibit M, Online Bid Room:**
 1. One file named “Original Proposal” that contains the Respondent’s entire proposal in searchable PDF.
 2. In accordance with **Section 8.1.5**, one file named “Public Information Copy” that contains the Respondent’s entire proposal in searchable PDF, if applicable.
 3. One file named “Cost Proposal” that contains the Respondent’s Cost Proposal in Excel format with active formulas (compatible with Microsoft Office 2000).
 4. In accordance with **Section 6.7**, one file named “HUB Subcontracting Plan” that contains the Respondent’s HSP.
- c. Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration. A Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Respondent should focus on the instructions and requirements of the Solicitation.
- d. The System Agency, in its sole discretion, may reject any and all proposals or portions thereof.

3.6.2 Page Limit and Supporting Documentation

The Narrative/ Technical Proposal should not exceed twenty-five (25) pages in length, not including appendices or attachments, and should be formatted as follows: 8 ½" x 11" paper and 12 pitch font size. If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the Solicitation Response, with specific reference made to the file, page, section, and/or paragraph where the supporting information can be found.

3.6.3 Discrepancies

Discrepancies or disparities between the contents of original Solicitation Responses and copies, if any, will be interpreted in favor of the System Agency. If Respondent fails to designate an "ORIGINAL," the System Agency may reject the Solicitation Response or select a copy to be used as the original.

3.6.4 Exceptions

HHSC will more favorably evaluate responses that offer no or few exceptions, reservations, or limitations to the terms and conditions of the Solicitation.

Respondents are highly encouraged, in lieu of including exceptions in their Solicitation Responses, to address all issues that might be advanced by way of exception by submitting such issues by written questions or clarifications pursuant to **Section 3.5.4**. Any exception included in a Solicitation Response may result in a Respondent not being awarded a Contract. If a Respondent includes exceptions in its Solicitation Response, Respondent is required to use the **Exceptions Form** included as **Exhibit E** to this Solicitation and provide all information requested on the form (Solicitation Section Number, Solicitation Section Title, Language to which Exception is Taken, Proposed Language, and Statement as to whether or not, by indicating only "yes" or "no," Respondent still wants to be considered for a Contract award if the exception is denied). Any exception that does not provide all required information without qualification in the format set forth in **Exhibit E** may be rejected without consideration.

No exception, nor any other term, condition, or provision in a Solicitation Response that differs, varies from, or contradicts this Solicitation will be considered to be part of any Contract resulting from this Solicitation unless expressly made a part of the Contract in writing by the System Agency.

A Solicitation Response should be responsive to the Solicitation as worded, not with any assumption that any or all terms, conditions, or provisions of the Solicitation will be negotiated. Furthermore, all Solicitation Responses constitute binding offers. **Any Solicitation Response to this Solicitation that includes any type of disclaimer or other statement indicating that the response does not constitute a binding offer may be disqualified.**

3.6.5 Assumptions

Respondent must identify on the **Exhibit E-1, Assumptions Form**, any business, economic, legal, programmatic, or practical assumptions that underlie the Respondent's response to the Solicitation. The System Agency reserves the right to accept or reject any

assumptions. All assumptions not expressly identified and incorporated into any Contract resulting from this RFP are deemed rejected by the System Agency.

3.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY

3.7.1 Deadline

If submitting under Option #1, **Section 3.6.1(a)**, Solicitation Responses must be received at the address in **Section 3.7.3** and be time-stamped by the System Agency no later than the date and time specified in **Section 3.1**. If submitting under Option #2, **Section 3.6.1(b)**, Solicitation Responses must be submitted through the Online Bid Room and received by the system no later than the date and time specified in **Section 3.1**.

3.7.2 Labeling

Solicitation Responses shall be placed in a sealed box and clearly labeled as follows if submitting under Option #1, **Section 3.6.1(a)**. If submitting under Option #2, **Section 3.6.1(b)**, documents submitted through the Online Bid Room should also be clearly identified in this same manner, for example including the required information on a cover page:

SOLICITATION NO:	HHS0004979
SOLICITATION NAME:	Durable Medical Equipment
SOLICITATION RESPONSE DEADLINE:	August 7, 2020, 2:00 PM CST
FOR:	Health and Human Services Commission (HHSC)
PURCHASER NAME:	Tomasz Gozdalski, CTCD, CTCM
RESPONDENT'S NAME:	_____

The System Agency will not be held responsible for any Solicitation Response that is mishandled prior to receipt by the System Agency. It is Respondent's responsibility to mark appropriately and deliver the Solicitation Response to the System Agency by the specified date and time. The System Agency will not be responsible for any technical issues that result in late delivery, inappropriately identified documents, or other submission error that may lead to disqualification (including substantive or administrative) or nonreceipt (in whole or in part) of the Respondent's proposal.

3.7.3 Delivery

Respondent must deliver Solicitation Responses by one of the methods set out in **Section 3.6.1**. Solicitation Responses submitted by any other method (e.g. facsimile, telephone, email) will NOT be considered. If submitting Solicitation Response by **Section 3.6.1(a)**, Option #1, Solicitation Response must be delivered by one of these methods to the address provided:

U.S. Postal Service/Overnight/Express Mail/ Hand Delivery
Health and Human Services Commission, Procurement and Contracting Services (PCS) BID ROOM

1100 West 49th Street, MC 2020
Austin, Texas 78756

NOTE: All Solicitation Responses become the property of HHSC after submission and will not be returned to Respondent.

3.7.4 Alterations, Modifications, and Withdrawals

Prior to the Solicitation Response submission deadline, a Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Sole Point of Contact identified in **Section 3.5.1**; or (2) modify its Solicitation Response by submitting a written amendment to the Sole Point of Contact identified in **Section 3.5.1**. The System Agency may request Solicitation Response modifications at any time.

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ARTICLE IV. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS

4.1 EVALUATION CRITERIA

4.1.1 Conformance with State Law

Solicitation Responses shall be evaluated in accordance with Texas Government Code Section 2155.144. The System Agency shall make an award to the Respondent(s) that provide(s) the best value to the State of Texas.

4.1.2 Minimum Qualifications

Respondents must meet the minimum qualifications listed below. Furthermore, Solicitation Responses that appear unrealistic in terms of technical commitment, that show a lack of technical competence, or that indicate a failure to comprehend the risk and complexity of a potential Contract may be rejected, in the sole discretion of the System Agency.

- a. Respondents must submit and maintain current documentation of licensure or certification, as applicable. Respondents must:
 1. Be licensed in accordance with the [Texas Department of State Health Services](#) licensure requirements for DME and/or services; and/or
 2. Be accredited through a [Medicare recognized accreditation company](#) (if applicable); or
 3. Be certified in accordance with the Assistive Technology Professional Certification, Seating, Mobility Specialist Certification, and/or Rehabilitation Engineering Technologist requirements as outlined by the [Rehabilitation Engineering and Assistive Technology Society of North America](#) (if applicable); or
 4. Be accredited by [the Accreditation Commission for Healthcare](#) in the areas of Home/durable medical equipment, clinical respiratory care services, medical supply provider, and/or complex rehab and assistive technology suppliers (if applicable); or
 5. Be registered with the U.S. Food and Drug Administration for distributing and/or manufacturing hearing aids (if applicable).
- b. Respondents shall have demonstrated at least two (2) years of experience in providing DME Goods and/or Services, assistive technology, and/or hearing aids.
- c. Respondents must be authorized to do business in the State of Texas.
- d. Respondents must submit the required and completed response, supporting documentation, and forms as set out in this RFP.
- e. Respondent must be free of exclusions with the US Department of Health and Human Services, Office of Inspector General: <https://exclusions.oig.hhs.gov/>.
- f. Respondents that have previously conducted business with the State of Texas must have a minimum grade of C or better on the Comptroller's Vendor Performance Tracking System (VPTS).
- g. Respondents must have the ability to provide DME Goods and Services to the service area in accordance with specifications given and as agreed to at the time of the Work Order Service Authorization.

- h. Respondents acknowledge that if chosen as a Successful Respondent, such Successful Respondent accepts and is bound by the terms and conditions of this RFP.
- i. Respondents shall submit clearly stated service areas on the **Exhibit J, Cost Proposal** and **Form A, Respondent and Supplemental Information**.
- j. Successful Respondent must acknowledge and agree to the mandatory criminal background check(s) and registry clearance for all employees who will have direct contact with Eligible Persons served by the CRS Program. The CRS programs can deny a Contract to any Respondent or the Respondent with an employee who has been previously convicted of certain criminal offenses if:
 - 1. The offense is considered a bar to employment;
 - 2. The Agency determines there is a direct relationship between the offense and the employment sought; or
 - 3. The agency determines the employment would involve an unreasonable risk to the safety or welfare of clients, consumers or employees.
- k. Respondents must submit current documentation of certificate of insurance.

4.1.3 Specific Criteria

Solicitation Responses shall be consistently evaluated and scored in accordance with the following criteria. See also, **Exhibit G, Evaluation Tool**.

- a. **Respondent's Relevant Qualification, Past Performance and Experience. (35%).** The Respondent's relevant qualifications, experience, and history of success providing DME to similar public-sector organizations, programs, and budgets as described in the RFP.
- b. **Proposed Approach and Work Plan (35%).** To what extent do the Respondent's proposed approach and work plan for providing services demonstrate how the Respondent will fulfill in a timely manner, HHSC's requirements for each of the following areas:
 - 1. Performance Standards (reference **Section 2.1.4**);
 - 2. Eligible Person service and satisfaction. How company handles and address complaints/grievances, including tracking and resolution;
 - 3. How staff competency is assessed. How and to what level are personnel trained on DME product and product application;
 - 4. Return of damaged, broken, and unused equipment; and
 - 5. Repair and replacement equipment, including shipping company for that equipment.
- c. **Delivery (10%).** Method(s), turnaround time from order to shipping, in-home services (Eligible Person education, fitting or adjustment, repairs, and/or warranties). How is product delivery coordinated with Eligible Persons and families, from the point of receiving the physician's order to the delivery of the product? What education is provided to the Eligible Person and family regarding various DME? How is Eligible Person education and choice documented?
- d. **Cost (20%).** See **Article VII, Cost Proposal**.

4.1.4 Other Information

HHSC may contact references provided in response to this Solicitation, contact Respondent's clients, or solicit information from any available source, including the Comptroller's VPTS.

4.2 INITIAL COMPLIANCE SCREENING

The System Agency will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses, and Solicitation Responses that do not meet **Section 4.1.2** above and/or do not include all required forms and information may be subject to rejection without further evaluation.

4.3 COMPETITIVE RANGE AND BEST AND FINAL OFFER

The System Agency may determine that certain Solicitation Responses are within the competitive range and may use this range to award multiple Contracts or as a basis to request a best and final offer (“BAFO”) from Respondents. If the System Agency elects to limit award consideration to a competitive range, the competitive range will consist of the Solicitation Responses that receive the highest or most satisfactory ratings, based on the published evaluation criteria and procedures governing this procurement. The System Agency, in the interest of administrative efficiency, may place reasonable limits on the number of Solicitation Responses that will be included in the competitive range.

The System Agency may, at its discretion, request that any or all Respondents provide a BAFO. A request for a BAFO from a System Agency does not guarantee an award or further negotiations.

If BAFOs are requested by the System Agency and submitted by the Respondent, they will be evaluated using the criteria stated in the BAFO invitation, scored, and ranked by the evaluation committee. The System Agency reserves the right to conduct more than one BAFO. The award will then be granted to the highest scoring Respondent. However, a Respondent should provide its best offer in its original proposal. Respondents should not expect or assume that the System Agency will request a BAFO.

4.4 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE SYSTEM AGENCY

The System Agency reserves the right to ask questions or request clarification from any Respondent at any time during the Solicitation process, including during BAFO process.

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ARTICLE V. NARRATIVE PROPOSAL

5.1 NARRATIVE PROPOSAL

5.1.1 Executive Summary

Provide a high-level overview of the Respondent's approach to meeting the requirements contained in Article II. The summary must demonstrate an understanding the System Agency's goals and objectives for this Solicitation. The narrative should include, but not limited to, the length of time providing DME goods and/or services, specialty certifications or experience as applicable, additional services and technical training provided. Provide any related vendor performance issues, complaints or violations.

5.1.2 Project Work Plan

Describe the Respondent's proposed processes and methodologies for providing all components of the Scope of Work described in Article II, including the Respondent's approach to assess/evaluate, deliver, set-up/install, modify and provide education and training on use of the Goods and/or Services. Respondent should identify all tasks to be performed, including all activities, materials and other product services and reports to be generated during the Contract period and relate them to the stated purposes and specifications described in this Solicitation. Respondent must identify if it can meet the performance standards and provide supporting documentation as applicable. Respondent must identify how it handles Eligible Person service and satisfaction. Respondent must explain how it handles and addresses complaints/grievances, including tracking and resolution of customer service experience and satisfaction survey plans.

5.1.3 Value-Added Benefits

Describe any service or deliverables that are not required by this Solicitation that the Respondent proposes to provide at no additional cost to the System Agency. Respondents are not required to propose value-added benefits, but inclusion of such benefits may result in a more favorable evaluation.

5.1.4 Key Staffing Profile

Respondent must provide a key staffing profile and resumes for staff that will be responsible for the performance of the services requested under this Solicitation. Identify staff experience and qualifications.

5.1.5 Delivery

Respondent must identify average turnaround time from order to shipping, in-home services (Eligible Person education, fitting or adjustment, repairs, and/or warranties). Respondent must identify how is the delivery of requested Goods and Services coordinated with Eligible Persons and families, from the point of receiving the physician's order to the delivery of the product. Respondent must identify, if applicable, how education is provided to the Eligible Person and family regarding various item delivered and how Respondent documents education and consumer choice.

5.1.6 Quality Management and Utilization Management (QM and UM)

Respondent must provide its quality assurance plan/policy related to service delivery and customer satisfaction. Respondent must identify performance metrics as applicable.

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ARTICLE VI. REQUIRED RESPONDENT INFORMATION

6.1 COMPANY INFORMATION

Respondent must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in this Solicitation and to produce the specified Goods or Services on time. As a part of the Solicitation Response requested in Article III, Respondent must provide the following information:

6.1.1 Company Narrative

Provide a detailed narrative explaining why Respondent is qualified to provide the Goods and Services enumerated in Article II, focusing on its company's key strengths and competitive advantages.

6.1.2 Company Profile

Provide a company profile by completing **Forms A, Respondent and Supplemental Information**, and **B, Entity Information Contract and Litigation History**.

6.2 MAJOR SUBCONTRACTOR INFORMATION

Respondent must identify any major subcontractors whom Respondent intends to utilize in performing fifteen percent (15%) or more of any Contract. Respondent must indicate whether or not Respondent holds any financial interest in any major subcontractor. It may be required as a condition of award that an authorized officer or agent of each proposed major subcontractor sign a statement to the effect that the subcontractor has read, and will agree to abide by, Respondent's obligations under any contract awarded pursuant to this Solicitation.

6.3 LITIGATION AND CONTRACT HISTORY

Respondent must include in its Solicitation Response a complete disclosure of any alleged or significant contractual failures. In addition, Respondent must disclose any civil or criminal litigation or investigation over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable including any allegations of such that are currently pending.

Respondent must also disclose any settlement agreements entered into in the last five (5) years related to alleged contractual failures. Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

6.4 CONFLICTS

Respondent must certify that it does not have any personal or business interests that present a conflict of interest with respect to the RFP and any resulting Contract. Additionally, if applicable, the Respondent must disclose all potential conflicts of interest. The Respondent must describe the measures it will take to ensure that there will be no actual conflict of interest and that its fairness, independence, and objectivity will be maintained. The System Agency will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the Contract. Failure to identify actual and potential conflicts of interest may result in disqualification of a Solicitation Response or termination of a Contract.

Please include any activities of affiliated or parent organizations and individuals who may be assigned to this Contract, if any.

Additionally, pursuant to Section 2252.908 of the Texas Government Code, a Successful Respondent awarded a Contract with a value of \$1 million or more or awarded a Contract that would require the Successful Respondent to register as a lobbyist under Texas Government Code Chapter 305 must submit a disclosure of interested parties to the System Agency at the time the business entity submits the signed Contract. Rules and filing instructions may be found on the Texas Ethics Commission's public website and additional instructions will be given by HHSC to Successful Respondents.

6.5 AFFIRMATIONS AND CERTIFICATIONS

Respondent and entities must complete and return all of the following listed affirmations, assurances, and certifications: **Exhibit A, Respondent Affirmations and Solicitation Acceptance.**

6.6 CORPORATE GUARANTEE

If the Respondent is substantially or wholly owned by another corporate (or other) entity, HHSC reserves the right to request that such entity unconditionally guarantee performance by the Respondent in each and every term, covenant, and condition of the Contract as executed by the Parties.

6.7 HUB SUBCONTRACTING PLAN

Submit one (1) electronic copy "Original" and one (1) electronic copy "Copy" of the HSP in accordance with **Section 3.6.1(a)** or one (1) electronic file submitted through the Online Bid Room in accordance with **Section 3.6.1(b)**. A Respondent's HSP must include all supporting documentation in accordance with **Exhibit F, HUB Participation Requirements.**

The remainder of this page is intentionally left blank.

ARTICLE VII. COST PROPOSAL

7.1 COST PROPOSAL

Respondent must submit a cost proposal utilizing **Exhibit J, Cost Proposal**, for the Lead Item per each category of DME goods listed in Article II, Scope of Work. Respondent must also complete and return **Form A, Respondent and Supplemental Information**, to indicate proposal's coverage areas. The cost proposal for each Lead Item shall include all labor, materials, tools, supplies, equipment, and personnel, including but not limited to, travel expenses, associated costs and incidental costs necessary to provide the products and services according to the minimum specifications, requirements, provisions, terms, and conditions set forth in this RFP. The quote cost will be used to evaluate cost to establish pool of vendors to be considered for award of the Master Contracts. The orders will be placed by issuing a competitive Work Order notice to applicable pool of Successful Respondents on an as needed basis. The WOQ process is further explained in this RFP, see **Section 2.2.4**. The Respondent will also submit a list of goods and or services they do not provide. Please note that the Contract may cover items not identified in the cost proposal if deemed medically necessary for the CRS participant the Respondent would be able to provide those additional DME goods and/or services.

The reminder of this page is intentionally left blank.

ARTICLE VIII. GENERAL TERMS AND CONDITIONS

8.1 GENERAL CONDITIONS

8.1.1 Amendment

The System Agency reserves the right to alter, amend or modify any provision of this Solicitation, or to withdraw this Solicitation, at any time prior to award, if it is in the best interest of the State.

8.1.2 Offer Period

Solicitation Responses shall be binding for a period of 240 days after the due date for submission of Solicitation Responses. Each Respondent may extend the time for which its Solicitation Response will be honored. Upon Contract execution, prices agreed upon by the Respondent(s) are an irrevocable offer for the term of the Contract and any Contract renewals or extension(s). No other costs, rates, or fees shall be payable to the Respondent unless expressly agreed upon in writing by the System Agency.

8.1.3 Costs Incurred

Respondents understand that issuance of this Solicitation in no way constitutes a commitment by any System Agency to award a Contract or to pay any costs incurred by a Respondent in the preparation of a response to this Solicitation. The System Agency is not liable for any costs incurred by a Respondent prior to issuance of or entering into a formal agreement, Contract, or purchase order. Costs of developing Solicitation Responses, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by a Respondent are entirely the responsibility of the Respondent, and will not be reimbursed in any manner by the State of Texas.

8.1.4 Contract Responsibility

The System agency will look solely to Successful Respondent for the performance of all contractual obligations that may result from an award based on this Solicitation. Successful Respondent shall not be relieved of its obligations for any nonperformance by its subcontractors.

8.1.5 Public Information Act - Respondent Requirements Regarding Disclosure

Proposals and contracts are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request. Other legal authority also requires System Agency to post contracts and proposals on its public website and to provide such information to the Legislative Budget Board for posting on its public website.

Under the PIA, certain information is protected from public release. If Respondent asserts that information provided in its Solicitation Response is exempt from disclosure under the PIA, Respondent must:

- a. **Mark Original Proposal:**

1. Mark the Original Proposal, on the top of the front page, the words “CONTAINS CONFIDENTIAL INFORMATION” in large, bold, capitalized letters (the size of, or equivalent to, 12-point Times New Roman font or larger); and
 2. Identify, adjacent to each portion of the Solicitation Response that Respondent claims is exempt from public disclosure, the claimed exemption from disclosure (NOTE: no redactions are to be made in the Original Proposal);
- b. **Certify in Original Proposal - Affirmations and Solicitation Acceptance (attached as Exhibit A to this Solicitation):**

Certify, in the designated section of the Affirmations and Solicitation Acceptance, Respondent’s confidential information assertion and the filing of its Public Information Act Copy; and

- c. **Submit Public Information Act Copy of Proposal:**

Submit a separate “Public Information Act Copy” of the Original Proposal (in addition to the original and all copies otherwise required under the provisions of this Solicitation). The Public Information Act Copy must meet the following requirements:

1. The copy must be clearly marked as “Public Information Act Copy” on the front page in large, bold, capitalized letters (the size of, or equivalent to, 12-point Times New Roman font or larger);
2. Each portion Respondent claims is exempt from public disclosure must be redacted (blacked out); and
3. Respondent must identify, adjacent to each redaction, the claimed exemption from disclosure. Each identification provided as required in Subsection (c) of this section must be identical to those set forth in the Original Proposal as required in Subsection (a)(2), above. The only difference in required markings and information between the Original Proposal and the “Public Information Act Copy” of the proposal will be redactions - which can only be included in the “Public Information Act Copy.” There must be no redactions in the Original Proposal.

By submitting a response to this Solicitation, Respondent agrees that, if Respondent does not mark the Original Proposal, provide the required certification in the Affirmations and Solicitation Acceptance, and submit the Public Information Act Copy, Respondent’s proposal will be considered to be public information that may be released to the public in any manner including, but not limited to, in accordance with the Public Information Act, posted on the System Agency’s public website, and posted on the Legislative Budget Board’s public website.

If any or all Respondents submit partial, but not complete, information suggesting inclusion of confidential information and failure to comply with the requirements set forth in this section, System Agency, in its sole discretion and in any solicitation, reserves the right to (1) disqualify all Respondents that fail to fully comply with the

requirements set forth in this section, or (2) to offer all Respondents that fail to fully comply with the requirements set forth in this section additional time to comply.

Respondent should not submit a Public Information Act Copy indicating that the entire proposal is exempt from disclosure. Merely making a blanket claim that the entire proposal is protected from disclosure because it contains any amount of confidential, proprietary, trade secret, or privileged information is not acceptable, and may make the entire proposal subject to release under the PIA.

Proposals should not be marked or asserted as copyrighted material. If Respondent asserts a copyright to any portion of its proposal, by submitting a proposal, Respondent agrees to reproduction and posting on public websites by the State of Texas, including the System Agency and all other state agencies, without cost or liability.

The System Agency will strictly adhere to the requirements of the PIA regarding the disclosure of public information. As a result, by participating in this solicitation process, Respondent acknowledges that all information, documentation, and other materials submitted in the proposal in response to this Solicitation may be subject to public disclosure under the PIA. The System Agency does not have authority to agree that any information submitted will not be subject to disclosure. Disclosure is governed by the PIA and by rulings of the Office of the Texas Attorney General. Respondents are advised to consult with their legal counsel concerning disclosure issues resulting from this process and to take precautions to safeguard trade secrets and proprietary or otherwise confidential information. The System Agency assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Respondents.

For more information concerning the types of information that may be withheld under the PIA or questions about the PIA, please refer to the Public Information Act Handbook published by the Office of the Texas Attorney General or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). To access the Public Information Act Handbook, please visit the attorney general's website at <http://www.texasattorneygeneral.gov>.

8.1.6 Respondent Waiver – Intellectual Property

SUBMISSION OF ANY DOCUMENT TO ANY HHS AGENCY IN RESPONSE TO THIS SOLICITATION CONSTITUTES AN IRREVOCABLE WAIVER, AND AGREEMENT BY THE SUBMITTING PARTY TO FULLY INDEMNIFY THE STATE OF TEXAS, HHSC FROM, ANY CLAIM OF INFRINGEMENT BY HHSC REGARDING THE INTELLECTUAL PROPERTY RIGHTS OF THE SUBMITTING PARTY OR ANY THIRD PARTY FOR ANY MATERIALS SUBMITTED TO HHS BY THE SUBMITTING PARTY.

8.2 INSURANCE

For the duration of any Contract resulting from this Solicitation, Respondent shall acquire insurance, bonds, or both, if applicable with financially sound and reputable independent insurers, in the type and amount customarily carried within the industry. Failure to maintain insurance coverage or acceptable alternative methods of insurance shall be deemed a breach of Contract.

Successful Respondent shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder and the results of that Work by the Successful Respondent, his agents, representatives, employees or Subcontractors.

8.2.1 Minimum Scope and Limit of Insurance

Coverage shall be at least as broad as:

- a. **Commercial General Liability Insurance (CGL).** Including premises, operations, independent Successful Respondent's liability, products and completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Successful Respondent's liability for bodily injury (including death) and property damage with a minimum limit of:
 1. \$1,000,000 per occurrence;
 2. \$2,000,000 general aggregate;
 3. \$5,000 Medical Expense each person;
 4. \$1,000,000 Personal Injury and Advertising Liability;
 5. \$2,000,000 products and completed operations aggregate;
 6. \$50,000 Damage to Premises Rented to You; and
 7. Coverage shall be on an "occurrence" basis.

The policy shall include endorsement CG2503 Amendment of Aggregate Limits of Insurance (per Project) or its equivalent.

The term "You" as reference in Subsection above, means the Successful Respondent.

- b. **Comprehensive Automobile Liability Insurance.** Coverage shall be provided for owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$1,000,000 per accident. No aggregate shall be permitted for this type of coverage.
- c. **Workers' Compensation.** Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation in favor of the Texas Health and Human Services Commission, employer's liability insurance of not less than:
 1. \$1,000,000 each accident;
 2. \$1,000,000 disease each employee; and
 3. \$1,000,000 disease policy limit.

Workers' compensation insurance coverage must be provided for all workers at all tier levels and meet the statutory requirements of the Texas Labor Code.

- d. **Umbrella Liability Insurance.** Successful Respondent shall obtain, pay for and maintain umbrella liability insurance during the Contract term, insuring Successful Respondent for an amount of not less than amount \$1,000,000 that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required hereinabove.

The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

- e. **Professional Liability (Errors and Omissions).** Successful Respondent shall obtain, pay for and maintain professional liability errors and omissions insurance, appropriate to the Successful Respondent's profession, during the Contract term, insuring Successful Respondent for an amount of not less than \$2,000,000.
- f. **Cyber/Privacy Liability Insurance Policy.** Successful Respondent shall provide Cyber/Privacy Liability Insurance to cover risk of loss to electronic data. The policy must include coverage for electronic vandalism to electronic data, including coverage for a third party's willful electronic alteration of data, introduction of viruses which impact electronic data, unauthorized use of electronic data, or denial of service to web site or email destinations.

Cyber Liability Insurance \$1,000,000 Claim/\$1,000,000 Aggregate.

If the Successful Respondent maintains broader coverage and/or higher limits than the minimums shown above, the System Agency requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Successful Respondent. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the System Agency.

8.2.2 Subcontractors

Without limiting any of the other obligations or liabilities of Successful Respondent, Successful Respondent shall require each Subcontractor performing Work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, Successful Respondent may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Successful Respondent's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Successful Respondent agrees to provide workers' compensation for Subcontractors and their employees. Successful Respondent shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure

compliance with the insurance requirements. Successful Respondent must retain the certificates of insurance for the duration of the Contract plus seven (7) years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. System Agency shall be entitled, upon request and without expense, to receive copies of these certificates.

8.2.3 Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- a. **Additional Insured Status.** The System Agency, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Successful Respondent including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Successful Respondent's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).
- b. **Primary Coverage.** For any claims related to this Contract, the Successful Respondent's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the System Agency, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the System Agency, its officers, officials, employees, or volunteers shall be excess of the Successful Respondent's insurance and shall not contribute with it.
- c. **Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with a minimum of thirty (30) business days' notice to the System Agency.
- d. **Waiver of Subrogation.** Successful Respondent hereby grants to System Agency a waiver of any right to subrogation which any insurer of said Successful Respondent may acquire against the System Agency by virtue of the payment of any loss under such insurance. Successful Respondent agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the System Agency has received a waiver of subrogation endorsement from the insurer.
- e. **Self-Insured Retentions.** Self-insured retentions must be declared to and approved by the System Agency. The System Agency may require the Successful Respondent to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide,

or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or System Agency.

- f. **Acceptability of Insurers.** Insurance is to be placed with insurers authorized to conduct business in the state of Texas with a current A.M. Best’s rating of no less than “A-” unless otherwise acceptable to the System Agency.
- g. **Claims Made Policies (note – should be applicable only to professional liability, see below).** If any of the required policies provide claims-made coverage:
 - 1. The Retroactive Date must be shown and must be before the date of the Contract or the beginning of Contract Work.
 - 2. Insurance must be maintained, and evidence of insurance must be provided for at least seven (7) years after completion of the Contract of Work.
 - 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the Successful Respondent must purchase “extended reporting” coverage for a minimum of seven (7) years after completion of work.

8.2.4 Alternative Insurability

Notwithstanding the preceding, the System Agency reserves the right to consider reasonable alternative methods of insuring the Contract in lieu of the insurance policies customarily required. It will be the Respondent's responsibility to recommend to the System Agency alternative methods of insuring the Contract. Any alternatives proposed by Respondent should be accompanied by a detailed explanation regarding Respondent's inability to obtain the required insurance and/or bonds. The System Agency shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

8.3 PROTEST

If a Respondent wishes to file a protest they may do so in accordance with the rules published by HHSC in TAC, [Title 1, Part 15, Chapter 391, Subchapter D, Protests](#).

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ARTICLE IX. SUBMISSION CHECKLIST

This checklist is provided for Respondent's convenience only and identifies documents that are requested in this Solicitation.

Original Solicitation Response Package

The Solicitation Package must include the Solicitation Response in one of the approved submission methods identified in **Section 3.6**.

1. Proposal and Respondent Information

- | | | |
|---|--|-------|
| a. Narrative Proposal | (Section 5.1) | _____ |
| b. Company Information | (Forms A and B; Section 6.1) | _____ |
| c. Major Subcontractor Information | (Section 6.2) | _____ |
| d. Litigation and Contract History | (Form B; Section 6.3) | _____ |
| e. Conflicts | (Form B; Section 6.4) | _____ |
| f. Respondent Affirmations and Solicitation Acceptance, Federal Assurances and Certifications | (All exhibits listed in Section 6.5) | _____ |
| g. Exceptions and Assumptions, if applicable | (Exhibits E and E-1; Sections 3.6.4 and 3.6.5) | _____ |
| h. Corporate Guarantee | (Section 6.6) | _____ |
- 2. Cost Proposal** (Exhibit J; Article VII) _____
- 3. HUB Subcontracting Plan** (Exhibit F; Section 6.7) _____

Files to be provided

___ Two USBs – One Labeled “Copy” and One Labeled “Original” with all of the files below.

___ One file named “Original Proposal” that contains the Respondent’s entire proposal in searchable portable document format (PDF).

___ One file named “Public Information Copy” that contains the Respondent’s entire proposal in searchable PDF, if applicable.

___ One file named “Cost Proposal” that contains the Respondent’s Cost Proposal in Excel format with active formulas (compatible with Microsoft Office 2000).

___ One file named “HUB Subcontracting Plan” that contains the Respondent’s HUB Subcontracting Plan.

ARTICLE X. LIST OF EXHIBITS

EXHIBIT A- HHSC AFFIRMATIONS AND SOLICITATION ACCEPTANCE HHSC v. 1.6

EXHIBIT B- HHS UNIFORM TERMS AND CONDITIONS VENDOR v. 3.0

EXHIBIT C- HHS ADDITIONAL PROVISIONS v. 1.0

EXHIBIT D- DATA USE AGREEMENT (DUA) v. 8.5

EXHIBIT D-1 - ATTACHMENT 2 TO DUA, SECURITY AND PRIVACY INQUIRY (SPI) v.2.1

EXHIBIT E- EXCEPTIONS FORM

EXHIBIT E-1 – ASSUMPTIONS FORM

EXHIBIT F- HUB PARTICIPATION REQUIREMENTS

EXHIBIT G- EVALUATION TOOL

EXHIBIT H- WORK ORDER QUOTE REQUEST TEMPLATE

EXHIBIT I- WORK ORDER QUOTE RESPONSE TEMPLATE

EXHIBIT J – COST PROPOSAL

EXHIBIT K – DME CATEGORIES

EXHIBIT L – HCPCS CODES BY CATEGORIES

EXHIBIT M – ONLINE BID ROOM

EXHIBIT N– SERVICE AUTHORIZATION TEMPLATE

FORM A- RESPONDENT AND SUPPLEMENTAL INFORMATION

FORM B – ENTITY INFORMATION CONTRACT AND LITIGATION HISTORY

APPENDIX 1 - ADDITIONAL STANDARDS FOR SUPPLIERS OF WHEELCHAIRS AND RELATED EQUIPMENT

APPENDIX 2 - ADDITIONAL STANDARDS FOR SUPPLIERS OF OXYGEN AND OXYGEN RELATED EQUIPMENT

Exhibit A. HHSC AFFIRMATIONS AND SOLICITATION ACCEPTANCE

In this document, the terms Respondent, Contractor, Applicant, and Vendor, when referring to the following affirmations (whether framed as certifications, representations, warranties, or in other terms) refer to Respondent, and the affirmations apply to all Respondents regardless of their business form (e.g., individual, partnership, corporation).

Respondent affirms, without exception, as follows:

1. Respondent represents and warrants that all certifications, representations, warranties, and other provisions in this Affirmations and Solicitation Acceptance apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Solicitation or any contract resulting from this Solicitation.
2. Respondent represents and warrants that all statements and information provided to HHSC are current, complete, and accurate. This includes all statements and information in this Solicitation Response.
3. Respondent understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with the State pursuant to the contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. Respondent represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the contract and the Respondent agrees that the contract can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.
5. Respondent acknowledges its obligation to specifically identify information it contends to be confidential or proprietary and, if Respondent designated substantial portions of its Solicitation Response or its entire Solicitation Response as confidential or proprietary, the Solicitation Response is subject to being disqualified.

6. Respondent's Solicitation Response will remain a firm and binding offer for 240 days from the date the Solicitation Response is due.
7. Respondent shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.
8. Respondent accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation. No exceptions, terms, or conditions will be considered if not advanced in the form and manner directed in the Solicitation. Respondent agrees that all exceptions to the Solicitation as well as terms and conditions advanced by Respondent that differ in any manner from HHSC's terms and conditions are rejected unless expressly accepted by HHSC in writing in a fully executed contract.
9. Respondent agrees that HHSC has the right to use, produce, and distribute copies of and to disclose to HHSC employees, agents, and contractors and other governmental entities all or part of Respondent's Solicitation Response as HHSC deems necessary to complete the procurement process or comply with state or federal laws.
10. Respondent generally releases from liability and waives all claims against any party providing information about the Respondent at the request of HHSC.
11. Respondent acknowledges all addenda and amendments to the Solicitation.
12. Respondent certifies that if a Texas address is shown as the address of Respondent on this Response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
13. Respondent represents and warrants that it qualifies for all preferences claimed under 34 Texas Administrative Code, Section 20.306 or Chapter 2155, Subchapter H of the Texas Government Code as indicated below (check applicable boxes):
 - Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Agricultural products grown in Texas
 - Agricultural products offered by a Texas bidder
 - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Services offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Texas Vegetation Native to the Region
 - USA-produced supplies, materials or equipment
 - Products of persons with mental or physical disabilities

- Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - Energy efficient products
 - Rubberized asphalt paving material
 - Recycled motor oil and lubricants
 - Products produced at facilities located on formerly contaminated property
 - Products and services from economically depressed or blighted areas
 - Vendors that meet or exceed air quality standards
 - Recycled or reused computer equipment of other manufacturers
 - Foods of higher nutritional value
 - Commercial production company or advertising agency located in Texas
14. Respondent has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Solicitation Response, this Solicitation, or any contract resulting from this Solicitation.
15. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
16. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
17. Under Section 231.006(d) of the Texas Family Code regarding child support, Respondent certifies that the individual or business entity named in this Response is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Respondent subject to Section 231.006 of the Texas Family Code must include in the Response the names and social security numbers (SSNs) of each person with at least 25% ownership of the business entity submitting the Response:
- Name: _____ SSN: _____
- Name: _____ SSN: _____
- Name: _____ SSN: _____
- Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of requested SSNs is required under Section 231.006(c) and

Section 231.302(c)(2), Texas Family Code. The SSNs will be used to identify persons that may owe child support. The SSNs will be kept confidential to the fullest extent permitted by law.

If submitted by email, Responses containing SSNs must be encrypted. Failure by a Respondent to provide or encrypt the SSNs as required may result in disqualification of the Respondent's Response.

18. Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Respondent's subcontracts, if any, if payment in whole or in part is from federal funds.
19. Respondent certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.
20. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
21. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of the contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.
22. Under Section 2155.0061 of the Texas Government Code, the Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
23. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
24. Respondent agrees that any payments due under any contract resulting from this Solicitation shall be applied towards any debt or delinquency that is owed to the State of Texas.
25. Respondent represents and warrants that payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

26. Respondent agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
27. Respondent agrees that upon request of HHSC, Respondent shall provide copies of its most recent business continuity and disaster recovery plans.
28. Respondent expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Respondent represents and warrants to HHSC that the technology provided to HHSC for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
 - providing equivalent access for effective use by both visual and non-visual means;
 - presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
 - being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this Section, the phrase “equivalent access” means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

In accordance with Section 2157.005 of the Texas Government Code, the Technology Access Clause contract provision remains in effect for any contract entered into before September 1, 2006.

29. If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
30. If Respondent is submitting a Response for the purchase or lease of covered television equipment, then Respondent certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.
31. Respondent represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
32. Respondent acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state

service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Respondent may not accept employment from Respondent before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.

33. Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Solicitation and any resulting contract and that Respondent's provision of the requested goods and/or services under this Solicitation and any resulting contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
34. Respondent understands that HHSC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Respondent agrees to comply with all applicable laws, rules, regulations, and HHSC policies regarding fraud including, but not limited to, HHS Circular C-027.
35. The undersigned affirms under penalty of perjury of the laws of the State of Texas that (a) in connection with this Response, neither I nor any representative of the Respondent has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Response, neither I nor any representative of the Respondent has violated any federal antitrust law; and (c) neither I nor any representative of the Respondent has directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Respondent.
36. Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Respondent or any of the individuals or entities included in numbered paragraph 1 of this Affirmations and Solicitation Acceptance within the five (5) calendar years immediately preceding the submission of this Solicitation response that would or could impair Respondent's performance under any contract resulting from this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has provided to HHSC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Respondent's performance under a contract awarded as a result of this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a contract. In addition, Respondent acknowledges this is a continuing disclosure requirement. Respondent represents and

warrants that, if awarded a contract as a result of this Solicitation, Respondent shall notify HHSC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.

37. Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the contract to determine the eligibility of:
- (a) all persons employed by Respondent to perform duties within Texas; and
 - (b) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.
38. If this Solicitation is for an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, Respondent represents and warrants that neither Respondent nor any of Respondent's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.
39. If this Solicitation is for consulting services,
- (A). In accordance with Section 2254.033 of the Texas Government Code, a Respondent offering to provide consulting services in response to this solicitation who has been employed by, or employs an individual who has been employed by, HHSC or another State of Texas agency at any time during the two years preceding the submission of Respondent's Solicitation Response must disclose the following information in its Solicitation Response and hereby certifies that this information is true, correct, and complete:
 - (1) Name of individual(s) (Respondent or employee(s)): _____
 - (2) Status (circle one): Respondent Employee
 - (3) The nature of the previous employment with HHSC or the other State of Texas agency:

 - (4) The date the employment was terminated and the reason for the termination:

 - (5) The annual rate of compensation for the employment at the time of its termination: _____

If more than one individual is identified in A(1) above, Respondent must provide responses to A(2)-(5) as to each identified individual. To satisfy this requirement, Respondent must attach a separate page or pages, as necessary, and include the information required in Section A, including subsections (1)-(5). Respondent must identify here how many pages, if any, are attached: _____. Respondent acknowledges, agrees, and certifies that all information provided is true, correct, and complete on this and all attached pages.

(B). If no information is provided in response to Section A above, Respondent certifies that neither Respondent nor any individual employed by Respondent was employed by HHSC or any other State of Texas agency at any time during the two years preceding the submission of Respondent's Solicitation Response.

40. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Respondent refuses to make that certification, Respondent shall state here any facts that make it exempt from the boycott certification:

41. Respondent understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act: (i) performs an abortion procedure that is not reimbursable under the state’s Medicaid program; (ii) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program; or (iii) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program. The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Respondent represents and warrants that it is not ineligible, nor will it be ineligible during the term of the contract resulting from this Solicitation, to receive appropriated funding pursuant to Article IX, Section 6.25.

42. Respondent understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Respondent certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Respondent refuses to make that certification, Respondent shall state here any facts that make it exempt from the certification:

43. Respondent understands, acknowledges, and agrees, that solicitation responses and contracts are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request or through posting on the System Agency’s website, the LBB’s website, or as otherwise required by law. Respondent certifies that it:

- asserts that information provided in its response is exempt from disclosure under the PIA, and Respondent, therefore, has submitted a “Public Information Act Copy” as required under the solicitation; or
 - asserts that there is no information provided in its response that is exempt from disclosure under the PIA, and Respondent, therefore, has not submitted a “Public Information Act Copy.”
44. Respondent understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Respondent is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of any contract resulting from this Solicitation.
 45. Respondent represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to any contract resulting from this Solicitation.
 46. Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.
 47. By submitting this Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of this Response.

Signature Page Follows

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

Legal Name of Respondent

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

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

Attach Assumed Name Certificate(s) filed with the Texas Secretary of State for each Texas County Where Assumed Name Certificate(s) has been filed

Signature of Authorized Representative

Date Signed

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

Title of Authorized Representative

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

Phone Number

Fax Number

Email Address

DUNS Number

Federal Employer Identification Number

Texas Payee ID No. – 11 digits

Texas Franchise Tax Number

Texas Secretary of State Filing Number



TEXAS

Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Vendor

Version 3.0

Published and Effective - November 7, 2019

Responsible Office: Chief Counsel

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

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

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

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

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

“Contractor” means the Party selected to provide the goods or Services to the State under this Contract.

“Deliverable” means a Work Product(s), including all reports and project documentation, prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.

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

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Goods” means supplies, materials, or equipment.

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

“Health and Human Services” or “HHS” includes the Department of State Health Services (DSHS), in addition to the Health and Human Services Commission.

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

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such rights 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 Contractor, collectively.

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

“[Project](#)” means the goods or Services described in the Signature Document or a Work Order of this Contract.

“[Scope of Work](#)” means the description of Services and Deliverables specified in the Contract and as may be amended.

“[Services](#)” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

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

“[Solicitation](#)” means the document issued by the System Agency (including any published addenda, exhibits, and Attachments) under which the goods or Services provided under the Contract were initially requested, which is incorporated by reference for all purposes in its entirety.

“[Solicitation Response](#)” means Contractor’s full and complete response (including any Attachments and addenda) to the Solicitation, which is incorporated by reference for all purposes in its entirety.

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

“[State of Texas Textravel](#)” means the State Travel Management Program through the Texas Comptroller of Public Accounts website and Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“[Subcontract](#)” means any written agreement between Contractor and a third party to fulfill the requirements of the Contract. All Subcontracts are required to be in writing.

“[Subcontractor](#)” means any individual or entity that enters a contract with the Contractor to perform part or all of the obligations of Contractor under this Contract.

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

“**Third Party IP**” means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not a Subcontractor.

“**Work**” means all Services to be performed, goods to be delivered, and any appurtenant actions performed, and items produced, conceived, or developed, including Deliverables.

“**Work Order**” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

“**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 Contractor in connection with Contractor’s performance of its duties under the Contract or through use of any funding provided under this Contract.

1.2 INTERPRETIVE PROVISIONS

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

ARTICLE II. PAYMENT 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 ANCILLARY AND TRAVEL EXPENSES

- A. Except as otherwise provided in the Contract, no ancillary expenses incurred by the Contractor 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. When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas *Travel* available at the Texas Comptroller of Public Accounts State Travel Management Program website.

2.3 NO QUANTITY GUARANTEES

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

2.4 TAXES

Purchases made for State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from the Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. System Agency shall not be liable for any taxes resulting from the contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT AND DELINQUENCIES

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

3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may:
- i. withhold all or part of any payments to Contractor to offset overpayments, unallowable or ineligible costs made to the Contractor, or if any required financial status report(s) is not submitted by the due date(s); or,
 - ii. require Contractor to promptly refund or credit - within thirty (30) calendar days of written notice - any funds erroneously paid by System Agency which are not expressly authorized under the Contract.
- B. "Overpayments," as used in this Section, include payments:
- i. made by the System Agency that exceed the maximum allowable rates;
 - ii. that are not allowed under applicable laws, rules, or regulations; or,
 - iii. that are otherwise inconsistent with this Contract, including any unapproved expenditures. Contractor understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs shall be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS

4.1 WARRANTY

Contractor warrants that all Work under this Contract shall be completed in a manner consistent with standards under the terms of this Contract, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Contract; 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 Contractor has failed to complete Work timely or to perform satisfactorily under conditions required by this Contract, the System Agency may require Contractor, at its sole expense, to:

- i. Repair or replace all defective or damaged Work;
- ii. Refund any payment Contractor received from System Agency for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and,
- iii. Take necessary action to ensure that Contractor's future performance and Work conform to the Contract requirements.

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

Contractor certifies that, to the extent federal assurances are incorporated into the Contract under the Signature Document, the Contractor has reviewed the federal assurances and that Contractor is in compliance with all requirements.

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. INTELLECTUAL PROPERTY

5.1 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. Contractor and Contractor'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, Contractor 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. Contractor 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 Contractor has any rights in and to the Work Product that cannot be assigned to System Agency, Contractor 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 Contractor. Contractor shall provide System Agency access during normal business hours to all Vendor materials, premises, and computer files containing the Work Product.

5.2 CONTRACTOR'S PRE-EXISTING WORKS

- A. To the extent that Contractor incorporates into the Work Product any works of Contractor that were created by Contractor or that Contractor acquired rights in prior to the Effective

Date of this Contract (“**Incorporated Pre-existing Works**”), Contractor retains ownership of such Incorporated Pre-existing Works.

- B. Contractor 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. Contractor represents, warrants, and covenants to System Agency that Contractor has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

5.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Contractor, Contractor 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 purposes only,
 - i. 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
 - ii. to authorize others to do any or all of the foregoing.
- B. Contractor shall obtain System Agency’s advance written approval prior to incorporating any Third Party IP into the Work Product, and Contractor shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Contractor shall provide System Agency all supporting documentation demonstrating Contractor’s compliance with this **Section 5.3**, including without limitation documentation indicating a third party’s written approval for Contractor to use any Third Party IP that may be incorporated in the Work Product.

5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

5.5 DELIVERY UPON TERMINATION OR EXPIRATION

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

5.6 SURVIVAL

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

5.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Contractor by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder (the "**System Agency Data**"), is owned solely by System Agency.
- B. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Contractor 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 Contractor's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Contractor's performance of its obligations hereunder.

ARTICLE VI. PROPERTY

6.1 USE OF STATE PROPERTY

- A. Contractor is prohibited from using State Property for any purpose other than performing Services authorized under the Contract.
- 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. Contractor shall not remove State Property from the continental United States. In addition, Contractor may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Contractor shall not perform any maintenance services on State Property unless the Contract expressly authorizes such Services.
- E. During the time that State Property is in the possession of Contractor, Contractor 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 Contractor's use of State Property that exceeds the Contract scope. Contractor shall fully reimburse such charges to System Agency within ten (10) calendar days of Contractor's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

6.2 DAMAGE TO GOVERNMENT 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 Contractor or Contractor's employees, agents, Subcontractors, and suppliers, Contractor 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. Contractor shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Contractor shall reimburse System Agency and the State of Texas for such property damage within 10 calendar days after Contractor's receipt of System Agency's notice of amount due.

6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

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

ARTICLE VII. WORK ORDERS

7.1 WORK ORDERS

If the Contract is for indefinite quantities of Services, as specified in the Signature Document, all Work will be performed in accordance with properly executed Work Orders.

7.2 PROPOSALS

For Work Order contracts, the Contractor shall submit to System Agency separate proposals, including pricing and a project plan, for each Project.

7.3 RESPONSIBILITY

For each approved Project, the Contractor shall be responsible for all Work assigned under the Work Order. Multiple Work Orders may be issued during the term of this Contract, all of which will be in writing and signed by the Parties. Each Work Order will include a scope of Services; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project budget; and any other information or special conditions as may be necessary for the Work assigned.

7.4 TERMINATION

If this Work Order is in effect on the day the Contract would otherwise expire, the Contract will remain in effect until this Work Order is terminated or expires; and the Contract and this Work Order may be amended after such termination or expiration to extend the performance period or add ancillary deliverables or services, only to the extent necessary.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

- A. Contractor shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives

sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes.

- B. Contractor shall maintain and retain legible copies of this Contract and all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Contractor for a minimum of seven (7) years after the Contract expiration date or seven (7) years after the completion of all audit, claim, litigation, or dispute matters involving the Contract are resolved, whichever is later.

8.2 AGENCY'S RIGHT TO AUDIT

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

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Contractor must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the Services and Deliverables provided. Any such correction will be at Contractor's or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance shall be solely the decision of the System Agency.

- B. As part of the Services, Contractor must provide to System Agency upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

8.4 STATE AUDITOR'S RIGHT TO AUDIT

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

8.5 CONFIDENTIALITY

Contractor 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 Data, System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract. The obligations of Contractor under this section will survive termination or expiration of this Contract. This requirement must be included in all subcontracts awarded by Contractor.

ARTICLE IX. CONTRACT REMEDIES AND EARLY TERMINATION

9.1 CONTRACT REMEDIES

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

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

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Contract, 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

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

i. Material Breach

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

ii. Failure to Maintain Financial Viability

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

9.4 CONTRACTOR RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

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

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES**

RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

- C. For the avoidance of doubt, System Agency shall not indemnify Contractor or any other entity under the Contract.**

10.2 INTELLECTUAL PROPERTY

CONTRACTOR 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 CONTRACTOR PURSUANT TO THIS CONTRACT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY CONTRACTOR OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT.**

10.3 ADDITIONAL INDEMNITY PROVISIONS

- A. CONTRACTOR AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. CONTRACTOR 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 CONTRACTOR OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENT

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

11.2 INSURANCE

- A. Unless otherwise specified in this Contract, Contractor 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. Contractor 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, Contractor 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, Contractor must produce renewal certificates for each type of coverage.
- B. These and all other insurance requirements under the Contract apply to both Contractor and its Subcontractors, if any. Contractor is responsible for ensuring its Subcontractors' compliance with all requirements.

11.3 LIMITATION ON AUTHORITY

- A. The authority granted to Contractor by the System Agency is limited to the terms of the Contract.
- B. Contractor 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 Contract; no other authority, power, or use is granted or implied. Contractor may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- C. Contractor may not rely upon implied authority and is not granted authority under the Contract 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 Contract. However, upon System Agency request and with reasonable notice from System Agency to the Contractor, the Contractor shall assist the System Agency in communications and negotiations regarding the Work under the Contract with state and federal governments.

11.4 LEGAL OBLIGATIONS

Contractor shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use

of information and communication technology. Contractor shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

11.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the Contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Contract. System Agency reserves the right, in its sole discretion, to unilaterally amend the Contract 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.

11.6 E-VERIFY PROGRAM

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

- i. all persons employed by Contractor to perform duties within Texas; and
- ii. all persons, including subcontractors, assigned by the Contractor to perform Work pursuant to the Contract within the United States of America.

11.7 PERMITTING AND LICENSURE

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

11.8 SUBCONTRACTORS

Contractor may not subcontract any or all of the Work and/or obligations under the Contract without prior written approval of the System Agency. Subcontracts, if any, entered into by the Contractor shall be in writing and be subject to the requirements of the Contract. Should Contractor subcontract any of the services required in the Contract, Contractor expressly understands and acknowledges that in entering into such Subcontract(s), System Agency is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve Contractor of the responsibility for ensuring that the services performed under all Subcontracts are rendered in compliance with the Contract.

11.9 INDEPENDENT CONTRACTOR

Contractor and Contractor's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Contractor nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Contractor shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee

benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Contractor and System Agency.

11.10 GOVERNING LAW AND VENUE

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

11.11 SEVERABILITY

If any provision of the Contract is held to be illegal, invalid or 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 Contract. It is the intent and agreement of the Parties this Contract 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 Contract will continue in full force and effect.

11.12 SURVIVABILITY

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

11.13 FORCE MAJEURE

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

11.14 DISPUTE RESOLUTION

A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract. If the Contractor's claim for breach of contract cannot be resolved informally with the System Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under §2260.051 of the Texas

Government Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- B. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the System Agency if the Parties are unable to resolve their disputes as described above.
- C. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the System Agency, the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. 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.

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 Contractor which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

11.16 MEDIA RELEASES

- A. Contractor 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. Contractor is not authorized to make or participate in any media releases or public announcements pertaining to this Contract 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. Contractor may publish, at its sole expense, results of Contractor performance under the Contract with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.17 NO MARKETING ACTIVITIES

Contractor is prohibited from using the Work for any Contractor or third-party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Contractor's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Contractor as part of the Work.

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

Contractor 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 Contract shall be construed as a waiver of the System Agency's or the State's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

11.20 ENTIRE CONTRACT AND MODIFICATION

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

11.21 COUNTERPARTS

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

11.22 CIVIL RIGHTS

- A. Contractor shall comply with all applicable 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, *et seq.*);
 - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, *et seq.*);
 - 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 Agreement.
- B. Contractor shall comply with all amendments to these 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 service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Contractor shall 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. 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. Contractor shall take reasonable steps to provide services

and information, both orally and in writing and electronically, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

Contractor shall post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>

- D. Contractor shall comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 28 CFR Subpart G § 42.503, and Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR Subpart B §35.130 which includes requiring contractor to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the contractor can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
- E. Contractor shall comply with federal regulations regarding equal treatment for faith-based organizations under 45 C.F.R. Part 87 or 7 C.F.R. Part 16, as applicable. Contractor shall not discriminate against clients or prospective clients on the basis of religion or religious belief, and shall provide written notice to beneficiaries of their rights.
- F. Upon request, Contractor shall provide the HHSC Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- G. Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice 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.

11.23 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

Contractor shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. 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.

11.24 DISCLOSURE OF LITIGATION

- A. The Contractor must disclose in writing to the contract manager assigned to this Contract any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. "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 Contractor 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 Contract 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 Contractor's financial condition.

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

11.25 NO THIRD-PARTY BENEFICIARIES

The Contract 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 Contract as a third-party beneficiary or otherwise.

11.26 BINDING EFFECT

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

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TEXAS

Health and Human Services

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

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ADDITIONAL PROVISIONS

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Contract. Capitalized items used in these Additional Provisions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions.

1. HHSC APPROVAL OF STAFFING

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

2. DISCOUNTS

If Contractor at any time during the term of the Contract provides a discount on the final contract costs, Contractor will notify HHSC in writing at least ten (10) calendar days prior to the effective date of the discount. HHSC will generate a Purchase Order Change Notice and send a revised Purchase Order to Contractor.

3. ELECTRICAL ITEMS

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

4. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

- A. Contractor shall immediately report in writing to its assigned HHSC contract manager when Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Contractor, or their agent, employee, subcontractor or volunteer who is providing services under this Contract has:
 - i. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
 - ii. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

B. Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

5. NOTICE OF IRS OR TWC INSOLVENCY

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

6. DISASTER SERVICES

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

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

7. NOTICE OF A LICENSE ACTION

Contractor shall notify its assigned HHSC contract manager of any action impacting Contractor's license to provide services under this Contract within five days of becoming aware of the action and include the following:

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

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**DATA USE AGREEMENT
BETWEEN THE
TEXAS HEALTH AND HUMAN SERVICES SYSTEM
AND
CONTRACTOR**

This Data Use Agreement (“DUA”) is effective as of the date of the Base Contract into which it is incorporated (“Effective Date”), by and between the Texas Health and Human Services System, which includes the Texas Health and Human Services Commission and the Department of State Health Services (“HHS”) and Contractor (the "Base Contract").

ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate access to, creation, receipt, maintenance, use, disclosure or transmission of Confidential Information with Contractor, and describe Contractor’s rights and obligations with respect to the Confidential Information and the limited purposes for which the Contractor may create, receive, maintain, use, disclose or have access to Confidential Information. This DUA also describes HHS’s remedies in the event of Contractor’s noncompliance with its obligations under this DUA. This DUA applies to both HHS business associates, as “business associate” is defined in the Health Insurance Portability and Accountability Act (HIPAA), and contractors who are not business associates, who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract. As a best practice, HHS requires its contractors to comply with the terms of this DUA to safeguard all types of Confidential Information.

As of the Effective Date of this DUA, if any provision of the Base Contract conflicts with this DUA, this DUA controls.

ARTICLE 2. DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the following meanings:

“**Authorized Purpose**” means the specific purpose or purposes described in the Base Contract for Contractor to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

“**Authorized User**” means a person:

- (1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;
- (2) For whom Contractor warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and
- (3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

“**Breach**” means an impermissible use or disclosure of electronic or non-electronic sensitive personal information by an unauthorized person or for an unauthorized purpose that compromises the security or privacy of Confidential Information such that the use or disclosure poses a risk of reputational harm, theft of financial information, identity theft, or medical identity theft. Any acquisition, access, use, disclosure or loss of Confidential Information other than as permitted by this

DUA shall be presumed to be a Breach unless Contractor demonstrates, based on a risk assessment, that there is a low probability that the Confidential Information has been compromised.

“Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Contractor or that Contractor may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Education records as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99
- (2) Federal Tax Information as defined in Internal Revenue Code §6103 and Internal Revenue Service Publication 1075;
- (3) Personal Identifying Information (PII) as defined in Texas Business and Commerce Code, Chapter 521;
- (4) Protected Health Information (PHI) in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information as defined in 45 C.F.R. §160.103;
- (5) Sensitive Personal Information (SPI) as defined in Texas Business and Commerce Code, Chapter 521;
- (6) Social Security Administration Data, including, without limitation, Medicaid information means disclosures of information made by the Social Security Administration or the Centers for Medicare and Medicaid Services from a federal system of records for administration of federally funded benefit programs under the Social Security Act, 42 U.S.C., Chapter 7;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

“Destroy”, “Destruction”, for Confidential Information, means:

(1) Paper, film, or other hard copy media have been shredded or destroyed such that the Confidential Information cannot be read or otherwise cannot be reconstructed. Redaction is specifically excluded as a means of data destruction.

(2) Electronic media have been cleared, purged, or destroyed consistent with NIST Special Publication 800-88, "Guidelines for Media Sanitization," such that the Confidential Information cannot be retrieved.

“Discover, Discovery” means the first day on which a Breach becomes known to Contractor, or, by exercising reasonable diligence would have been known to Contractor.

“Legally Authorized Representative” of an individual, including as provided in 45 CFR 435.923 (authorized representative); 45 CFR 164.502(g)(1) (personal representative); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164 (medical power of attorney); and Texas Estates Code § 22.031 (representative).

“Required by Law” means a mandate contained in law that compels an entity to use or disclose Confidential Information that is enforceable in a court of law, including court orders, warrants, subpoenas or investigative demands.

“Subcontractor” means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

“Workforce” means employees, volunteers, trainees or other persons whose performance of work is under the direct control of a party, whether or not they are paid by that party.

ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

Section 3.01 Obligations of Contractor

Contractor agrees that:

(A) With respect to PHI, Contractor shall:

(1) Make PHI available in a designated record set if requested by HHS, if Contractor maintains PHI in a designated record set, as defined in HIPAA.

(2) Provide to HHS data aggregation services related to the healthcare operations Contractor performs for HHS pursuant to the Base Contract, if requested by HHS, if Contractor provides data aggregation services as defined in HIPAA.

(3) Provide access to PHI to an individual who is requesting his or her own PHI, or such individual's Legally Authorized Representative, in compliance with the requirements of HIPAA.

(4) Make PHI available to HHS for amendment, and incorporate any amendments to PHI that HHS directs, in compliance with HIPAA.

(5) Document and make available to HHS, an accounting of disclosures in compliance with the requirements of HIPAA.

(6) If Contractor receives a request for access, amendment or accounting of PHI by any individual, promptly forward the request to HHS or, if forwarding the request would violate HIPAA, promptly notify HHS of the request and of Contractor's response. HHS will respond to all such requests, unless Contractor is Required by Law to respond or HHS has given prior written consent for Contractor to respond to and account for all such requests.

(B) With respect to ALL Confidential Information, Contractor shall:

(1) Exercise reasonable care and no less than the same degree of care Contractor uses to protect its own confidential, proprietary and trade secret information to prevent Confidential Information from being used in a manner that is not expressly an Authorized Purpose or as Required by Law. Contractor will access, create, maintain, receive, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses.

(2) Establish, implement and maintain appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, in accordance with applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as Contractor has such Confidential Information in its actual or constructive possession.

(3) Implement, update as necessary, and document privacy, security and Breach notice policies and procedures and an incident response plan to address a Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Base Contract. Contractor

shall produce, within three business days of a request by HHS, copies of its policies and procedures and records relating to the use or disclosure of Confidential Information.

(4) Obtain HHS's prior written consent to disclose or allow access to any portion of the Confidential Information to any person, other than Authorized Users, Workforce or Subcontractors of Contractor who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Breach to Contractor's management and as permitted in Section 3.01(A)(3), above. Contractor shall produce evidence of completed training to HHS upon request. HHS, at its election, may assist Contractor in training and education on specific or unique HHS processes, systems and/or requirements. All of Contractor's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources.

(5) Establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. Contractor shall maintain evidence of sanctions and produce it to HHS upon request.

(6) Obtain prior written approval of HHS, to disclose or provide access to any Confidential Information on the basis that such act is Required by Law, so that HHS may have the opportunity to object to the disclosure or access and seek appropriate relief. If HHS objects to such disclosure or access, Contractor shall refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief.

(7) Certify that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose and that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. Contractor and its Subcontractors shall maintain at all times an updated, complete, accurate list of Authorized Users and supply it to HHS upon request.

(8) Provide, and shall cause its Subcontractors and agents to provide, to HHS periodic written confirmation of compliance with controls and the terms and conditions of this DUA.

(9) Return to HHS or Destroy, at HHS's election and at Contractor's expense, all Confidential Information received from HHS or created or maintained by Contractor or any of Contractor's agents or Subcontractors on HHS's behalf upon the termination or expiration of this DUA, if reasonably feasible and permitted by law. Contractor shall certify in writing to HHS that all such Confidential Information has been Destroyed or returned to HHS, and that Contractor and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, Contractor acknowledges and agrees that it may not Destroy any Confidential Information if federal or state law, or HHS record retention policy or a litigation hold notice prohibits such Destruction. If such return or Destruction is not reasonably feasible, or is impermissible by law, Contractor shall immediately notify HHS of the reasons such return or Destruction is not feasible and agree to extend the protections of this DUA to the Confidential Information for as long as Contractor maintains such Confidential Information.

(10) Complete and return with the Base Contract to HHS, attached as Attachment 2 to this DUA, the HHS Security and Privacy Initial Inquiry (SPI) at <https://hhs.texas.gov/laws-regulations/forms/miscellaneous/hhs-information-security-privacy-initial-inquiry-spi>. The SPI identifies basic privacy and security controls with which Contractor must comply to protect Confidential Information. Contractor shall comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information Contractor creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. Contractor's

security controls shall be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. Contractor shall update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and shall provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements.

(11) Comply with the HHS Acceptable Use Policy (AUP) and require each Subcontractor and Workforce member who has direct access to HHS Information Resources, as defined in the AUP, to execute an HHS Acceptable Use Agreement.

(12) Only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form. A secure transmission of electronic Confidential Information in motion includes secure File Transfer Protocol (SFTP) or encryption at an appropriate level as required by rule, regulation or law. Confidential Information at rest requires encryption unless there is adequate administrative, technical, and physical security as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information shall be through secure systems. Contractor shall provide proof of system, media or device security and/or encryption to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit, or the Discovery of a Breach. HHS may also request production of proof of security at other times as necessary to satisfy state and federal monitoring requirements. Deidentification of Confidential Information in accordance with HIPAA de-identification standards is deemed secure.

(13) Designate and identify a person or persons, as Privacy Official and Information Security Official, each of whom is authorized to act on behalf of Contractor and is responsible for the development and implementation of the privacy and security requirements in this DUA. Contractor shall provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. Upon written notice from HHS, Contractor shall promptly remove and replace such official(s) if such official(s) is not performing the required functions.

(14) Make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, Confidential Information in accordance with applicable laws, regulations or demands of a regulatory authority relating to Confidential Information. Contractor shall provide such information in a time and manner reasonably agreed upon or as designated by the applicable law or regulatory authority.

(15) Comply with the following laws and standards *if applicable to the type of Confidential Information and Contractor's Authorized Purpose*:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;
- The Privacy Act of 1974;
- OMB Memorandum 17-12;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;

- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI;
- Family Educational Rights and Privacy Act
- Texas Business and Commerce Code, Chapter 521;
- Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that Contractor supports on behalf of HHS.

(16) Be permitted to use or disclose Confidential Information for the proper management and administration of Contractor or to carry out Contractor’s legal responsibilities, except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, if:

- (a) Disclosure is Required by Law;
- (b) Contractor obtains reasonable assurances from the person to whom the information is disclosed that the person shall:
 1. Maintain the confidentiality of the Confidential Information in accordance with this DUA;
 2. Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the person; and
 3. Notify Contractor in accordance with Section 4.01 of a Breach of Confidential Information that the person Discovers or should have Discovered with the exercise of reasonable diligence.

(C) With respect to ALL Confidential Information, Contractor shall NOT:

- (1) Attempt to re-identify or further identify Confidential Information that has been deidentified, or attempt to contact any persons whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS.
- (2) Engage in prohibited marketing or sale of Confidential Information.
- (3) Permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of HHS without requiring that Subcontractor first execute either the Form Subcontractor Agreement, Attachment 1, or Contractor’s own Subcontractor agreement that ensures that the Subcontractor shall comply with the same safeguards and restrictions contained in this DUA for Confidential Information. Contractor is directly responsible for its Subcontractors’ compliance with, and enforcement of, this DUA.

ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

Section 4.01. Cooperation and Financial Responsibility.

(A) Contractor shall, at Contractor's expense, cooperate fully with HHS in investigating, mitigating to the extent practicable, and issuing notifications as directed by HHS, for any Breach of Confidential Information.

(B) Contractor shall make Confidential Information in Contractor's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach.

(C) Contractor's obligation begins at the Discovery of a Breach and continues as long as related activity continues, until all effects of the Breach are mitigated to HHS's satisfaction (the "incident response period").

Section 4.02. Initial Breach Notice.

For federal information *obtained from a federal system of records*, including Federal Tax Information and Social Security Administration Data (which includes Medicaid and other governmental benefit program Confidential Information), Contractor shall notify HHS of the Breach within the first consecutive clock hour of Discovery. The Base Contract shall specify whether Confidential Information is obtained from a federal system of records. For all other types of Confidential Information Contractor shall notify HHS of the Breach not more than 24 hours after Discovery, *or in a timeframe otherwise approved by HHS in writing*. Contractor shall initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for the Base Contract.

Contractor shall report all information reasonably available to Contractor about the Breach.

Contractor shall provide contact information to HHS for Contractor's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

Section 4.03 Third Business Day Notice: No later than 5 p.m. on the third business day after Discovery, or a time within which Discovery reasonably should have been made by Contractor of a Breach of Confidential Information, Contractor shall provide written notification to HHS of all reasonably available information about the Breach, and Contractor's investigation, including, to the extent known to Contractor:

- a. The date the Breach occurred;
- b. The date of Contractor's and, if applicable, Subcontractor's Discovery;
- c. A brief description of the Breach, including how it occurred and who is responsible (or hypotheses, if not yet determined);
- d. A brief description of Contractor's investigation and the status of the investigation;
- e. A description of the types and amount of Confidential Information involved;
- f. Identification of and number of all individuals reasonably believed to be affected, including first and last name of the individual and if applicable, the Legally authorized representative, last known address, age, telephone number, and email address if it is a preferred contact method;
- g. Contractor's initial risk assessment of the Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;
- h. Contractor's recommendation for HHS's approval as to the steps individuals and/or Contractor on behalf of individuals, should take to protect the individuals from potential harm, including

Contractor's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an individual with special capacity or circumstances;

- i. The steps Contractor has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);
- j. The steps Contractor has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Breach;
- k. Identify, describe or estimate of the persons, Workforce, Subcontractor, or individuals and any law enforcement that may be involved in the Breach;
- l. A reasonable schedule for Contractor to provide regular updates regarding response to the Breach, but no less than every three (3) business days, or as otherwise directed by HHS in writing, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and
- m. Any reasonably available, pertinent information, documents or reports related to a Breach that HHS requests following Discovery.

Section 4.04. Investigation, Response and Mitigation.

- (A) Contractor shall immediately conduct a full and complete investigation, respond to the Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.
- (B) Contractor shall complete or participate in a risk assessment as directed by HHS following a Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.
- (C) Contractor shall fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, persons and/or individuals about the Breach.
- (D) Contractor shall fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

Section 4.05. Breach Notification to Individuals and Reporting to Authorities.

- (A) HHS may direct Contractor to provide Breach notification to individuals, regulators or third-parties, as specified by HHS following a Breach.
- (B) Contractor must comply with all applicable legal and regulatory requirements in the time, manner and content of any notification to individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. Notice letters will be in Contractor's name and on Contractor's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of Contractor's representative, an email address and a toll-free telephone number, for the individual to obtain additional information.
- (C) Contractor shall provide HHS with draft notifications for HHS approval prior to distribution and copies of distributed and approved communications.

(D) Contractor shall have the burden of demonstrating to the satisfaction of HHS that any required notification was timely made. If there are delays outside of Contractor's control, Contractor shall provide written documentation to HHS of the reasons for the delay.

(E) If HHS directs Contractor to provide notifications, HHS shall, in the time and manner reasonably requested by Contractor, cooperate and assist with Contractor's information requests in order to make such notifications.

ARTICLE 5. GENERAL PROVISIONS

Section 5.01 Ownership of Confidential Information

Contractor acknowledges and agrees that the Confidential Information is and shall remain the property of HHS. Contractor agrees it acquires no title or rights to the Confidential Information.

Section 5.02 HHS Commitment and Obligations

HHS will not request Contractor to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

Section 5.03 HHS Right to Inspection

At any time upon reasonable notice to Contractor, or if HHS determines that Contractor has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of Contractor to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General, the Office of the Attorney General of Texas, the State Auditor's Office, outside consultants, legal counsel or other designee.

Section 5.04 Term; Termination of DUA; Survival

This DUA will be effective on the date on which Contractor executes the Base Contract and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended, this DUA is extended to run concurrent with the Base Contract.

(A) If HHS determines that Contractor has violated a material term of this DUA; HHS may in its sole discretion:

- (1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or
- (2) Require Contractor to submit to a corrective action plan, including a plan for monitoring and plan for reporting as HHS may determine necessary to maintain compliance with this DUA; or
- (3) Provide Contractor with a reasonable period to cure the violation as determined by HHS; or
- (4) Terminate the DUA and Base Contract immediately and seek relief in a court of competent jurisdiction in Travis County, Texas.

Before exercising any of these options, HHS will provide written notice to Contractor describing the violation and the action it intends to take.

(B) If neither termination nor cure is feasible, HHS shall report the violation to the applicable regulatory authorities.

(C) The duties of Contractor or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

Section 5.05 Injunctive Relief

(A) Contractor acknowledges and agrees that HHS may suffer irreparable injury if Contractor or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) Contractor further agrees that monetary damages may be inadequate to compensate HHS for Contractor's or its Subcontractor's failure to comply. Accordingly, Contractor agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

Section 5.06 Indemnification

Contractor shall indemnify, defend and hold harmless HHS and its respective Executive Commissioner, employees, Subcontractors, agents (including other state agencies acting on behalf of HHS) or other members of HHS' Workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by Contractor or its employees, directors, officers, Subcontractors, or agents or other members of Contractor's Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure. Upon demand, Contractor shall reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including costs of required notices, investigation, and mitigation of a Breach, fines or penalties imposed on an Indemnified Party by a regulatory authority, and reasonable attorneys' fees) which may be imposed upon any Indemnified Party to the extent caused by and which results from the Contractor's failure to meet any of its obligations under this DUA. Contractor's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

Section 5.07 Insurance

(A) In addition to any insurance required in the Base Contract, at HHS's option, HHS may require Contractor to maintain, at its expense, the special and/or custom first- and third-party insurance coverages, including without limitation data breach, cyber liability, crime theft and notification expense coverages, with policy limits sufficient to cover any liability arising under this DUA, naming the State of Texas, acting through HHS, as an additional named insured and loss payee, with primary and noncontributory status.

(B) Contractor shall provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

Section 5.08 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced.

Section 5.09 Automatic Amendment and Interpretation

Upon the effective date of any amendment or issuance of additional regulations to any law applicable to Confidential Information, this DUA will automatically be amended so that the obligations imposed on HHS and/or Contractor remain in compliance with such requirements. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and Contractor to comply with laws applicable to Confidential Information.

Section 5.10 Notices; Requests for Approval

All notices and requests for approval related to this DUA must be directed to the HHS Chief Privacy Officer at privacy@hhsc.state.tx.us.

ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM

HHS CONTRACT NUMBER

The DUA between HHS and Contractor establishes the permitted and required uses and disclosures of Confidential Information by Contractor.

Contractor has subcontracted with _____ (Subcontractor) for performance of duties on behalf of CONTRACTOR which are subject to the DUA. Subcontractor acknowledges, understands and agrees to be bound by the same terms and conditions applicable to Contractor under the DUA, incorporated by reference in this Agreement, with respect to HHS Confidential Information. Contractor and Subcontractor agree that HHS is a third-party beneficiary to applicable provisions of the subcontract.

HHS has the right, but not the obligation, to review or approve the terms and conditions of the subcontract by virtue of this Subcontractor Agreement Form.

Contractor and Subcontractor assure HHS that any Breach as defined by the DUA that Subcontractor Discovers shall be reported to HHS by Contractor in the time, manner and content required by the DUA.

If Contractor knows or should have known in the exercise of reasonable diligence of a pattern of activity or practice by Subcontractor that constitutes a material breach or violation of the DUA or the Subcontractor's obligations, Contractor shall:

1. Take reasonable steps to cure the violation or end the violation, as applicable;
2. If the steps are unsuccessful, terminate the contract or arrangement with Subcontractor, if feasible;
3. Notify HHS immediately upon Discovery of the pattern of activity or practice of Subcontractor that constitutes a material breach or violation of the DUA and keep HHS reasonably and regularly informed about steps Contractor is taking to cure or end the violation or terminate Subcontractor's contract or arrangement.

This Subcontractor Agreement Form is executed by the parties in their capacities indicated below.

CONTRACTOR

SUBCONTRACTOR

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE _____, **202** .

DATE: _____

**Attachment 2-
Security and Privacy Initial Inquiry
[Attach Completed SPI Here]**



Texas HHS System - Data Use Agreement - Attachment 2
SECURITY AND PRIVACY INQUIRY (SPI)

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)

<p>1. Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? IF NO, STOP. THE SPI FORM IS NOT REQUIRED.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p>2. Entity or Applicant/Bidder Legal Name</p>	<p>Legal Name: Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): Procurement/Contract#: Address: City: State: ZIP: Telephone #: Email Address:</p>
<p>3. Number of Employees, at all locations, in Applicant/Bidder's Workforce "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee.</p>	<p>Total Employees:</p>
<p>4. Number of Subcontractors (if Applicant/Bidder will not use subcontractors, enter "0")</p>	<p>Total Subcontractors:</p>
<p>5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder (Privacy and Security Official may be the same person.)</p>	<p>A. Security Official: Legal Name: Address: City: State: ZIP: Telephone #: Email Address:</p> <p>B. Privacy Official: Legal Name: Address: City: State: ZIP: Telephone #: Email Address:</p>

<p>6. Type(s) of Texas HHS Confidential Information the Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply)</p> <ul style="list-style-type: none"> • Health Insurance Portability and Accountability Act (HIPAA) data • Criminal Justice Information Services (CJIS) data • Internal Revenue Service Federal Tax Information (IRS FTI) data • Centers for Medicare & Medicaid Services (CMS) • Social Security Administration (SSA) • Personally Identifiable Information (PII) 	<p>HIPAA <input type="checkbox"/></p>	<p>CJIS <input type="checkbox"/></p>	<p>IRS FTI <input type="checkbox"/></p>	<p>CMS <input type="checkbox"/></p>	<p>SSA <input type="checkbox"/></p>	<p>PII <input type="checkbox"/></p>
<p>Other (Please List)</p>						
<p>7. Number of Storage Devices for Texas HHS Confidential Information (as defined in the Texas HHS System Data Use Agreement (DUA))</p> <p>Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer.</p> <p>A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business.</p>						<p>Total # (Sum a-d)</p> <p>0</p>
<p>a. Devices. Number of personal user computers, devices or drives, including mobile devices and mobile drives.</p>						
<p>b. Servers. Number of Servers that are not in a data center or using Cloud Services.</p>						
<p>c. Cloud Services. Number of Cloud Services in use.</p>						
<p>d. Data Centers. Number of Data Centers in use.</p>						
<p>8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year:</p>						<p>Select Option (a-d)</p>
<p>a. 499 individuals or less b. 500 to 999 individuals c. 1,000 to 99,999 individuals d. 100,000 individuals or more</p>						<p><input type="radio"/> a. <input type="radio"/> b. <input type="radio"/> c. <input type="radio"/> d.</p>
<p>9. HIPAA Business Associate Agreement</p>						
<p>a. Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered Texas HHS agency for a HIPAA-covered function?</p>						<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p>b. Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "N/A" if not applicable, such as for agencies not covered by HIPAA.)</p>						<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>						<p><u>Compliance Date:</u></p>
<p>10. Subcontractors. If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "N/A" for both 'a.' and 'b.'</p>						
<p>a. Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form?</p>						<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>						<p><u>Compliance Date:</u></p>

<p>b. Will Applicant/Bidder agree to require subcontractors who will access Confidential Information to comply with the terms of the DUA, not disclose any Confidential Information to them until they have agreed in writing to the same safeguards and to discontinue their access to the Confidential Information if they fail to comply?</p>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>11. Does Applicant/Bidder have any Optional Insurance currently in place? Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.</p>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

SECTION B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

1. Written Policies & Procedures. Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum:	Yes or No
<p>a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information on behalf of a Texas HHS agency?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of Texas HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of Texas HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three):</p> <ul style="list-style-type: none"> i. Immediate breach notification to the Texas HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA; ii. Following a documented breach response plan, in accordance with the DUA and applicable law; & iii. Notifying Individuals and Reporting Authorities whose Texas HHS Confidential Information has been breached, as directed by the Texas HHS agency? 	<p><input type="radio"/> Yes <input type="radio"/> No</p>

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
e. Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
f. Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
g. Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the Texas HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by a Texas HHS agency?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
h. Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed Texas HHS Confidential Information in violation of the DUA, the Base Contract or applicable law?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
i. Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of Texas HHS Confidential Information within 60 days of identification of a need for update?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

<p>j. Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified Texas HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the Texas HHS Confidential Information, except for an Authorized Purpose, without express written authorization from a Texas HHS agency or as expressly permitted by the Base Contract?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>k. If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit Texas HHS Confidential Information outside of the United States, will Applicant/Bidder obtain the express prior written permission from the Texas HHS agency and comply with the Texas HHS agency conditions for safeguarding offshore Texas HHS Confidential Information?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>l. Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with Texas HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>m. Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>n. Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of Texas HHS pursuant to the DUA, or to publish Texas HHS Confidential Information without express prior approval of the Texas HHS agency?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>2. Does Applicant/Bidder have a current Workforce training program? Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle Texas HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling Texas HHS Confidential Information, (2) a requirement to complete training before access is given to Texas HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training.</p>	<input type="radio"/> Yes <input type="radio"/> No

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>3. Does Applicant/Bidder have Privacy Safeguards to protect Texas HHS Confidential Information in oral, paper and/or electronic form?</p> <p>"Privacy Safeguards" means protection of Texas HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.</p>	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to Texas HHS Confidential Information, whether oral, written or electronic?</p>	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle Texas HHS Confidential Information from the list of Authorized Users?</p>	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

SECTION C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)

This section is about your electronic system. If your business DOES NOT store, access, or transmit Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.

No Electronic Systems

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related items is 30 calendar days, PII-related items is 90 calendar days.

1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information are maintained **IN** the United States (no offshoring) unless **ALL** of the following requirements are met?
- a. The data is encrypted with FIPS 140-2 validated encryption
 - b. The offshore provider does not have access to the encryption keys
 - c. The Applicant/Bidder maintains the encryption key within the United States
 - d. The Application/Bidder has obtained the express prior written permission of the Texas HHS agency

- Yes
 No

*For more information regarding FIPS 140-2 encryption products, please refer to:
<http://csrc.nist.gov/publications/fips>*

Action Plan for Compliance with a Timeline:

Compliance Date:

2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?

- Yes
 No

Action Plan for Compliance with a Timeline:

Compliance Date:

3. Does Applicant/Bidder monitor and manage access to Texas HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access Texas HHS Confidential Information, and access is limited to Authorized Users)?

- Yes
 No

Action Plan for Compliance with a Timeline:

Compliance Date:

4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store Texas HHS Confidential Information.

- Yes
 No

If yes, upon request must provide evidence such as a screen shot or a system report.

Action Plan for Compliance with a Timeline:

Compliance Date:

<p>5. Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information have a unique user name (account) and private password?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>6. Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store Texas HHS Confidential Information?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>7. Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing Texas HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access Texas HHS Confidential Information, and remote access is limited to Authorized Users).</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/publications/fips</i></p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>8. Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store Texas HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.)</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>9. Does Applicant/Bidder secure physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

<p>10. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information that is <u>transmitted</u> over a public network (e.g., the Internet, WiFi, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/publications/fips</i></p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>11. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information <u>stored</u> on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/publications/fips</i></p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting Texas HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information with a subcontractor (e.g., cloud services, social media, etc.) unless Texas HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

15. Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
16. Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
17. Does the Applicant/Bidder review system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
18. Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for Texas HHS Confidential Information ensure that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable?	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
19. Does the Applicant/Bidder ensure that all public facing websites and mobile applications containing Texas HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516; including requirements for implementing vulnerability and penetration testing and addressing identified vulnerabilities? <i>For more information regarding TGC, Section 2054.516 DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS, please refer to: https://legiscan.com/TX/text/HB8/2017</i>	<input type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

SECTION D: SIGNATURE AND SUBMISSION (to be completed by Applicant/Bidder)

Please sign the form digitally, if possible. If you can't, provide a handwritten signature.

1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify Texas HHS of this immediately.

2. Signature	3. Title	4. Date:
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To **submit** the completed, signed form:

- Email the form as an attachment to the appropriate Texas HHS Contract Manager(s).

Section E: To Be Completed by Texas HHS Agency Staff:

Agency(s): HHSC: <input type="checkbox"/> DFPS: <input type="checkbox"/> DSHS: <input type="checkbox"/>	Requesting Department(s): 								
Legal Entity Tax Identification Number (TIN) (Last four Only): <table border="1" style="width:100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> <td style="width:12.5%;"></td> </tr> </table>									PO/Contract(s) #:

Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:

INSTRUCTIONS FOR COMPLETING THE SECURITY AND PRIVACY INQUIRY (SPI)

Below are instructions for Applicants, Bidders and Contractors for Texas Health and Human Services requiring the Attachment 2, Security and Privacy Inquiry (SPI) to the Data Use Agreement (DUA). Instruction item numbers below correspond to sections on the SPI form.

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A. APPLICANT /BIDDER INFORMATION

Item #1. *Only contractors that access, transmit, store, and/or maintain Texas HHS Confidential Information will complete and email this form as an attachment to the appropriate Texas HHS Contract Manager.*

Item #2. Entity or Applicant/Bidder Legal Name. *Provide the legal name of the business (the name used for legal purposes, like filing a federal or state tax form on behalf of the business, and is not a trade or assumed named "dba"), the legal tax identification number (last four numbers only) of the entity or applicant/bidder, the address of the corporate or main branch of the business, the telephone number where the business can be contacted regarding questions related to the information on this form and the website of the business, if a website exists.*

Item #3. Number of Employees, at all locations, in Applicant/Bidder's workforce. *Provide the total number of individuals, including volunteers, subcontractors, trainees, and other persons who work for the business. If you are the only employee, please answer "1."*

Item #4. Number of Subcontractors. *Provide the total number of subcontractors working for the business. If you have none, please answer "0" zero.*

Item #5. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year. *Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Texas HHS Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

Item #5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder. *As with all other fields on the SPI, this is a required field. This may be the same person and the owner of the business if such person has the security and privacy knowledge that is required to implement the requirements of the DUA and respond to questions related to the SPI. In 4.A. provide the name, address, telephone number, and email address of the person whom you have designated to answer any security questions found in Section C and in 4.B. provide this information for the person whom you have designated as the person to answer any privacy questions found in Section B. The business may contract out for this expertise; however, designated individual(s) must have knowledge of the business's devices, systems and methods for use, disclosure, creation, receipt, transmission and maintenance of Texas HHS Confidential Information and be willing to be the point of contact for privacy and security questions.*

Item #6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder Will Create, Receive, Maintain, Use, Disclose or Have Access to: *Provide a complete listing of all Texas HHS Confidential Information that the Contractor will create, receive, maintain, use, disclose or have access to. The DUA section Article 2, Definitions, defines Texas HHS Confidential Information as:*

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of Texas HHS that consists of or includes any or all of the following:

- (1) Client Information;*
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;*
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;*

- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

Definitions for the following types of confidential information can be found the following sites:

- Health Insurance Portability and Accountability Act (HIPAA) - <http://www.hhs.gov/hipaa/index.html>
- Criminal Justice Information Services (CJIS) - <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>
- Internal Revenue Service Federal Tax Information (IRS FTI) - <https://www.irs.gov/pub/irs-pdf/p1075.pdf>
- Centers for Medicare & Medicaid Services (CMS) - <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html>
- Social Security Administration (SSA) - <https://www.ssa.gov/regulations/>
- Personally Identifiable Information (PII) - <http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf>

Item #7. Number of Storage devices for Texas HHS Confidential Information. The total number of devices is automatically calculated by exiting the fields in lines a - d. Use the <Tab> key when exiting the field to prompt calculation, if it doesn't otherwise sum correctly.

- **Item 7a. Devices.** Provide the number of personal user computers, devices, and drives (including mobile devices, laptops, USB drives, and external drives) on which your business stores or will store Texas HHS Confidential Information.
- **Item 7b. Servers.** Provide the number of servers not housed in a data center or "in the cloud," on which Texas HHS Confidential Information is stored or will be stored. A server is a dedicated computer that provides data or services to other computers. It may provide services or data to systems on a local area network (LAN) or a wide area network (WAN) over the Internet. If none, answer "0" (zero).
- **Item 7c. Cloud Services.** Provide the number of cloud services to which Texas HHS Confidential Information is stored. Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than on a local server or a personal computer. If none, answer "0" (zero.)
- **Item 7d. Data Centers.** Provide the number of data centers in which you store Texas HHS Confidential Information. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. If none, answer "0" (zero).

Item #8. Number of unduplicated individuals for whom the Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year. Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.

Item #9. HIPAA Business Associate Agreement.

- **Item #9a.** Answer "Yes" if your business will use, disclose, create, receive, transmit, or store information relating to a client/consumer's healthcare on behalf of the Department of State Health Services, the Department of Disability and Aging Services, or the Health and Human Services Commission for treatment, payment, or operation of Medicaid or Medicaid clients. If your contract does not include HIPAA covered information, respond "no." If "no," a compliance plan is not required.
- **Item #9b.** Answer "Yes" if your business has a notice of privacy practices (a document that explains how you protect and use a client/consumer's healthcare information) displayed either on a website (if one exists for your business) or in your place of business (if that location is open to clients/consumers or the public). If your contract does not include HIPAA covered information, respond "N/A."

Item #10. Subcontractors. If your business responded "0" to question 4 (number of subcontractors), Answer "N/A" to Items 10a and 10b to indicate not applicable.

- **Item #10a.** Answer "Yes" if your business requires that all subcontractors sign Attachment 1 of the DUA.
- **Item #10b.** Answer "Yes" if your business obtains Texas HHS approval before permitting subcontractors to handle Texas HHS Confidential Information on your business's behalf.

Item #11. Optional Insurance. Answer "yes" if applicant has optional insurance in place to provide coverage for a Breach or any

other situations listed in this question. If you are not required to have this optional coverage, answer "N/A" A compliance plan is not required.

SECTION B. PRIVACY RISK ANALYSIS AND ASSESSMENT

Reasonable and appropriate written Privacy and Security policies and procedures are required, even for sole proprietors who are the only employee, to demonstrate how your business will safeguard Texas HHS Confidential Information and respond in the event of a Breach of Texas HHS Confidential Information. To ensure that your business is prepared, all of the items below must be addressed in your written Privacy and Security policies and procedures.

Item #1. Answer "Yes" if you have written policies in place for each of the areas (a-o).

- **Item #1a.** Answer "yes" if your business has written policies and procedures that identify everyone, including subcontractors, who are authorized to use Texas HHS Confidential Information. The policies and procedures should also identify the reason why these Authorized Users need to access the Texas HHS Confidential Information and this reason must align with the Authorized Purpose described in the Scope of Work or description of services in the Base Contract with the Texas HHS agency.
- **Item #1b.** Answer "Yes" if your business has written policies and procedures that require your employees (including yourself), your volunteers, your trainees, and any other persons whose work you direct, to comply with the requirements of HIPAA, if applicable, and other confidentiality laws as they relate to your handling of Texas HHS Confidential Information. Refer to the laws and rules that apply, including those referenced in the DUA and Scope of Work or description of services in the Base Contract.
- **Item #1c.** Answer "Yes" if your business has written policies and procedures that limit the Texas HHS Confidential Information you disclose to the minimum necessary for your workforce and subcontractors (if applicable) to perform the obligations described in the Scope of Work or service description in the Base Contract. (e.g., if a client/consumer's Social Security Number is not required for a workforce member to perform the obligations described in the Scope of Work or service description in the Base Contract, then the Social Security Number will not be given to them.) If you are the only employee for your business, policies and procedures must not include a request for, or use of, Texas HHS Confidential Information that is not required for performance of the services.
- **Item #1d.** Answer "Yes" if your business has written policies and procedures that explain how your business would respond to an actual or suspected breach of Texas HHS Confidential Information. The written policies and procedures, at a minimum, must include the three items below. If any response to the three items below are no, answer "no."
 - **Item #1di.** Answer "Yes" if your business has written policies and procedures that require your business to immediately notify Texas HHS, the Texas HHS Agency, regulatory authorities, or other required Individuals or Authorities of a Breach as described in Article 4, Section 4 of the DUA.
Refer to Article 4, Section 4.01:
Initial Notice of Breach must be provided in accordance with Texas HHS and DUA requirements with as much information as possible about the Event/Breach and a name and contact who will serve as the single point of contact with HHS both on and off business hours. Time frames related to Initial Notice include:
 - within one hour of Discovery of an Event or Breach of Federal Tax Information, Social Security Administration Data, or Medicaid Client Information
 - within 24 hours of all other types of Texas HHS Confidential Information **48-hour Formal Notice** must be provided no later than 48 hours after Discovery for protected health information, sensitive personal information or other non-public information and must include applicable information as referenced in Section 4.01 (C) 2. of the DUA.
 - **Item #1dii.** Answer "Yes" if your business has written policies and procedures require you to have and follow a written breach response plan as described in Article 4 Section 4.02 of the DUA.
 - **Item #1diii.** Answer "Yes" if your business has written policies and procedures require you to notify Reporting Authorities and Individuals whose Texas HHS Confidential Information has been breached as described in Article 4 Section 4.03 of the DUA.
- **Item #1e.** Answer "Yes" if your business has written policies and procedures requiring annual training of your entire workforce on matters related to confidentiality, privacy, and security, stressing the importance of promptly reporting any Event or Breach, outlines the process that you will use to require attendance and track completion for employees who failed to complete annual training.

- **Item #1f.** Answer "Yes" if your business has written policies and procedures requiring you to allow individuals (clients/consumers) to access their individual record of Texas HHS Confidential Information, and allow them to amend or correct that information, if applicable.
- **Item #1g.** Answer "Yes" if your business has written policies and procedures restricting access to Texas HHS Confidential Information to only persons who have been authorized and trained on how to handle Texas HHS Confidential Information
- **Item #1h.** Answer "Yes" if your business has written policies and procedures requiring sanctioning of any subcontractor, employee, trainee, volunteer, or anyone whose work you direct when they have accessed Texas HHS Confidential Information but are not authorized to do so, and that you have a method of proving that you have sanctioned such an individuals. If you are the only employee, you must demonstrate how you will document the noncompliance, update policies and procedures if needed, and seek additional training or education to prevent future occurrences.
- **Item #1i.** Answer "Yes" if your business has written policies and procedures requiring you to update your policies within 60 days after you have made changes to how you use or disclose Texas HHS Confidential Information.
- **Item #1j.** Answer "Yes" if your business has written policies and procedures requiring you to restrict attempts to take de-identified data and re-identify it or restrict any subcontractor, employee, trainee, volunteer, or anyone whose work you direct, from contacting any individuals for whom you have Texas HHS Confidential Information except to perform obligations under the contract, or with written permission from Texas HHS.
- **Item #1k.** Answer "Yes" if your business has written policies and procedures prohibiting you from using, disclosing, creating, maintaining, storing or transmitting Texas HHS Confidential Information outside of the United States.
- **Item #1l.** Answer "Yes" if your business has written policies and procedures requiring your business to cooperate with HHS agencies or federal regulatory entities for inspections, audits, or investigations related to compliance with the DUA or applicable law.
- **Item #1m.** Answer "Yes" if your business has written policies and procedures requiring your business to use appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information. Policies and procedures should comply with Texas HHS requirements for retention of records and methods of disposal.
- **Item #1n.** Answer "Yes" if your business has written policies and procedures prohibiting the publication of the work you created or performed on behalf of Texas HHS pursuant to the DUA, or other Texas HHS Confidential Information, without express prior written approval of the HHS agency.

Item #2. Answer "Yes" if your business has a current training program that meets the requirements specified in the SPI for you, your employees, your subcontractors, your volunteers, your trainees, and any other persons under you direct supervision.

Item #3. Answer "Yes" if your business has privacy safeguards to protect Texas HHS Confidential Information as described in the SPI.

Item #4. Answer "Yes" if your business maintains current lists of persons in your workforce, including subcontractors (if applicable), who are authorized to access Texas HHS Confidential Information. If you are the only person with access to Texas HHS Confidential Information, please answer "yes."

Item #5. Answer "Yes" if your business and subcontractors (if applicable) monitor for and remove from the list of Authorized Users, members of the workforce who are terminated or are no longer authorized to handle Texas HHS Confidential Information. If you are the only one with access to Texas HHS Confidential Information, please answer "Yes."

SECTION C. SECURITY RISK ANALYSIS AND ASSESSMENT

This section is about your electronic systems. If you DO NOT store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal computer, mobile device, database, server, etc.), select the "No Electronic Systems" box and respond "Yes" for all questions in this section.

Item #1. Answer "Yes" if your business does not "offshore" or use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information outside of the United States. If you are not certain, contact your provider of technology services (application, cloud, data center, network, etc.) and request confirmation that they do not offshore their data.

Item #2. Answer "Yes" if your business uses a person or company who is knowledgeable in IT security to maintain or oversee the configurations of your business's computing systems and devices. You may be that person, or you may hire someone who can provide that service for you.

Item #3. Answer "Yes" if your business monitors and manages access to Texas HHS Confidential Information (i.e., reviews systems to ensure that access is limited to Authorized Users; has formal processes for granting, validating, and reviews the need for remote access to Authorized Users to Texas HHS Confidential Information, etc.). If you are the only employee, answer "Yes" if you have implemented a process to periodically evaluate the need for accessing Texas HHS Confidential Information to fulfill your Authorized Purposes.

Item #4. Answer "Yes" if your business has implemented a system for changing the password a system initially assigns to the user (also known as the default password), and requires users to change their passwords at least every 90 days, and prohibits the creation of weak passwords for all computer systems that access or store Texas HHS Confidential Information (e.g., a strong password has a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numbers, where possible). If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/password-policy>

Item #5. Answer "Yes" if your business assigns a unique user name and private password to each of your employees, your subcontractors, your volunteers, your trainees and any other persons under your direct control who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information.

Item #6. Answer "Yes" if your business locks the access after a certain number of failed attempts to login and after 15 minutes of user inactivity on all computing devices that access or store Texas HHS Confidential Information. If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/account-lockout-policy>

Item #7. Answer "Yes" if your business secures, manages, and encrypts remote access, such as: using Virtual Private Network (VPN) software on your home computer to access Texas HHS Confidential Information that resides on a computer system at a business location or, if you use wireless, ensuring that the wireless is secured using a password code. If you do not access systems remotely or over wireless, answer "Yes."

Item #8. Answer "Yes" if your business updates the computer security settings for all your computers and electronic systems that access or store Texas HHS Confidential Information to prevent hacking or breaches (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit opportunities for hackers or intruders to access your system). For example, Microsoft's Windows security checklist: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/how-to-configure-security-policy-settings>

Item #9. Answer "Yes" if your business secures physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.). If you are the only employee and use these practices for your business, answer "Yes."

Item #10. Answer "Yes" if your business uses encryption products to protect Texas HHS Confidential Information that is transmitted over a public network (e.g., the Internet, WIFI, etc.) or that is stored on a computer system that is physically or electronically accessible to the public (FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) For more information regarding FIPS 140-2 encryption products, please refer to: <http://csrc.nist.gov/publications/fips>.

Item #11. Answer "Yes" if your business stores Texas HHS Confidential Information on encrypted end-user electronic devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.) and can produce evidence of the encryption, such as, a screen shot or a system report (FIPS 140-2 encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data). For more information regarding FIPS 140-2 validated encryption products, please refer to: <http://csrc.nist.gov/publications/fips>). If you do not utilize end-user electronic devices for storing Texas HHS Confidential Information, answer "Yes."

Item #12. Answer "Yes" if your business requires employees, volunteers, trainees and other workforce members to sign a document that clearly outlines their responsibilities for protecting Texas HHS Confidential Information and associated systems containing Texas HHS Confidential Information before they can obtain access. If you are the only employee answer "Yes" if you have signed or are willing to sign the DUA, acknowledging your adherence to requirements and responsibilities.

Item #13. Answer "Yes" if your business is willing to perform a criminal background check on employees, subcontractors, volunteers, or trainees who access Texas HHS Confidential Information. If you are the only employee, answer "Yes" if you are willing to submit to a background check.

Item #14. Answer "Yes" if your business prohibits the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information on Cloud Services or social media sites if you use such services or sites, and there is a Texas HHS approved subcontractor agreement that includes compliance and liability clauses with the same requirements as the Applicant/Bidder. If you do not utilize Cloud Services or media sites for storing Texas HHS Confidential Information, answer "Yes."

Item #15. Answer "Yes" if your business keeps current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://portal.msrc.microsoft.com/en-us/>

Item #16. Answer "Yes" if your business's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/>

Item #17. Answer "Yes" if your business reviews system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis. If you use a Microsoft Windows system, refer to the Microsoft website for ensuring your system is logging security events, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/auditing/basic-security-audit-policies>

Item #18. Answer "Yes" if your business disposal processes for Texas HHS Confidential Information ensures that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable. Simply deleting data or formatting the hard drive is not enough; ensure you use products that perform a secure disk wipe. Please see NIST SP 800-88 R1, *Guidelines for Media Sanitization* and the applicable laws and regulations for the information type for further guidance.

Item #19. Answer "Yes" if your business ensures that all public facing websites and mobile applications containing HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516

SECTION D. SIGNATURE AND SUBMISSION

Click on the signature area to digitally sign the document. Email the form as an attachment to the appropriate Texas HHS Contract Manager.

EXHIBIT E: EXCEPTIONS

NOTE TO RESPONDENTS: COMPLETION OF THIS EXHIBIT IS NOT REQUIRED IF THERE ARE NO EXCEPTIONS. SEE RFP HHS0004979, SECTION 3.6.4.

No exception—nor any term, condition, or provision in a Solicitation Response that differs, varies from, or contradicts this Solicitation—will be considered to be a part of any contract resulting from this Solicitation unless expressly made a part of the contract in writing by the System Agency.

Solicitation Document	Solicitation Document Section Number	Solicitation Language to which Exception is Taken	Basis of Exception	Respondent’s Proposed Language	Still Want to be Considered for Contract Award if Exception Denied? (State “Yes” or “No”)

EXHIBIT E-1: ASSUMPTIONS FORM

NOTE TO RESPONDENTS: COMPLETION OF THIS EXHIBIT IS NOT REQUIRED IF THERE ARE NO ASSUMPTIONS. SEE RFP HHS0004979, SECTION 3.6.5.

Solicitation Document	Solicitation Document Section Number	Solicitation Language regarding which Assumption is Made	Assumption

Exhibit F

Historically Underutilized Business (HUB) Participation Requirements

This Exhibit Includes the following documents:

1. HUB Language
2. HUB Subcontracting Plan (HSP) and Quick Checklist
3. Sample CMBL- HUB Vendor Detail

EXHIBIT F

1 Historically Underutilized Business (HUB) Participation

It is the policy of the Health and Human Services Commission (HHSC) HUB Program Office to include the HUB Subcontracting Plan (HSP), when subcontracting opportunities are probable and a Contract has an expected value of \$100,000 or more over and the HSP is applicable for the life of the Contract, which will also be applicable to any subsequent amendments and renewals after award of the Contract as related to the original HSP.

In addition to, and in accordance with, [Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter D, Division 1, Rule §20.285](#), when the Contractor is selected and decides to Subcontract any part of the Contract after the award, as a provision of the Contract, the Contractor must comply with the HSP provisions relating to developing and submitting a revised HSP before any modifications or performance in the awarded Contract involving subcontracting can be authorized by the System Agency.

HHSC has determined that subcontracting opportunities are probable for this RFP. As a result, the Respondent must submit an HSP with its proposal. The HSP is required whether a Respondent intends to Subcontract or not.

In accordance with Texas Government Code [Section 2161.252\(b\)](#) a proposal that does not contain an **HSP** is non-responsive, see also [Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter D, Division 1, Rule §20.285\(b\)\(3\)](#). Responses that do not include a completed HSP in accordance with this exhibit shall be rejected without further evaluation. In addition, **if the System Agency determines that the HSP was not developed in good faith, it will reject the proposal for failing to comply with material RFP specifications.**

1.1 Introduction

The sole point of contact for HUB inquiries:

HHSC, HUB Coordinator: Cheryl Bradley
Phone: 512-406-2570
E-mail: cheryl.bradley@hpsc.state.tx.us

HHS is committed to promoting full and equal business opportunities for businesses in state contracting in accordance with the goals specified in the State of Texas Disparity Study. HHS encourages the use of HUBs through race, ethnic and gender-neutral means. HHS has adopted administrative rules relating to HUBs and a policy on the utilization of HUBs which is located on the HHS website, <https://hhs.texas.gov/doing-business-hhs/hub-program/policy-using-hubs>.

Pursuant to Texas Government Code [Sections 2161.181](#) and [2161.182](#) and the HHS HUB policy and rules, HHS is required to make a good-faith effort to increase HUB participation in its contracts. HHS may accomplish the goal of increased HUB participation by contracting directly with HUBs or indirectly through subcontracting opportunities.

1.2 Administrative Rules

HHS has adopted the Texas Comptroller of Public Accounts (CPA) HUB rules as its own. The HHS rules are located in Texas Administrative Code Title 1, Part 15, Chapter 391, Subchapter G, Rule [§391.711](#). The CPA rules are located in [Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter D, Division 1](#). If there are any discrepancies between the CPA administrative rules and this RFP, the rules shall take priority.

1.3 Statewide Annual HUB Utilization Goal

The CPA has established **statewide annual HUB utilization goals** for different categories of contracts in Texas Administrative Code [Title 34, Part 1, Chapter 20, Subchapter D, Division 1, Rule §20.284](#) of the HUB rules. In order to meet or exceed the **statewide annual HUB utilization goals**, HHS encourages outreach to certified HUBs. Contractors shall make a good-faith effort to include certified HUBs in the procurement process.

This procurement is classified as an All Other Service procurement under the CPA rule and therefore has a **statewide annual HUB utilization goal** of 26% per fiscal year.

1.4 Required HUB Subcontracting Plan

Respondent must submit one (1) electronic original of the HSP and one electronic copy of the original HSP, in accordance with the directions in the RFP. The HSP must include all supporting documentation in accordance with this exhibit and any requirements in the RFP.

In the HSP, a Respondent must indicate whether it is a Texas certified HUB. Being a certified HUB does not exempt a Respondent from completing the HSP requirement.

HHS shall review the documentation submitted by the Respondent to determine if a good-faith effort has been made in accordance with the RFP and HSP requirements. During the good-faith effort evaluation, HHS may, at its discretion, allow revisions necessary to clarify and enhance information submitted in the original HSP.

If HHS determines that the Respondent's HSP was not developed in good faith, the HSP will be considered non-responsive and will be rejected as a material failure to comply with the advertised specifications. The reasons for rejection shall be recorded in the procurement file.

1.5 HUB Resources for Outreach

Outreach resources to identify minority, women, disabled-veteran trade organizations, or business development centers to assist with good-faith effort requirements may be accessed at <https://comptroller.texas.gov/purchasing/vendor/hub/resources.php>. Note the resources listed on the webpage may be used for outreach; however, any other minority, woman, or disabled-veteran-trade organization located in the State of Texas is acceptable.

1.5.1 National Institute of Governmental Purchasing (NIGP) Class/Item Code(s)

- **Class: 938 Item: 56 Hospital and Medical Equipment, General, Maintenance and Repair**

- **Class: 938 Item: 57 Hospital and Medical Equipment, Invalid, Maintenance and Repair**
- **Class: 938 Item: 78 Respiratory Equipment, Including Air Tanks, Breathers, Masks, etc., Maintenance and Repair**
- **Class: 961 Item: 75 Translation Services, All Languages**
- **Class: 962 Item: 24 Courier/Delivery Services, Including Air Courier Services)**

Respondents are not required to use, nor limited to using, the class and item codes identified above, and may identify other areas for subcontracting.

HHSC does not endorse, recommend nor attest to the capabilities of any company or individual listed on the CPA's CMBL HUB Directory. The list of certified HUBs is subject to change. Respondents are strongly encouraged to refer to the CMBL HUB Directory often to find the most current listing of HUBs.

1.5.2 Finding State of Texas Certified HUBs

Instructions for finding State of Texas Certified HUBs on the Centralized Master Bidder's List (CMBL) and HUB Directory to satisfy the HUB requirements are as follows:

1. Access the CMBL and HUB Directory at <https://mycpa.cpa.state.tx.us/tpasscmbsearch/tpasscmbsearch.do>.
2. CMBL page will default to certain fields already checked – using the “HUBs Only” and “HUBs On CMBL” radio buttons will help to provide a current list of Texas certified HUBs. Ensure the vendor's HUB status code is “A” for currently active HUBs.
3. Under the “Multiple Vendor Search” tab enter the NIGP code that correlates to the products or services in the “NIGP Class Code” and “Items” fields. A complete list of NIGP codes may be found at: <https://mycpa.cpa.state.tx.us/commbook/>.
4. Enter “Highway District(s)” number to select specific geographical location or leave blank for a statewide search. Start with a specific geographical search; and if unable to locate HUBs, expand your geographical search.
5. Under the “Selected Fields for Output” tab, the detail list page will default to certain fields. In addition to these defaulted fields, add “HUB Eligibility,” “HUB Gender,” and “Business Description” fields to your search.
6. The “Output Options” tab provides users with the ability to choose the format of the data. For better data sorting, “Excel” is recommended as the output option. Data manipulations are easier to perform in an Excel spreadsheet to find the appropriate HUB vendors for effective HUB outreach.
7. The CPA is responsible for certifying vendors that meet the legal criteria for HUB certification. More information regarding HUB Certification may be accessed at <https://comptroller.texas.gov/purchasing/vendor/hub/certification-process.php>.
8. Note HHS does not endorse, qualify, or guarantee any of the vendors listed in the CMBL or HUB directory.

1.6 HUB Subcontracting Procedures – If a Respondent Intends to Subcontract

An HSP must demonstrate that the Respondent made a good-faith effort to comply with the HHS HUB policies and procedures. The following subparts outline the items that HHS will review in determining whether an HSP meets the good-faith effort standard. A Respondent that intends to Subcontract must complete the HSP to document its good-faith efforts.

1.6.1 Identify Subcontracting Areas and Divide Them into Reasonable Lots

A Respondent should first identify each area of the Contract Work it intends to Subcontract. Then, to maximize HUB participation, it should divide the Contract Work into reasonable lots or portions to the extent consistent with prudent industry practices.

1.6.2 Notify Potential HUB Subcontractors

The HSP must demonstrate that the Respondent made a good-faith effort to Subcontract with HUBs. The Respondent's good-faith efforts shall be shown through utilization of all methods in conformance with the development and submission of the HSP and by complying with the following steps:

1. Divide the Contract Work into reasonable lots or portions to the extent consistent with prudent industry practices. The Respondent must determine which portions of Work, including goods and services, will be Subcontracted.
2. Use the appropriate method(s) to demonstrate good-faith effort. The Respondent can use either method(s) 1, 2, 3, 4, or 5:

1.6.2.1 Method 1 (HUBs Only): Respondent Intends to Subcontract with Only HUBs

The Respondent must identify in the HSP the HUBs that will be utilized and submit written documentation that confirms 100% of all available subcontracting opportunities will be performed by one or more HUBs. If utilizing this method, the respondent must submit a fully completed HSP form, and an "Attachment A" for each subcontracting opportunity identified on page 2 of the HSP; **or**

1.6.2.2 Method 2 (Mentor-Protégé Program): Respondent Intends to Subcontract with HUB Protégé(s)

The Respondent must identify in the HSP the HUB Protégé(s) that will be utilized as follows:

1. Include a copy of the Comptroller's website that reflects the Mentor Protégé Agreement is registered prior to the submission to HHS. The website is located at <https://mycpa.cpa.state.tx.us/mentorprotege/ctg/menproPairs/>; and
2. Identify areas as well as the value on the HSP that will be performed by the Protégé. If utilizing this method, the respondent must submit a fully completed HSP form and "Attachment B, Section B-2: Mentor Protégé Program."

HHSC will accept a Mentor Protégé Agreement that has been entered into by a Respondent (Mentor) and a certified HUB (Protégé) in accordance with Texas Government Code [Section 2161.065](#). When a Respondent proposes to Subcontract with a Protégé(s), it does not need to provide notice to three (3) HUB vendors for that subcontracted area.

Participation in the Mentor Protégé Program, along with the submission of a Protégé as a Subcontractor in an HSP, constitutes a good-faith effort for the particular area subcontracted to the protégé; **or**

1.6.2.3 Method 3 (Meet or Exceed the HUB Goal): Respondent Intends to Subcontract with HUBs and Non-HUBs and Will Be Meeting or Exceeding the HUB Goal

The Respondent must identify in the HSP and submit written documentation that one or more HUB Subcontractors will be utilized and that the aggregate expected percentage of Subcontracts with HUBs will meet or exceed the goal specified in Section 1.3 of this exhibit. When utilizing this method, only HUB Subcontractors that have existing contracts with the Respondent for five years or less may be used to comply with the good-faith effort requirements.

When the aggregate expected percentage of Subcontracts with HUBs meets or exceeds the goal specified in this solicitation, Respondents may also use non-HUB Subcontractors. Note all Subcontractors (HUB and non-HUB) to be utilized must be stated within the HSP. If utilizing this method, the Respondent must submit a fully completed HSP form, and an "Attachment A" for each subcontracting opportunity identified on page 2 of the HSP; **or**

1.6.2.4 Method 4 (Solicitation): Respondent Intends to Subcontract with HUBs and Non-HUBs (Does Not Meet or Exceed the Goal)

The Respondent must identify in the HSP and submit documentation regarding both of the following requirements:

1. Written notification to trade organizations or development centers that serve members of groups (e.g., Black Americans, Hispanic Americans, American Women, Asian Pacific Americans, Native Americans, and Disabled-Service Veterans as defined by 38 U.S.C. §101(2)) to assist in identifying potential HUBs by disseminating subcontracting opportunities to their membership/participants of the subcontracting opportunities the Respondent intends to Subcontract.

Respondents must give trade organizations and/ or development centers at least seven (7) working days (excluding weekends, state or federal holidays, or days the agency is declared closed by its executive officer) prior to submission of the Respondent's Solicitation Response for dissemination of the subcontracting opportunities to their members. **The date the notification is sent is day "zero" and does not count in the required seven (7) working days. Failure to provide the required seven (7) working days will result in a determination by HHS that the HSP was not developed in good faith; and the HSP will be considered non-responsive and will be rejected as a material failure to comply with the advertised specifications.** A list of trade organizations and/or development centers is located on the CPA's website under the [Small, Minority and Women Business Trade Organizations and Development Centers](#). Respondents may rely on the services minority/women/disabled-service veterans' trade organization, or business development centers to provide assistance in identifying qualified applicants for the HUB program.

2. Written notification to at least three (3) HUB businesses of the subcontracting opportunities that the Respondent intends to Subcontract. The written notification must be sent to potential HUB Subcontractors prior to submitting proposals and must include:
 - A. a description of the scope of work to be subcontracted;
 - B. information regarding the location to review project plans or specifications;
 - C. information about bonding and insurance requirements (if applicable);
 - D. required qualifications and other contract requirements; and
 - E. a description of how the subcontractor may contact the Respondent.

Respondents must give potential HUB Subcontractors at least seven (7) working days (excluding weekends, state or federal holidays, or days the agency is declared closed by its executive officer) prior to submission of the Respondent's Solicitation Response to respond to the notification. **The date the notification is sent is day "zero" and does not count in the required seven (7) working days. Failure to provide the required seven (7) working days will result in a determination by HHS that the HSP was not developed in good faith; and the HSP will be considered non-responsive and will be rejected as a material failure to comply with the advertised specifications.**

Respondents must use the CMBL and/or the HUB Directory when searching for HUB Subcontractors. See Section 1.5 of this exhibit for instructions on using the CMBL and/or the HUB Directory.

1.6.3 Written Justification of the Selection Process

HHS will make a determination if a good-faith effort was made by the Respondent in the development of the required HSP. One or more of the methods identified in the previous sections may be applicable to the Respondent's good-faith efforts in developing and submission of the HSP. HHS may require the Respondent to submit additional documentation explaining how the Respondent made a good-faith effort in accordance with this exhibit.

A Respondent must provide written justification of its selection process if it chooses a non-HUB Subcontractor. The justification should demonstrate that the Respondent negotiated in good faith with qualified HUB bidders and did not reject qualified HUBs who were the best value

responsive bidders.

1.7 Method 5: Respondent Does Not Intend to Subcontract

When the Respondent plans to complete all Contract requirements with its own equipment, supplies, materials and/or employees, **it is still required to submit a completed HSP.**

The Respondent must complete "Section 3: Self Performing Justification" portion of the HSP, and attest that it does not intend to Subcontract for any goods or services, including the class and item codes identified in Section 1.5.1 above. In addition, the Respondent must identify the sections of the proposal that describe how it will complete the Scope of Work using its own resources or provide a statement explaining how it will complete the Scope of Work using its own resources. The Respondent must agree to comply with the following if requested by HHS:

1. Provide evidence of sufficient Respondent staffing to meet the RFP requirements;
2. Provide monthly payroll records showing the Respondent staff fully dedicated to the Contract;
3. Allow HHS to conduct an on-site review of company headquarters or work site where services are to be performed; and
4. Provide documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the Scope of Work.

1.8 Post-award HSP Requirements

The HSP shall be reviewed and evaluated prior to Contract award and, if accepted, the HSP will become a provision of the Contract with the successful Respondent(s).

After Contract award, HHS will coordinate a post-award meeting with the successful Respondent to discuss HSP reporting requirements. The Contractor must maintain business records documenting compliance with the HSP and must submit monthly Subcontract reports to HHS by completing the HUB HSP Prime Contractor Progress Assessment Report (PAR).

This monthly report is required as a condition for payment to report to the agency the identity and the amount paid to all subcontractors. Note: the PAR does not have to be returned with Respondent's proposal.

As a condition of award, the Contractor is required to send notification to all selected Subcontractors as identified in the accepted/approved HSP. In addition, a copy of the notification(s) must be provided to the System Agency's contract manager and/or HUB Program Office within ten (10) working days of the Contract award.

During the term of the Contract, if the parties in the Contract amend the Contract to include a change to the Scope of Work or add additional funding, HHS will evaluate to determine the probability of additional subcontracting opportunities. When applicable, the Contractor must submit an HSP change request for HHS review. The requirements for an HSP change request will be covered in the post-award meeting.

When making a change to an HSP, the Contractor will obtain prior written approval from HHS before making any changes to the HSP. Proposed changes must comply with the HUB Program good-faith effort requirements relating to the development and submission of an HSP.

If the Contractor decides to Subcontract any part of the Contract after the award, it must follow the good-faith effort procedures outlined in Section 1.6 of this exhibit (e.g., divide work into reasonable lots, notify at least three (3) vendors per subcontracted area, provide written justification of the selection process, and/or participate in the Mentor Protégé Program).

For this reason, HHS encourages Respondents to identify, as part of their HSP, multiple Subcontractors who are able to perform the Work in each area the Respondent plans to Subcontract. Selecting additional Subcontractors may help the selected Contractor make changes to its original HSP, when needed, and will allow HHSC to approve any necessary changes expeditiously.

Failure to meet the HSP and post-award requirements will constitute a breach of Contract and will be subject to remedial actions. HHS may also report noncompliance to the CPA in accordance with the provisions of the Vendor Performance and Debarment Program.

1.9 HUB Requirement for Work Orders

It is the intent of the HHS HUB Program to encourage prime Contractors to fully maximize HUB utilization in all of its Contracts in accordance with Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter D, Division 1, [Rule §20.285](#).

To encourage HUB utilization, the Contractor is required to provide an HSP update specific to the Scope of Work specified in the respective Work Order prior to its execution. Any revisions must be developed in accordance with “Section 1.6 HUB Subcontracting Procedures” of this exhibit. Prior written approval must be obtained from the System Agency before the Contractor may proceed with the Work Order.



HUB Subcontracting Plan (HSP) Quick Checklist

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

1. **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. – Yes, I will be subcontracting portions of the contract
 - Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. – Yes
 - Section 4 – Affirmation
 - GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.

2. **If any of your subcontracting opportunities will be performed using HUB protégés, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. – Yes, I will be subcontracting portions of the contract
 - Section 2 b. – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to HUB protégés (Skip Section 2c and 2d)
 - Section 4 – Affirmation
 - HSP GFE Method B (Attachment B) - Complete Section B-1, Section B-2, and B-4 only for each HUB Protégé

3. **If any of your subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregated percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you **do not** have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting Agency identified in the "Agency Special Instructions/Additional Requirements", complete :**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. – Yes, I will be subcontracting portions of the contract
 - Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. – No
 - Section 2 d. – Yes
 - Section 4 – Affirmation
 - GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.

4. **If you are subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you **do not** have a continuous contract * in place for more than five (5) years **does not meet or exceed** the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. – Yes, I will be subcontracting portions of the contract
 - Section 2 b. – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to Texas certified HUB vendors and Non HUB vendors.



HUB Subcontracting Plan (HSP) Quick Checklist

- Section 2 c. – No
 - Section 2 d. – No
 - Section 4 – Affirmation
 - HSP GFE Method B (Attachment B) – Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2b.
5. **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment, including transportation and delivery, complete:**
- Section 1 – Respondent and Requisition Information
 - Section 2 a. – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
 - Section 3 – Self Performing Justification
 - Section 4 – Affirmation

****Continuous Contract:*** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides contractor with goods or services, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

The HUB Goal for this solicitation is 26% All Other Services Contract.

- > Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal, or other expression of interest to be considered non-responsive.
- > Respondents using Method Option 4 must complete the HSP Good Faith Effort - Method B (Attachment B) for EACH subcontracting opportunity identified in Section 2 of the HSP.
- > Please note: (Section B-3: Notification of Subcontracting Opportunity) of Attachment B requires respondent to provide notice to three (3) or more Texas certified HUBs AND two (2) or more Texas trade organizations and development centers for EACH subcontracting opportunity identified in Section 2.
- > These notification must be done at least seven (7) working days prior to submitting your bid response to the contracting agency to allow time for the potential subcontractor to respond. ***Seven (7) working days shall be defined as business days of HHSC, not including weekends or HHSC observed holidays. The first working days shall be the day following the day that the notice was sent, and the 7th day is the day that the response is due.
- > Provide along with all documentation (i.e., certified letter, fax, e-mail) and a copy of the CMBL/HUB Vendor Detail page. This is to ensure that the Texas certified HUB that is listed is an Active Bidder.

See SAMPLE CMBL/HUB Vendor Detail in the HUB Exhibit.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____

(mm/dd/yyyy)

Exhibit F - HUB Participation Requirements Enter your company's name here: _____	RFP No.: HHS0004979 Requisition #: _____
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SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____	Requisition #: _____
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SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)
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Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If **Yes**, continue to SECTION B-4.)
- No / Not Applicable (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/passcmlsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.



Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is **not** a Texas certified HUB, provide **written** justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract **no later than ten (10) working days** after the contract is awarded.

Sample CMBL - HUB Vendor Detail

Note: The CMBL/HUB Vendor Detail page must be attached with all of the required documentation for the submittal of the HSP Plan.

CMBL/HUB Vendor Detail	
Vendor ID / Vendor Number	
Vendor Name	
Vendor Address	
county	
Contact	
Phone/Fax	 
Email Address	
Website	
Business Description	Vendor of medical merchandise, non-narcotic pharmaceutical drugs as well as medical equipment servicing Emergency Medical Services (EMS), Fire Departments, Law Enforcement agencies, Educational facilities, and Hospitals.
Business Category	Medical Services (09)
Small Business	Y
Service Disabled Veteran	No
CMBL Status	Active Bidder
CMBL Expires	25-MAY-2019
HUB Status	Active Bidder (A-Approved; Active Texas certified HUB)
HUB Expires	05-JUL-2022
HUB Eligibility	HI (Hispanic American)
HUB Gender	F
	Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25

Durable Medical Equipment and Services Criteria, Subcriteria Sheet RFP HHS0004979				
Evaluator				
Respondent				
#	Criteria	Weight	Score	Comments
1	Respondent's Relevant Qualification, Past Performance and Experience 35%			
1.1	Subcriteria 1.1 Question- How well the respondent demonstrated qualifications and experience necessary to meet the requirements of this RFP?	20%		
1.2	Subcriteria 1.2 Question- How well did the respondent address their staff's qualifications and experience to provide goods and services?	15%		
		35%		
2	Proposed Approach and Work Plan (35%)			
2.1	Subcriteria 2.1 Question- How well did the respondent's proposal address that they could meet performance standards?	20%		
2.2	Subcriteria 2.2 Question-How well the respondent's proposal addressed the following: Manage and address their patient services and satisfaction How staff competency is addressed Product support (return of damaged, broken, and/or unused equipment, repairs and replacement, including shipping for that equipment's)	15%		
	Subtotal	35%		
3	Delivery 10%			
3.1	Subcriteria 3.1 Question- How well the respondent's proposal addressed the following: Method(s) Turnaround time from order to shipping	5%		
3.2	Subcriteria 3.2 Question- How well the respondent's proposal addressed the following: In-home services (patient education, fitting or adjustment, repairs, and/or warranties)	5%		
	Subtotal	10%		
4	Cost (20%)			
4.1	Subcriteria 4.1 Question- Cost	20%		
	Subtotal	20%		
	TOTAL (%)	100%		



Work Order Quote Request Template # [REDACTED]

Release Date: [REDACTED]

The Comprehensive Rehabilitation Services program is requesting responses from eligible Contractors under RFP HHS0004979 to enter into an agreement to provide the Equipment and Services detailed in the following sections (Request).

1. Work Order Point of Contact

A. All communications and submission of documents required under this Request will be conducted by email. All questions and inquiries for this Request must be directed to:

[MSC initiating request] at [email address]

B. Failure to comply with these requirements may result in disqualification of Contractor from being selected for this Request.

C. All questions must be submitted to the Work Order point of contact by the deadline provided in Section 4(A) Timeline below. The Comprehensive Rehabilitation Services program reserves the right not to respond to submitted questions that it determines are not relevant to the Request.

2. Funding Source

The Comprehensive Rehabilitation Services program was founded in 1991 with dedicated funding to address the needs of people with TBI and TSCI. The program receives financial support from General Revenue funds allocated by the Texas Legislature and subrogation recovery. The Comprehensive Rehabilitation Services program is a payer of last resort. The selected Contractor must utilize comparable benefits prior to Comprehensive Rehabilitation Services funds.

3. Project Overview

Comprehensive Rehabilitation Services will send all relevant documents to the selected Contractor. Documents may include a prescription, letter of medical necessity, therapy/physician evaluation notes and applicable insurance information. If necessary, the Contractor may complete their own evaluation. Quotes may be adjusted based on the final evaluation once

awarded, but the adjustment must not exceed a 10% increase. The selected Contractor must utilize comparable benefits prior to Comprehensive Rehabilitation Services funds. If the person the order is for has comparable benefits, the selected Contractor must request prior authorization from comparable benefits and provide Comprehensive Rehabilitation Services staff with a denial letter, explanation of benefits or other proof of prior authorization. All Goods and Services must require preauthorization, there will be no guarantee of payment if Goods and Services are not pre-authorized. Once proof of prior authorization and an updated quote is received, Comprehensive Rehabilitation Services staff may issue a Service Authorization for the Project not to exceed the allowable price. After the Project is completed and the requested Goods and/or Services are rendered, the Contractor must submit all supporting documentation for the Comprehensive Rehabilitation Services staff to issue payment for the Project.

4. Project Requirements

A. Timeline

The Project must be completed by [Time] on [Date]. If an extension is needed, the Contractor must submit a request via email to the Work Order point of contact before this date.

All questions must be submitted to Work Order point of contact by [Time] on [Date].

B. Deliverables for Project

Quantity	Item	Details and Comments

C. Insurance

If the consumer has primary benefits, the selected Contractor must be able to be in network to bid on the Project.

Insurance Provider	Type of Plan
Ex: Blue Cross Blue Shied	HMO

D. Billing

i. Payment for Services related to this request must be in accordance with the Prompt Payment Act and Comprehensive Rehabilitation

Services Standards for Providers.

- ii. No Work can be done or billed until the Comprehensive Rehabilitation Services program issues the Service Authorization for this Project.
- iii. The Comprehensive Rehabilitation Services program a payer of last resort. The Contractor selected for this Request must utilize comparable benefits prior to Comprehensive Rehabilitation Services funds. The Comprehensive Rehabilitation Services program can pay for co-payments, coinsurance, unmet deductibles and other patient responsibilities if the person's comparable benefit is a major medical insurance, a health maintenance organization, preferred provider organization or Medicare. CRS does not supplement Medicaid and only covers the cost of the Goods and Services denied by Medicaid.
- iv. Payment will be issued after Project completion; utilization of applicable comparable benefits and all relevant documentation has been submitted to the Comprehensive Rehabilitation Services program.

5. Response Submission Requirements

Contractor's response must adhere to the requirements below. Failure to adhere to the following response submission requirements may result in disqualification:

A. Contractor must:

- i. Use the template supplied by the Comprehensive Rehabilitation Services program and must not modify the template in any way, including but not limited to changing font, font size, margins, section order, or headers. However, the Contractor may include additional attachments with their response.
- ii. Submit clear and legible responses.
- iii. Submit the Work Order response via email to the Work Order point of contact.

B. The Comprehensive Rehabilitation Services program may:

- i. Contact Contractor to clarify any response.
- ii. Seek any additional information that is relevant to the Request and/or Contractor's previous performance.

6. Response Deadline

Responses must be submitted by [Time] on [Date].

7. Evaluation and Contractor Selection

The Comprehensive Rehabilitation Services program's selection of a

Contractor to be awarded this Work Order will be determined by an evaluation criterion listed in Section 2.2.4.4, Evaluation and Award of Work Order, of RFP document.

8. Historically Under Utilized Businesses

HHSC determined in the original procurement that subcontracting opportunities were probable, and each Successful Respondent was required to submit a HUB Subcontracting Plan (HSP) for the duration of the Contract.

Should any additional Subcontractors be needed, the selected Contractor for this Request will demonstrate good faith effort requirements and obtain prior agency approval (both program area and HUB) before engaging any new Subcontractors and will submit a revised HSP, if updates are necessary.

9. State Use of Ideas

The Comprehensive Rehabilitation Services program reserves the right to share, incorporate, or use any and all ideas presented in a response to this Request unless the Contractor presents a valid legal case that such ideas are trade secret or confidential information, and identifies the information as such in its proposal. A Contractor may not object to the use of ideas that are not the Contractor's intellectual property and so designated in the proposal that: (1) were known to the Comprehensive Rehabilitation Services program before the submission of the proposal; (2) were in the public domain through no fault of the Comprehensive Rehabilitation Services program; or (3) became properly known to the Comprehensive Rehabilitation Services program after proposal submission through other sources or through acceptance of the proposal.

10. Additional Information

By submitting a response for this Work Order Request, the Contractor agrees that the Comprehensive Rehabilitation Services program may use information about the Contractor gathered under this Work Order for consideration when evaluating a proposal and:

- A.** Grants the Comprehensive Rehabilitation Services program the right to obtain information from any lawful source regarding the Contractor's and its directors', officers', and employees' past business history, practices, and conduct, and the Contractor's ability to supply the Goods and Services and comply with the Work Order that results from this Request; and



- B.** Releases the Comprehensive Rehabilitation Services program from liability and waives all claims against any party that provides information about the Contractor to HHSC.

Exhibit I - Work Order Quote Response Template

Work Order Request #: _____

Requested by: [MSC initiating request] at [email address]

Request Release Date: _____

Response Deadline: _____

I. Contractor Information

Legal Entity name	
Doing Business As name	
Physical address	
Mailing address	

II. Contractor Point of Contact

Name	
Position	
Phone number	
Mobile number	
Email address	

III. Response to Project Requirements

1. Please provide a quote for the services detailed in the Work Order Request. Include any additional costs such as installation, assessment fees, delivery or other associated business expenses.

Quantity	Code	Description	Unit Price	Total Price	Comments
				Total:	

2. Does the Contractor listed in Section I accept [name of insurance/benefit, plan or other details]?

Yes or No	Comments

IV. Signature

Contractor Signature: _____

Name: _____

Title/Position: _____

Date: _____

HHS0004979 Durable Medical Equipment
Exhibit J Cost Proposal

Respondent: _____
 Phone Number: _____
 Website: _____
 Primary Products: _____
 Other Products: _____

Line Item	Product Category	Definition of Bidding Unit	Lead item HCPCS Code	Lead item HCPCS Code Description	Respondent's Bid Amount (All-Inclusive Statewide \$/Unit)	Respondent's Estimated Capacity	Regions / Counties Served										
							1	2	3	4	5	6	7	8	9	10	11
							Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler, Yoakum	Archer, Baylor, Brown, Callahan, Clay, Coleman, Comanche, Cottle, Eastland, Fisher, Foard, Hardema, Haskell, Jack, Jones, Kent, Knox, Mitchell, Nolan, Runnels, Scurry, Shackelford, Stephens, Taylor, Throckmorton, Wichita, Wilbarger, Young	Collin, Cooke, Dallas, Denton, Elis, Eratch, Fanin, Grayson, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, Wise	Anderson, Bowie, Camp, Cass, Cherokee, Delta, Franklin, Grehgg, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt, Wood	Angelina, Hardin, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Polk, Sabine, Sa Augustine, San Jacinto, Shelby, Trinity, Tyler	Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, Wharton	Bastrop, Bell, Blanco, Bosque, Brazos, Burleson, Burnet, Caldwell, Coryell, Falls, Fayette, Freestone, Grimes, hamilton, Hays, Hill, Lampasas, Lee, Leon, Limestone, Llano, Madison, Mc Lennan, Milam, Mills, Robertson, San Saba, Travis, Washington, Williamson	Atascosa, Bandera, Bexar, Calhoun, Comal, De Witt, Dimmit, Edwards, Frio, Gillespie, Goliad, Gonzales, Guadalupe, jackson, Karnes, Kendall, Kerr, Kinney, La Salle, Lavaca, Maverick, Medina, Real, Uvalde, Val Verde, Victoria, Wilson, Zavala	Andrews, Borden, Coke, Concho, Crane, Crockett, Dawson, Ector, Gaines, Glasscock, Howard, Irion, Kimble, Loving, Martin, Mason, McCulloch, Menard, Midland, Pecos, Reagan, Reeves, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Ward, Winkler	Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio	Aransas, Bee, Brooks, Duval, Hidalgo, jim Hogg, Kenedy, Kleberg, Live Oak, Nueces, Refugio, San Patricio, Webb, Willacy, Zapata
6	Communication Devices	Purchase	V5050	Hearing Aid, Monaural, In The Ear			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7	Medical Equipment	Purchase	E0748	Osteogenesis Stimulator, Electrical, Non-Invasive, Spinal Applications			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8	Adaptive Aids for ADL's	Purchase	E1399	Sit Up Assist Rail Daily Living Aid			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Signature: _____
 X

Exhibit K- Durable Medical Equipment Categories	
Category No.	Description
1	Respiratory Supplies- Continuous Positive Airway Pressure (CPAP) Devices, Respiratory Assist Devices (RADs), Nebulizers, Negative Pressure Wound Therapy (NPWT) Pumps, Oxygen and Oxygen Equipment
2	Positioning Devices-Commode Chairs, Hospital Beds, (General Home, Equipment), Support Surfaces (Groups 1 and 2)
3	Patient Lifts and Seat Lifts (General Home Equipment)
4	Biofeedback Devices
5	Mobility Aids- Walkers, Standard Power Mobility Devices, Standard Manual Wheelchairs (Wheelchairs and Accessories), Off-The- Shelf (OTS) Back and Knee Braces
6	Communication Aids
7	Medical Supplies
8	Adaptive Aids for ADL's
9	Repair of DME
10	Replacement of DME
11	Rental of DME
12	Delivery/Set Up and/or Dispensing Service

CPAP & RADS	General Home Equipment											Wheelchairs and Accessories				Communication Aids	Medical Supplies
	Commode Chairs	Hospital beds	Patient Lifts	Seat Lifts	Infusion Pumps	Nebulizers	NPWT	Oxygen	Support surfaces	TENS	Walkers	Complex Wheelchairs	Standard Wheelchairs	Wheelchair Accessories and Replacement Parts			
A4604	E0160	E0250	E0621	E0627	A4221	A4619	A6550	E0424	A4640	A4557	A4636	K0835	E1031	E0705	S0618	A4604	
A7027	E0161	E0251	E0630	E0628	A4222	A7003	A7000	E0431	E0181	A4595	A4637	K0836	E1037	E0950	V5010	A6449	
A7028	E0163	E0255	E0635	E0629	E0776	A7004	E2402	E0433	E0182	E0720	E0130	K0837	E1038	E0951	V5011	A6451	
A7029	E0165	E0256	E0636		E0779	A7005		E0434	E0184	E0730	E0135	K0838	E1039	E0952	V5014	A6532	
A7030	E0167	E0260	E1035		E0780	A7006		E0439	E0185	E0731	E0140	K0839	K0001	E0955	V5030	A7033	
A7031	E0168	E0261	E1036		E0781	A7007		E0441	E0186		E0141	K0840	K0002	E0956	V5040	A7037	
A7032	E0170	E0265			E0784	A7010		E0442	E0187		E0143	K0841	K0003	E0957	V5050	A7039	
A7033	E0171	E0266			E0791	A7012		E0443	E0188		E0144	K0842	K0004	E0958	V5060	A9900	
A7034	E0275	E0271			K0552	A7013		E0444	E0189		E0147	K0843	K0006	E0959	V5090	E0217	
A7035	E0276	E0272			K0601	A7014		E1390	E0193		E0148		K0007	E0960	V5100	E0249	
A7036	E0325	E0280			K0602	A7015		E1391	E0196		E0149		K0800	E0961	V5170	E0562	
A7037	E0326	E0290			K0603	A7017		E1392	E0197		E0154		K0801	E0966	V5171	E0652	
A7038		E0291			K0604	A7018		E1405	E0199		E0155		K0802	E0967	V5172	E0748	
A7039		E0292			K0605	E0565		E1406	E0277		E0156		K0806	E0971	V5180	Q4038	
A7044		E0293				E0570		K0738	E0371		E0157		K0807	E0973	V5181		
A7045		E0294				E0572			E0372		E0158		K0808	E0974	V5190		
A7046		E0295				E0580			E0373		E0159		K0813	E0978	V5210		
E0470		E0296				E0585							K0814	E0981	V5211		
E0471		E0297				E1372							K0815	E0982	V5212		
E0472		E0300											K0816	E0985	V5213		
E0561		E0301											K0820	E0990	V5214		
E0562		E0302											K0821	E0992	V5215		
E0601		E0303											K0822	E0995	V5220		
		E0304											K0823	E1002	V5221		
		E0305											K0824	E1003	V5230		
		E0310											K0825	E1004	V5241		
		E0316											K0826	E1005	V5242		
		E0910											K0827	E1006	V5243		
		E0911											K0828	E1007	V5244		
		E0912											K0829	E1008	V5245		
		E0940												E1010	V5246		
														E1015	V5247		
														E1016	V5248		
														E1020	V5249		
														E1028	V5250		
														E1029	V5251		
														E1030	V5252		
														E1225	V5253		
														E1226	V5254		
														E2201	V5255		
														E2202	V5256		
														E2203	V5257		
														E2204	V5258		
														E2205	V5259		
														E2206	V5260		
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Exhibit M - Online Bid Room

RFP No. HHS0004979

Responses for this Request for Proposal may be submitted electronically using the HHS Online Bid Room or any other method identified in the solicitation. *Use of the HHS Online Bid Room is optional and is subject to all terms and conditions, affirmations, and other requirements of the solicitation as any other method of submission.*

Read and review the solicitation package and all associated documents carefully before completing and submitting a response in the form and manner described in the solicitation package. ***Exhibits requiring signatures must be signed and included with the response by the solicitation response deadline.***

Questions regarding the solicitation must be addressed to the Point of Contact in the solicitation package. The Point of Contact is identified in the solicitation package.

Submit the solicitation response in the form and manner described in the solicitation package on or before the response due date and time.

IMPORTANT: The solicitation package will identify the specific form and method of delivery. Failure to adhere to the requirements in the solicitation package may result in disqualification.

Access to the HHS Online Bid Room is a two-step process.

Step 1: Register for the Enterprise Portal using the [Enterprise Portal Link](#). It can take up to five business days to receive your user name and password. If you do not receive this information within five days, email pcsbids@hpsc.state.tx.us.

Step 2: Using the Enterprise Portal login credentials you will receive via email, you can request the necessary HHS Online Bid Room user name and password to enter the HHS Online Bid Room to submit your response to the solicitation electronically.

See our resources page for a tutorial, guidebook, and other resources to help you use the [HHS Online Bid Room](#).

IMPORTANT: Allow enough time for the registration process to submit your response by the response due date. **Late solicitation responses are not accepted.**

The optional use of the HHS Online Bid Room and any resulting technical difficulties which may prevent a successful, responsive electronic submission of a solicitation response shall not be sufficient basis for a protest of a contract award.



Service Authorization No.: _____

To: [Successful Respondent's Name] Contract No.: Account No.:		Consumer Name: Case ID: HHSC CCS Name/Number:			
Vendor No.: Date Issued: Start Date: End Date: HHSC Contact Name: HHSC Contract Phone No.: HHSC Contract Fax No.:		Delivery Instructions: Invoice To: [Address of the CRS Office] Attention: [First and last name]			
Item	MAPS/CPT Description of Goods and/or Services Ordered	Qty.	UoM	Unit Cost	Extended Cost
				\$	\$
Total Cost: \$					
Payment or Special Instructions:					
Issued By: (Printed Name) _____ (Signature) _____					

By accepting this service authorization, the Successful Respondent agrees:

- to not fraternize with HHSC Eligible Persons;
- to not collect any additional payments above total cost without prior approval from both the Eligible Person and HHSC;
- to make available any documents pertinent to this Service Authorization to: HHSC, the State Auditor's Office, U.S. Department of Education, the Comptroller General of the U.S., or any of the authorized representatives;
- to provide reports of services rendered such as assessments, treatments, surgeries, and discharge summaries as applicable;
- to apply the other resources first when HHSC and another resource are paying for Service Authorization;
- that the combined total payments from HHSC and the other resources will not exceed HHSC fee schedule;
- to not bill for claims owed by HHSC until all applicable third-party settlement or the end date of the services;
- to send invoice for payment within 35 calendar days of the third-party settlement or the end date of the services;
- that invoice received after this 35 calendar-day period may not be authorized for payment; and
- to comply with the HHSC terms and conditions of the Contract.

HHSC agrees:

- to only pay more than the above total cost with prior written approval.



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To be consider for a Master Contract under the RFP for Durable Medical Equipment and Services for the Comprehensive Rehabilitation Services program RFP No. HHS0004979, a Respondent must complete Form A in its entirety.

RESPONDENT INFORMATION	
1) LEGAL BUSINESS NAME:	
2) MAILING Address Information (include mailing address, street, city, county, state and 9-digit zip code):	Check if address change <input type="checkbox"/>
3) PAYEE Name and Mailing Address, including 9-digit zip code (if different from above):	Check if address change <input type="checkbox"/>
4) DUNS Number (9-digit) required if receiving federal funds:	
5) Federal Tax ID No. (9-digit), State of Texas Comptroller Vendor ID Number (14-digit)	
6) TYPE OF ENTITY (check all that apply):	
<input type="checkbox"/> City	<input type="checkbox"/> Nonprofit Organization*
<input type="checkbox"/> County	<input type="checkbox"/> For Profit Organization*
<input type="checkbox"/> Other Political Subdivision	<input type="checkbox"/> HUB Certified
<input type="checkbox"/> State Agency	<input type="checkbox"/> Community-Based Organization
<input type="checkbox"/> Indian Tribe	<input type="checkbox"/> Minority Organization
	<input type="checkbox"/> Faith Based (Nonprofit Org)
	<input type="checkbox"/> Individual
	<input type="checkbox"/> Federally Qualified Health Centers
	<input type="checkbox"/> State Controlled Institution of Higher Learning
	<input type="checkbox"/> Hospital
	<input type="checkbox"/> Private
	<input type="checkbox"/> Other (specify): _____
<i>*If incorporated, provide 10-digit charter number assigned by Secretary of State:</i>	
7) PROJECT CONTACT PERSON	
Name:	
Phone:	
Fax:	
Email:	
8) FINANCIAL OFFICER	

Name:	
Phone:	
Fax:	
Email:	
9) PROOF OF INSURANCE Respondent seeking a Contract with HHSC for Durable Medical Equipment and Services must submit and maintain current documentation of licensure or certification, as applicable. The applicable license(s) and certification(s) must be listed in the area below and copies attached with completed form. Applicable Licensure (s) Applicable Certification(s) Food & Drug Administration Registration Number (Hearing Aid Manufacturers Only)	
10) NUMBER OF YEARS IN BUSINESS	
11) SERVICES TO BE PROVIDED: Can the Respondent provide all the Goods and/or Services identified in Exhibit J, Cost Proposal. Yes No If No, list the categories of Goods and/or Services listed in Exhibit J, Cost Proposal, that Respondent can provide	

12) HHSC SERVICE DELIVERY AREA:

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 1			All:	
<input type="checkbox"/> Armstrong	<input type="checkbox"/> Dallam	<input type="checkbox"/> Hansford	<input type="checkbox"/> Lynn	<input type="checkbox"/> Sherman
<input type="checkbox"/> Bailey	<input type="checkbox"/> Deaf Smith	<input type="checkbox"/> Hartley	<input type="checkbox"/> Moore	<input type="checkbox"/> Swisher
<input type="checkbox"/> Briscoe	<input type="checkbox"/> Dickens	<input type="checkbox"/> Hemphill	<input type="checkbox"/> Motley	<input type="checkbox"/> Terry
<input type="checkbox"/> Carson	<input type="checkbox"/> Donley	<input type="checkbox"/> Hockley	<input type="checkbox"/> Ochiltree	<input type="checkbox"/> Wheeler
<input type="checkbox"/> Castro	<input type="checkbox"/> Floyd	<input type="checkbox"/> Hutchinson	<input type="checkbox"/> Oldham	<input type="checkbox"/> Yoakum
<input type="checkbox"/> Childress	<input type="checkbox"/> Garza	<input type="checkbox"/> King	<input type="checkbox"/> Parmer	
<input type="checkbox"/> Cochran	<input type="checkbox"/> Gray	<input type="checkbox"/> Lamb	<input type="checkbox"/> Potter	
<input type="checkbox"/> Collingsworth	<input type="checkbox"/> Hale	<input type="checkbox"/> Lipscomb	<input type="checkbox"/> Randall	
<input type="checkbox"/> Crosby	<input type="checkbox"/> Hall	<input type="checkbox"/> Lubbock	<input type="checkbox"/> Roberts	

Please provide a contact and physical locations for your business in **Region 1**

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 2			All:	
<input type="checkbox"/> Archer	<input type="checkbox"/> Comanche	<input type="checkbox"/> Haskell	<input type="checkbox"/> Montague	<input type="checkbox"/> Stonewall
<input type="checkbox"/> Baylor	<input type="checkbox"/> Cottle	<input type="checkbox"/> Jack	<input type="checkbox"/> Nolan	<input type="checkbox"/> Taylor
<input type="checkbox"/> Brown	<input type="checkbox"/> Eastland	<input type="checkbox"/> Jones	<input type="checkbox"/> Runnels	<input type="checkbox"/> Throckmorton
<input type="checkbox"/> Callahan	<input type="checkbox"/> Fisher	<input type="checkbox"/> Kent	<input type="checkbox"/> Scurry	<input type="checkbox"/> Wichita
<input type="checkbox"/> Clay	<input type="checkbox"/> Foard	<input type="checkbox"/> Knox	<input type="checkbox"/> Shackelford	<input type="checkbox"/> Wilbarger
<input type="checkbox"/> Coleman	<input type="checkbox"/> Hardema	<input type="checkbox"/> Mitchell	<input type="checkbox"/> Stephens	<input type="checkbox"/> Young

Please provide a contact and physical locations for your business in Region 2

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 3			All	
<input type="checkbox"/> Collin	<input type="checkbox"/> Ellis	<input type="checkbox"/> Hood	<input type="checkbox"/> Navarro	<input type="checkbox"/> Somervell
<input type="checkbox"/> Cooke	<input type="checkbox"/> Erath	<input type="checkbox"/> Hunt	<input type="checkbox"/> Palo Pinto	<input type="checkbox"/> Tarrant
<input type="checkbox"/> Dallas	<input type="checkbox"/> Fannin	<input type="checkbox"/> Johnson	<input type="checkbox"/> Parker	<input type="checkbox"/> Wise
<input type="checkbox"/> Denton	<input type="checkbox"/> Grayson	<input type="checkbox"/> Kaufman	<input type="checkbox"/> Rockwall	

Please provide a contact and physical locations for your business in Region 3

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 4			All	
<input type="checkbox"/> Anderson	<input type="checkbox"/> Delta	<input type="checkbox"/> Hopkins	<input type="checkbox"/> Rains	<input type="checkbox"/> Upshur
<input type="checkbox"/> Bowie	<input type="checkbox"/> Franklin	<input type="checkbox"/> Lamar	<input type="checkbox"/> Red River	<input type="checkbox"/> Van Zandt
<input type="checkbox"/> Camp	<input type="checkbox"/> Gregg	<input type="checkbox"/> Marion	<input type="checkbox"/> Rusk	<input type="checkbox"/> Wood
<input type="checkbox"/> Cass	<input type="checkbox"/> Harrison	<input type="checkbox"/> Morris	<input type="checkbox"/> Smith	
<input type="checkbox"/> Cherokee	<input type="checkbox"/> Henderson	<input type="checkbox"/> Panola	<input type="checkbox"/> Titus	

Please provide a contact and physical locations for your business in **Region 4**

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 5			All	
<input type="checkbox"/> Angelina	<input type="checkbox"/> Jasper	<input type="checkbox"/> Newton	<input type="checkbox"/> Sabine	<input type="checkbox"/> Shelby
<input type="checkbox"/> Hardin	<input type="checkbox"/> Jefferson	<input type="checkbox"/> Orange	<input type="checkbox"/> San Augustine	<input type="checkbox"/> Trinity
<input type="checkbox"/> Houston	<input type="checkbox"/> Nacogdoches	<input type="checkbox"/> Polk	<input type="checkbox"/> San Jacinto	<input type="checkbox"/> Tyler

Please provide a contact and physical locations for your business in **Region 5**

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 6			All	
<input type="checkbox"/> Austin	<input type="checkbox"/> Colorado	<input type="checkbox"/> Harris	<input type="checkbox"/> Montgomery	<input type="checkbox"/> Wharton
<input type="checkbox"/> Brazoria	<input type="checkbox"/> Fort Bend	<input type="checkbox"/> Liberty	<input type="checkbox"/> Walker	
<input type="checkbox"/> Chambers	<input type="checkbox"/> Galveston	<input type="checkbox"/> Matagorda	<input type="checkbox"/> Waller	

Please provide a contact and physical locations for your business in **Region 6**

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 7			All	
<input type="checkbox"/> Bastrop	<input type="checkbox"/> Burnet	<input type="checkbox"/> Grimes	<input type="checkbox"/> Leon	<input type="checkbox"/> Mills
<input type="checkbox"/> Bell	<input type="checkbox"/> Caldwell	<input type="checkbox"/> Hamilton	<input type="checkbox"/> Limestone	<input type="checkbox"/> Robertson
<input type="checkbox"/> Blanco	<input type="checkbox"/> Coryell	<input type="checkbox"/> Hays	<input type="checkbox"/> Llano	<input type="checkbox"/> San Saba
<input type="checkbox"/> Bosque	<input type="checkbox"/> Falls	<input type="checkbox"/> Hill	<input type="checkbox"/> Madison	<input type="checkbox"/> Travis
<input type="checkbox"/> Brazos	<input type="checkbox"/> Fayette	<input type="checkbox"/> Lampasas	<input type="checkbox"/> McLennan	<input type="checkbox"/> Washington
<input type="checkbox"/> Burleson	<input type="checkbox"/> Freestone	<input type="checkbox"/> Lee	<input type="checkbox"/> Milam	<input type="checkbox"/> Williamson

Please provide a contact and physical locations for your business in Region 7

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 8			All:	
<input type="checkbox"/> Atascosa	<input type="checkbox"/> Dimmit	<input type="checkbox"/> Guadalupe	<input type="checkbox"/> La Salle	<input type="checkbox"/> Val Verde
<input type="checkbox"/> Bandera	<input type="checkbox"/> Edwards	<input type="checkbox"/> Jackson	<input type="checkbox"/> Lavaca	<input type="checkbox"/> Victoria
<input type="checkbox"/> Bexar	<input type="checkbox"/> Frio	<input type="checkbox"/> Karnes	<input type="checkbox"/> Maverick	<input type="checkbox"/> Wilson
<input type="checkbox"/> Calhoun	<input type="checkbox"/> Gillespie	<input type="checkbox"/> Kendall	<input type="checkbox"/> Medina	<input type="checkbox"/> Zavala
<input type="checkbox"/> Comal	<input type="checkbox"/> Goliad	<input type="checkbox"/> Kerr	<input type="checkbox"/> Real	
<input type="checkbox"/> De Witt	<input type="checkbox"/> Gonzales	<input type="checkbox"/> Kinney	<input type="checkbox"/> Uvalde	

Please provide a contact and physical locations for your business in Region 8

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 9			All	
<input type="checkbox"/> Andrews	<input type="checkbox"/> Dawson	<input type="checkbox"/> Kimble	<input type="checkbox"/> Midland	<input type="checkbox"/> Sutton
<input type="checkbox"/> Borden	<input type="checkbox"/> Ector	<input type="checkbox"/> Loving	<input type="checkbox"/> Pecos	<input type="checkbox"/> Terrell
<input type="checkbox"/> Coke	<input type="checkbox"/> Gaines	<input type="checkbox"/> Martin	<input type="checkbox"/> Reagan	<input type="checkbox"/> Tom Green
<input type="checkbox"/> Concho	<input type="checkbox"/> Glasscock	<input type="checkbox"/> Mason	<input type="checkbox"/> Reeves	<input type="checkbox"/> Upton
<input type="checkbox"/> Crane	<input type="checkbox"/> Howard	<input type="checkbox"/> McCulloch	<input type="checkbox"/> Schleicher	<input type="checkbox"/> Ward
<input type="checkbox"/> Crockett	<input type="checkbox"/> Irion	<input type="checkbox"/> Menard	<input type="checkbox"/> Sterling	<input type="checkbox"/> Winkler

Please provide a contact and physical locations for your business in Region 9

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 10			All	
<input type="checkbox"/> Brewster	<input type="checkbox"/> Culberson	<input type="checkbox"/> El Paso	<input type="checkbox"/> Hudspeth	<input type="checkbox"/> Jeff Davis
<input type="checkbox"/> Presidio				

Please provide a contact and physical locations for your business in Region 10

Name of Contact			
Service Delivery Address			
City, State, Zip			
Phone		Fax	
Contact Person		Email	

Choose the counties where Services will be provided by checking ("x") in the box in front of the county or counties.

Region 11			All	
<input type="checkbox"/> Aransas	<input type="checkbox"/> Duval	<input type="checkbox"/> Kenedy	<input type="checkbox"/> Nueces	<input type="checkbox"/> Webb
<input type="checkbox"/> Bee	<input type="checkbox"/> Hidalgo	<input type="checkbox"/> Kleberg	<input type="checkbox"/> Refugio	<input type="checkbox"/> Willacy
<input type="checkbox"/> Brooks	<input type="checkbox"/> Jim Hogg	<input type="checkbox"/> Live Oak	<input type="checkbox"/> San Patricio	<input type="checkbox"/> Zapata

Please provide a contact and physical locations for your business in Region 11

Name of Contact			
Service Delivery Address			
City, State, Zip			

Phone		Fax	
Contact Person		Email	
<p>The facts affirmed by me in this proposal are truthful and I warrant the respondent is in compliance with the RFP terms and conditions, including the Health and Human Services (HHS) Uniform Terms and Conditions – Vendor, Version 3.0 attached as Exhibit B of the RFP and the Health and Human Services (HHS) Additional Provisions, Version 1.0 attached as Exhibit C of the RFP, and other RFP requirements unless specifically noted on the Respondent Information and Disclosure Form. I understand the truthfulness of the facts affirmed herein and the continuing compliance with these requirements are conditions precedent to the award of a Contract. This document has been duly authorized by the governing body of the respondent and I (the person signing below) am authorized to represent the respondent.</p>			
13) AUTHORIZED REPRESENTATIVE		Check if change <input type="checkbox"/>	14) SIGNATURE OF AUTHORIZED REPRESENTATIVE
Name: Title: Phone: Fax: Email:			15) DATE

FORM A: Respondent Information Page Instructions

This form provides basic information about the Respondent and the proposed Project with the Health and Human Services Commission (HHSC), including the signature of the authorized representative. It is the cover page of the proposal and is required to be completed. Signature affirms the facts contained in the Respondent's response are truthful and the Respondent is in compliance with the RFP terms and conditions, including the Health and Human Services (HHS) Uniform Terms and Conditions – Vendor, Version 3.0 attached as Exhibit B of the RFP and the Health and Human Services (HHS) Additional Provisions, Version 1.0 attached as Exhibit C of the RFP, and other RFP requirements unless specifically noted on the Respondent Information and Disclosure Form 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 Respondent's proposal.

- 1) **LEGAL BUSINESS NAME** - Enter the legal name of the Respondent.
- 2) **MAILING ADDRESS INFORMATION** - Enter the Respondent's complete physical address and mailing address, city, county, state, and 9-digit zip code.
- 3) **PAYEE NAME AND MAILING ADDRESS** - Payee – Entity involved in a contractual relationship with Respondent to receive payment for Services rendered by Respondent 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 respondent. The PAYEE is the corporation, entity or vendor who will be receiving payments.
- 4) **DUNS Number** – 9- digit Dun and Bradstreet Data Universal Numbering System (DUNS) number. This number is required if receiving **ANY** federal funds and can be obtained at: <http://fedgov.dnb.com/webform>
- 5) **FEDERAL TAX ID or STATE OF TEXAS COMPTROLLER VENDOR ID NUMBER** - Enter the Federal Tax Identification Number (9-digit) or the Texas Vendor Identification Number assigned by the Texas State Comptroller (14-digit).
- 6) **TYPE OF ENTITY** - Check the type of entity as defined by the Secretary of State at <http://www.sos.state.tx.us/corp/businessstructure.shtml> and/or the Texas State Comptroller at https://fmxcpa.texas.gov/fm/pubs/payment/gen_prov/index.php?s=tins_codes&p=ownership and check all other boxes that describe the entity.
 - Historically Underutilized Business: A minority or women-owned business as defined by Texas Government Code Chapter 2161. (<https://comptroller.texas.gov/purchasing/vendor/hub/>)
 - State Agency: an agency of the State of Texas as defined in Texas Government Code Section 2056.001.
 - Institutions of Higher Education as defined by Section 61.003 of the Education Code.
 - 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 nonprofit corporation or for-profit corporation, provide the 10-digit charter number assigned by the Secretary of State.
- 7) **PROJECT CONTACT PERSON** - Enter the name, phone, fax, and email address of the person responsible for the proposed Project.
- 8) **FINANCIAL OFFICER** - Enter the name, phone, fax, and email address of the person responsible for the financial aspects of the proposed Project.
- 9) **PROOF OF INSURANCE**- Identify the type of insurance provided and provide a copy for proof of insurance.
- 10) **NUMBER OF YEARS IN BUSINESS**- Please list the number of years the Respondent has been in business.
- 11) **SERVICES TO BE PROVIDED**- Identify if Respondent can provide all Services, if not the Respondent is required to identify what categories they are able to provide.
- 12) **HHSC SERVICE DELIVERY AREAS**- Identify who is the regional contact and what counties the Respondent is applying for.
- 13) **AUTHORIZED REPRESENTATIVE** - Enter the name, title, phone, fax, and email address of the person

authorized to represent the Respondent. Check the "Check if change" box if the authorized representative is different from previous submission to HHSC.

14) **SIGNATURE OF AUTHORIZED REPRESENTATIVE** - The person authorized to represent the Respondent must sign in this blank.

15) **DATE** - Enter the date the authorized representative signed this form.

FORM B: ENTITY INFORMATION, CONTRACT AND LITIGATION HISTORY

*This form provides information regarding identification and contract history of the Respondent, executive management, project management, governing board members, and/or principal officers. Respondent must respond to each request for information and **provide the required supplemental document behind this form.** If responses require multiple pages, identify the supporting pages/documentation with the applicable request.*

NOTE: Administrative Information may be used in screening process.

Identifying Information

1. Is Respondent a nonprofit organization?

YES NO

*If YES, Respondent **must include evidence of its nonprofit status with the proposal.** Any one of the following is acceptable evidence. Check the appropriate box for the attached evidence.*

- A copy of a currently valid IRS exemption certificate.
- A statement from a state taxing body, state attorney general, or other appropriate state official certifying that the Respondent organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.
- A copy of the organization's certificate of formation or similar document if it clearly establishes the nonprofit status of the organization.
- Any of the above proof for a state or national parent organization, and a statement signed by the parent organization that the Respondent organization is a local nonprofit affiliate.

Conflict of Interest and Contract and Litigation History

The Respondent must disclose any existing or potential conflict of interest relative to the performance of the requirements of this RFP.

Examples of potential conflicts include an existing or potential business or personal relationship between the Respondent, its principal, or any affiliate or subcontractor, with the Health and Human Services Commission, the program administrator, or any other entity or person involved in any way in any Project that is the subject of this RFP.

Similarly, any existing or potential personal or business relationship between the Respondent, the principals, or any affiliate or subcontractor, with any

employee of the Health and Human Services Commission or the program administrator must be disclosed.

Any such relationship that might be perceived, or represented as a conflict, must be disclosed. Failure to disclose any such relationship may be cause for Contract termination or disqualification of the proposal. If, following a review of this information, it is determined by HHSC that a conflict of interest exists, the Respondent may be disqualified from further consideration for the award of a Contract.

Pursuant to Texas Government Code Section 2155.004, a Respondent is ineligible to receive an award under this RFP if the bid includes financial participation with the Respondent by a person who received compensation from HHSC to participate in preparing the specifications or the RFP on which the bid is based. See Exhibit A, Affirmations and Solicitation Response, paragraph number 15.

- 2. Does anyone in the Respondent organization have an existing or potential conflict of interest relative to the performance of the requirements of this RFP?**

YES NO

If YES, detail any such relationship(s) that might be perceived or represented as a conflict. (Attach no more than one additional page.)

- 3. Will any person who received compensation from Health and Human Services Commission (HHSC) for participating in the preparation of the specifications or documentation for this RFP participate financially with Respondent as a result of an award under this RFP?**

YES NO

If YES, indicate his/her name, job title, agency employed by, separation date, and reason for separation.

- 4. Will any provision of Services or other performance under any Contract that may result from this RFP constitute an actual or potential conflict of interest or create the appearance of impropriety?**

YES NO

If YES, detail any such actual or potential conflict of interest that might be perceived or represented as a conflict. (Attach no more than one additional page.)

5. **Are any current or former employees of the Respondent current or former employees of HHSC (within the last 24 months)?**

YES NO

If YES, indicate his/her name, job title, agency employed by, separation date, and reason for separation.

6. **Are any proposed personnel related to any current or former employees of HHSC?**

YES NO

If YES, indicate his/her name, job title, agency employed by, separation date, and reason for separation.

7. **Has any member of Respondent's executive management, project management, governing board or principal officers been employed by HHSC 24 months prior to the proposal due date?**

YES NO

If YES, indicate his/her name, job title, agency employed by, separation date, and reason for separation.

8. **If the Respondent is a private nonprofit organization, does the executive director or other staff serve as voting members on the organization's governing board?**

YES NO

9. **Is Respondent or any member of Respondent's executive management, project management, board members or principal officers:**

- Delinquent on any state, federal or other debt;
- Affiliated with an organization which is delinquent on any state, federal or other debt; or
- In default on an agreed repayment schedule with any funding organization?

YES NO

If YES, please explain. (Attach no more than one additional page.)

10. **Has the Respondent had a contract suspended or terminated prior to expiration of contract or not been renewed under an optional renewal by any local, state, or federal department or agency or nonprofit entity?**

YES NO

If YES, indicate the reason for such action that includes the name and contact information of the local, state, or federal department or agency, the date of the contract and a contract reference number, and provide copies of any and all decisions or orders related to the suspension, termination, or non-renewal by the contracting entity.

- 11. Does this proposal include financial participation by a person or entity that has been convicted of violating federal law, or been assessed a penalty in a federal civil administrative enforcement action, in connection with a contract awarded by the federal government for relief, recovery or reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 24, 2005, under Government Code 2261.053?**

YES NO

If YES, please explain. (Attach no more than one additional page.)

- 12. Has Respondent had a grant/contract with HHSC within the past 24 months?**

YES NO

If YES, list the HHSC contract and attachment number(s):

HHSC Contract Number(s)

Click here to enter text.
Click here to enter text.
Click here to enter text.
Click here to enter text.

- 13. Respondent must disclose any civil or criminal litigation or investigation pending over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable. Failure to comply with the terms of this may disqualify the Respondent.**

Click here to enter text.

- 14. At its discretion, HHSC may require the Respondent to disclose information regarding the application for or award of state, federal, and/or local grant funding by the Respondent or Community Collaborative member organization within the past two (2) years to provide mental health care services and treatment to veterans and their families. Respondent may elect to disclose this information as part of the Solicitation Response**

Click here to enter text.

ALL ADDITIONAL PAGES REQUIRED BY RESPONSES SHOULD BE INSERTED HERE.

Appendix 1**Additional Standards for Suppliers of Wheelchairs and Related Equipment**

1. Supplier may not drop ship a wheelchair to the client's home. Supplier must deliver wheelchairs, other related equipment and accessories to clients in their homes to provide proper instructions and safety procedures. Describe your procedures for delivery.
2. Supplier must have qualified staff or have relationships with Physical Therapy providers that ensure that the wheelchair or other related equipment is fitted to the client and that the client can use the wheelchair or other related equipment safely and effectively.
3. Supplier must complete a home evaluation to ensure that a wheelchair or other related equipment fits inside the client's home properly and that the client can effectively move about the dwelling, as well as enter and exit in a safe manner.
4. Supplier must assemble the wheelchair or other related equipment according to the manufacturer's guidelines and be certified by the prospective manufacturer as able to provide and assemble mobility devices.
5. Supplier must provide the wheelchair or other related equipment that is medically necessary for the client, ordered by the prescribing physician and authorized by HHSC, in accordance with the Contract provisions.
6. Supplier repair and replacement services must be available and include the following services:
 - a. Ability to respond to emergency requests by repairing or replacing wheelchairs or other related equipment within 24 hours of the client's initial request;
 - b. Ability to respond to non-emergency requests by repairing or replacing wheelchairs or other related equipment within 48 hours of the client's initial request;
 - c. Ability to supply a loaner wheelchair or other related equipment if the wheelchair or other related equipment cannot be repaired in a timely manner, until such time that the repair/replacement is complete.
7. Supplier must ensure that a wheelchair or other related equipment is functioning properly upon initial set-up.
8. Verbal and written education of clients and their caregivers should address, at a minimum, proper use of the wheelchair or other related equipment necessary to achieve the position(s) ordered by the prescribing physician. Supplier must maintain an acknowledgement statement signed by the client and their caregivers, attesting that training was received and that the client/caregiver is able to operate the wheelchair or other related equipment according to the instructions received from the supplier.

Appendix 2

Additional Standards for Suppliers of Oxygen and Oxygen Related Equipment

The selected DME provider(s) must meet or exceed the following quality and service standards. Please describe how the vendor will meet the following requirements.

1. Verbal and written education and training of clients and their caregivers must address the following topics at a minimum:
 - a. The importance of adhering to prescribed liter flow of the oxygen and oxygen related equipment;
 - b. Proper use of equipment and supplies, including basic operating instructions;
 - c. Descriptions, assembly procedures and precautions for all accessories;
 - d. Safety precautions and hazards related to oxygen use;
 - e. Selecting the proper location for the oxygen and oxygen related equipment in the home;
 - f. Routine care and daily maintenance of all oxygen and oxygen related equipment, including cleaning and disinfecting procedures;
 - g. Routine follow-up service procedures; and
 - h. Emergency response procedures to prevent interruption of service.
2. Supplier must follow-up as needed to ensure continued safe and proper use of the oxygen and oxygen related equipment. Follow-up includes the following services:
 - a. Perform scheduled quality control checks such as operational tests for safety;
 - b. Provide preventive maintenance at defined intervals based upon the manufacturer's guidelines; and
 - c. Replenish each client's supplies as medically necessary or authorized.
3. Emergency response services must be available at all times to prevent interruption of oxygen therapy in the event of a power outage or mechanical failure.
 - a. Provide enough back-up oxygen to last for a period of time equal to three times the supplier's average delivery time;
 - b. Contact each client within two hours of his or her initial request;
 - c. Replace oxygen and oxygen related equipment and supplies within a time frame that does not allow the client to exhaust his or her back-up supply of oxygen;
 - d. If an emergency is medical, refer the client directly to his or her physician, caregiver or 911; and
 - e. Backup units in case of power outage.
4. Handle, transport, repackage or otherwise dispense gaseous or liquid oxygen in complete compliance with U.S. Food and Drug Administration (FDA), U.S.

Department of Transportation, Occupational Safety and Health Administration and Compressed Gas Association rules, regulations, guidelines and recommendations.

5. Meet FDA purity and labeling regulations if used for transfilling.
6. Comply with the following requirement for specific types of oxygen and oxygen related equipment:
 - a. Oxygen contractors must:
 - i. Deliver the liter flow ordered by the prescribing physician;
 - ii. Meet the manufacturer's standards or at least 85 percent (85%) at each liter flow level, whichever is greater;
 - iii. Have a working alarm audible to the client that will alert him or her in the event of a power outage or mechanical failure; and
 - iv. Be double insulated or otherwise comply with Underwriter Lab grounding standards.
 - b. Liquid oxygen reservoirs must:
 - i. Deliver the amount of oxygen ordered by the prescribing physician;
 - ii. Include a contents indicator to determine remaining volume; and
 - iii. Meet current FDA purity and labeling regulations if used for transfilling.
 - c. High pressure oxygen cylinders must
 - i. Deliver the liter flow ordered by the prescribing physician;
 - ii. Test and record current hydrostatic function. Vendor must ensure at the time of transfilling that the expiration date stamped on the cylinder has not expired or will not expire before a client uses it; and
 - iii. Be safely secured with an appropriate stand or acceptable alternative.
 - d. Portable oxygen systems must:
 - i. Deliver the liter flow ordered by the prescribing physician;
 - ii. Be stand-alone systems or condiments to stationary systems that allows client to ambulate within their homes; and
 - iii. Not be used as a backup system.
 - e. Oxygen accessories must:
 - i. Have quality and design features appropriate to the clients need as ordered by his or her prescribing physician and authorized by HHSC; and
 - ii. Include items such as transtracheal catheters, as ordered by the prescribing physician.
 - f. Oxygen conserving devices (passive or electric) must meet the client's therapeutic needs, as determined by his or her prescribing physician and authorized by HHSC.

7. Vendors must train clients and their caregivers not to place oxygen near stoves or open flames.
8. Oxygen filters should be checked pursuant to the manufacturer's guidelines.
9. Vendor must provide logs regarding tracking of oxygen use for clients that smoke.

SOLICITATION ADDENDUM ACKNOWLEDGEMENT FORM

Solicitation Name/Title: **Durable medical Equipment (DME) and Services**

Solicitation No: HHS0004979 **Solicitation Due Date:** 08/07/2020 **Solicitation Due Time:** 02 00 p.m.

Addendum Date: 07/10/2020 **Addendum No.** 1

PCS Contact Information

Purchasing Contact Phone: 512-406-2492 **Purchasing Contact Name:** Tomasz Gozdalski

Purchasing Contact Email: tomasz.gozdalski@hhsc.state.tx.us

Description of Addendum

BE ADVISED THAT THE FOLLOWING CHANGES ARE APPLICABLE TO THE ABOVE REFERENCED SOLICITATION:

This Addendum No. 1 is issued for RFP No. HHS0004979 to provide the registration instructions for the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) held to explain to vendors the proper completion of the HUB Subcontracting Plan as stated in Section 3.5.7 of the solicitation:

1. Participants must register for the webinar conference prior to the event. After registration, participants will receive another email with the actual link to the webinar.
2. Register here: <https://attendee.gotowebinar.com/register/3374476360601506062>
3. This Addendum No. 1 is provided for informational purposes only. No substantive changes are made to RFP No. HHS0004979 as a result of this Addendum No. 1.

THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL SOLICITATION

RETURN ADDENDUM ACKNOWLEDGMENT FORM AS INSTRUCTED, FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OF RESPONSE.

1. If respondent has submitted response prior to addendum, respondent may email the signed addendum to pcsbids@hhsc.state.tx.us prior to the solicitation due date and time.
2. Acknowledge receipt of this addendum on the face of your response, or
3. Sign and return this addendum to HHSC-PCS with the solicitation response to Procurement and Contracting Services, 1100 W. 49th Street, Austin, TX 78756; or

Authorized Signature		Respondent Name	
Date (MM/DD/YYYY)	Phone	Email	

SOLICITATION ADDENDUM ACKNOWLEDGEMENT FORM

Solicitation Name/Title: Durable Medical Equipment (DME) and Services	
Solicitation No: HHS0004979	Solicitation Due Date: 08/07/2020
Solicitation Due Time: 02:00 p.m.	
Addendum Date: 07/14/2020	Addendum No.: 2

PCS Contact Information

Purchasing Contact Phone: 512-406-2492	Purchasing Contact Name: Tomasz Gozdalski
Purchasing Contact Email: tomasz.gozdalski@hhsc.state.tx.us	

Description of Addendum

BE ADVISED THAT THE FOLLOWING CHANGES ARE APPLICABLE TO THE ABOVE REFERENCED SOLICITATION:

This Addendum No. 2 is issued for RFP No. HHS0004979 to provide the following information in regards to Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) held on July 14, 2020, to explain to vendors the proper completion of the HUB Subcontracting Plan as stated in Section 3.5.7 of the solicitation:

1. The attendance report for the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference). See attached document "HHS0004979_Webinar_Attendee_Report";
2. A copy of the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) Historically Underutilized Business (HUB) Requirements PowerPoint document. See attached document "HHS0004979_Webinar_PowerPoint";
3. The universal resource locator (URL) for the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) recorded video: <https://attendee.gotowebinar.com/recording/4972329539125871874>; and,
4. The offer of a courtesy HSP review for RFP No. HHS0004979. The email address to submit the vendor's proposed HSP for a courtesy review is Cheryl.Bradley@hhsc.state.tx.us. The deadline for submission of the vendor's proposed HSP for a courtesy HSP review is July 24, 2020, at 3:00 PM Central Time.
5. This Addendum No. 2 is provided for informational purposes only. No substantive changes are made to RFP No. HHS0004979 as a result of this Addendum No. 2.

THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL SOLICITATION

RETURN ADDENDUM ACKNOWLEDGMENT FORM AS INSTRUCTED, FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OF RESPONSE.

1. If respondent has submitted response prior to addendum, respondent may email the signed addendum to pcsbids@hhsc.state.tx.us prior to the solicitation due date and time.
2. Acknowledge receipt of this addendum on the face of your response, or
3. Sign and return this addendum to HHSC-PCS with the solicitation response to Procurement and Contracting Services, 1100 W. 49th Street, Austin, TX 78756; or

Authorized Signature	Respondent Name

Date (MM/DD/YYYY)	Phone	Email



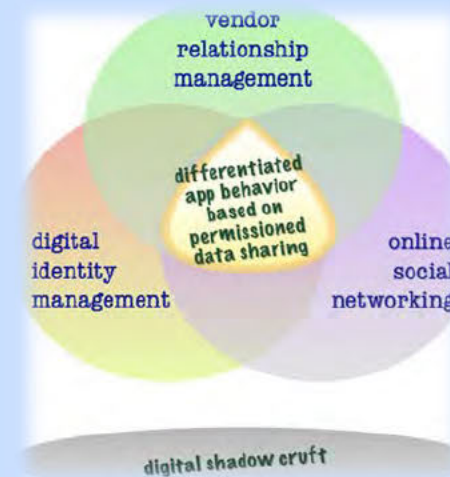
Historically Underutilized Business (HUB) Requirements



Requirements

- Responses that do not include a complete HSP shall be Rejected pursuant to Texas Gov't Code §2161.252(b).
- The goal for this solicitation is: 26.0 %
- Responding entities must choose an HSP method and provide proper, and complete documentation. A Notification to solicit HUBs is preferred to be in writing. Review attached HSP Checklist for assistance.
- To meet eligibility requirement for HUB certification you must be: For Profit, 51% owned by an Asian Pacific American, Black American, Hispanic American, American Women, Native American and/or Service Disabled Veteran who reside in Texas and actively participate in the control, operations and management of the company's affairs.
- CMBL:
When selecting HUB vendors from the CMBL, please verify if the vendors selected have the capabilities to perform the work required.

You must provide written notification to two or more minority or women trade organizations or development centers.



HSP Methods



	Method I	Method II	Method III	Method IV	Method V
	HSP Submission Requires				
Respondent Information	●	●	●	●	●
List of Subcontractors + percentage	●	●	●	●	
Self Performing Justification					●
Good Faith Effort – Attachment A when using all certified HUB's for project, or meeting or Exceeding the HUB goals	●		●		
Good Faith Effort – Attachment B use when HUB total does not meet or exceed HUB goals		●		●	
HUB Subcontracting Opportunity Notification form (optional)	●	●	●	●	
Progress Assessment Report	●	●	●	●	●

HSP Method Options


- **Method I**
100 % of your subcontracting opportunities will be performed using only HUB vendors;
- **Method II**
Method utilizes HUB protégé (HUB only) for one or more of the subcontracting opportunities . Which is an approved M/P relationship by a state agency and posted on CPA's website.
- **Method III**
Method utilizes HUB's and Non-HUB's to perform the subcontracting work identified and the HUB goal identified in the solicitation is met or exceeded.
- **Method IV**
Method utilizes HUB's and Non-HUB's to perform the subcontracting work identified and the HUB goal identified in the solicitation is not met or exceeded.
- **Method V**
Respondent intends to self-perform all of the work utilizing their own resources, equipment, materials, supplies, transportation, delivery and employees.
- **All Methods**
Require respondent information, company name and requisition number, plus subcontracting intentions and affirmation signature.



HSP Method Options

All Methods

Require Respondent, Company and Requisition information, plus subcontracting intentions and affirmation signature. *(Note: Please be sure to thoroughly read page 3 section 4 of the HSP)*



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §211.222, the contracting agency has determined that subcontracting opportunities are available under this contract. Therefore, all respondents, including State of Texas certified Minority Underrepresented Business (MUBs) must complete and submit this form of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §211.222(b).

No HUB program promotes equal business opportunities for economically disadvantaged persons to contract with the state of Texas in accordance with the goals specified in the 2019 State of Texas Disparity Study. The statewide HUB goal defined in 34 Texas Administrative Code (TAC) §20.12 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 22.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

Agency Special Instructions/Additional Requirements

In accordance with 34 TAC §20.122, a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified MUBs for its subcontracting opportunities. The total value of the respondent's subcontracting with Texas certified MUBs must be at least the statewide HUB goal or the agency specific MUB goal, whichever is higher. When a respondent cannot fulfill its subcontracting goals due to the effort, the respondent must identify the MUBs with which it will subcontract. If using existing contracts with Texas certified MUBs to satisfy the requirement, only the aggregate percentage of the contract expected to be subcontracted to MUBs with which the respondent **has** or **will have a contract in place** for **use** for the MUB goal shall qualify for meeting the MUB goal. This limitation is designed to encourage vendor retention as recommended by the 2019 Texas Disparity Study.

SECTION 3: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas MUB? Yes No

Parent of Contract: _____ Name: _____ Phone: _____

Email Address: _____ Tax ID: _____

b. Is your contract a State of Texas certified MUB? Yes No

c. Requisition #: _____ Bid Open Date: _____

NO. 0379

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions the bidder considers with prudent industry practices and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including contracted staffing, goods, services, transportation and delivery will be subcontracted. Note: In accordance with 34 TAC §20.11, a "subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to coordinate toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

Yes, I will be subcontracting portions of the contract. (If Yes, complete items of this SECTION and continue to item 3 of this SECTION.)

No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentage of the contract you expect to award to Texas certified MUBs, and the percentage of the contract you expect to award to vendors that are not Texas certified MUBs (i.e., Non-MUBs).

Item #	Subcontracting Opportunity/Description	MUBs		Non-MUBs	
		Percentage of the contract expected to be subcontracted to MUBs with which you do have a "contract in place" for use for your business (MUBs)	Percentage of the contract expected to be subcontracted to MUBs with which you do not have a "contract in place" for use for your business (MUBs)	Percentage of the contract expected to be subcontracted to Non-MUBs	Percentage of the contract expected to be subcontracted to Non-MUBs
1		%	%	%	%
2		%	%	%	%
3		%	%	%	%
4		%	%	%	%
5		%	%	%	%
6		%	%	%	%
7		%	%	%	%
8		%	%	%	%
9		%	%	%	%
10		%	%	%	%
11		%	%	%	%
12		%	%	%	%
13		%	%	%	%
14		%	%	%	%
15		%	%	%	%
Aggregate percentage of the contract expected to be subcontracted:		%	%	%	%

Note: If you have more than three subcontracting opportunities, a contractor sheet is available online at <http://mubinfo.state.tx.us/contractors/mub-hub-subcontracting.asp>.

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified MUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, item b.

Yes (If Yes, continue to SECTION 4 and complete an HSP Good Faith Effort - Method A (Attachment A) for each of the subcontracting opportunities you listed.)

No (If No, continue to item 3 of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified MUBs will which you **do not** have a "contract in place" with for more than ten (10) years, meets or exceeds the MUB goal the contracting agency identified in item 1 in the "Agency Special Instructions/Additional Requirements."

Yes (If Yes, continue to SECTION 4 and complete an HSP Good Faith Effort - Method A (Attachment A) for each of the subcontracting opportunities you listed.)

No (If No, continue to SECTION 4 and complete an HSP Good Faith Effort - Method B (Attachment B) for each of the subcontracting opportunities you listed.)

***Continuing Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a MUB vendor, where the MUB vendor provides the prime contractor with goods or services, to include commercial and military under the same contract for a specified period of time. The frequency the MUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered "continuing." Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPM to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and MUB vendor are entering into separate "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF-PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, item a, you must complete the SECTION and continue to SECTION 4.)

If you responded "No" to SECTION 2, item a, the above provided below explain how your company will perform the entire contract with its own employees, supplies, materials and equipment, to include transportation and delivery.

SECTION 4: AFFIRMATION

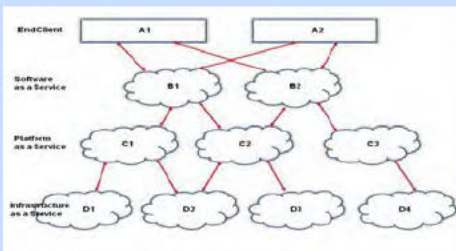
As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that **it managed any portion of the requisition:**

- The respondent will provide notice as soon as practical to all the subcontractors (MUBs and Non-MUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity (if the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of (total) contract for the contract to be performed (not less than 10% working days after the contract is awarded).
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report - PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (MUBs and Non-MUBs). (If the PAR is available at <http://www.state.tx.us/subcontracting/mub-hub-11-2019-2023-requirements-report.asp>.)
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP, if the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all other remedies available under the contract or otherwise available by law, up to and including termination from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's bookkeeping and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature: _____ Printed Name: _____ Title: _____ Date: _____

Reminder:

- ▶ If you responded "No" to SECTION 2, items c or d, you must complete an HSP Good Faith Effort - Method A (Attachment A) for each of the subcontracting opportunities published in SECTION 2, item b.
- ▶ If you responded "No" to SECTION 2, items e and f, you must complete an HSP Good Faith Effort - Method B (Attachment B) for each of the subcontracting opportunities published in SECTION 2, item b.



1. Respondent Name/ Req. Number

2. Respondent's Subcontracting Intentions

3. Subcontracting Opportunities

This page is for subcontracting opportunities identified by the scope of work.

Place subcontracting opportunity description, percentage of the contract expected to be subcontracted to HUBs and Non-HUBs in correct column.

1

2

3

Rev. 09/15

Enter your company's name here: _____ **Requirement #:** _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including contracted staffing, goods, services, transportation and delivery will be subcontracted. Note: In accordance with 34 TAC §20.11, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute towards completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b of this SECTION and continue to Item c of this SECTION.)

- No, I will not be subcontracting any portion of the contract and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract</u> ¹ in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> ¹ in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://www.state.tx.us/procurement/pood/hub-subcontracting-2017>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- No (If No, continue to Item d of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract¹ in place with for more than five (5) years meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

¹Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or services, to include transportation and delivery, under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

2



1. Respondent Name/ Req. Number

2. Subcontracting Opportunity Description

3. Mentor Protégé Program (check yes)

Complete section B2: if the respondent is participating in a Mentor Protégé Program please complete section B1 and B2 for each subcontracting opportunity.

HSP Good Faith Effort - Method B (Attachment B) Rev. 09/15

1

Enter your company's name here: _____ Requisition # _____

IMPORTANT: If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.state.tx.us/procurement/proc/hub/hub-form-subcontracting-ops-ef-ec-him-3.pdf>

2

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

3

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, to continue to SECTION B-4.)

- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d** thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/proc/hub/hub-subcontracting-notice>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidder List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://hncoc.state.tx.us/assess/mbsearch/index.asp>. HUB Status code "A" signifies that the company is a Texas certified HUB.

b. List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/proc/hub/mw-links-1/>.

d. List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

Page 1 of 2
(Attachment B)

8



1. Respondent Name/ Req. Number

2. Subcontracting Opportunity Description

3. Subcontractor Written Notification

Complete form documenting contact information for each subcontracting opportunity listed.

List (3) three certified HUBs **and** (2) two Trade Organizations or Development Centers for each subcontracting opportunity listed. Provide Supporting documentation (email, fax, etc.).

Contact potential bidders with a minimum of 7 Working days. The initial day of notification is Considered to be “day zero”.

HSP Good Faith Effort - Method B (Attachment B) Rev. 09/15

1 Enter your company's name here: _____ Requisition # _____

IMPORTANT: If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/proc/hub/hub-form-subcontracting-ops-of-each-hub.pdf>

2 **SECTION B-1: SUBCONTRACTING OPPORTUNITY**
 Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.
 Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM
 If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.
 Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.
 - Yes (If Yes, to continue to SECTION B-4.)
 - No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

3 **SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY**
 When completing this section you **MUST** comply with items **a, b, c and d** thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/proc/hub/hub-subcontracting-ops>.
 Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.
 a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidder List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://hncoc.cpa.state.tx.us/tass/cmbsearch/index.asp>. "HUB Status code" A" signifies that the company is a Texas certified HUB.
 b. List the **three (3)** Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/proc/hub/mtrb-links/>.
 d. List **two (2)** trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

Page 1 of 2 (Attachment B) 9



1. Respondent Name/ Req. Number

2. Subcontractor Selection

3. Subcontractor Selection Name Identify:

Company Name

Texas Certified HUB (Y) or (N)

(note: VID # is required, for HUB and Non-HUB. **Do not** enter Social Security Numbers).

- Texas VID or Federal EIN #
- Number Percentage
- Dollar Amount

(please provide justification if Non-HUB subcontractor is not selected)

1

2

3

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item 6, of the completed HSP form for which you are completing the attachment.

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or Federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://texas.gov/state/texascentralizedmasterbidderslist/index.asp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or Federal EIN <small>(If you are not a Texas certified HUB, please enter the Federal EIN.)</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%
	<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary).

REMINDER: As specified in SECTION 4 of the completed HSP form, if you are selected, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity if the subcontractor will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than 30 (thirty) working days after the contract is awarded.

Method V

Requires Respondents, Company, Requisition information, subcontracting intentions, page 3 “Self Performing Justification and affirmation signature.

1. Respondent Name/ Req. Number

2. Respondent’s Subcontracting Intentions

3. Self Performing Justification

4. Affirmation Signature

1

2

3

4

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable labor portions to the extent consistent with prudent industry practices and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including contracted staffing, goods, services, transportation and delivery will be subcontracted. Note: In accordance with FAR 33.101, a "subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

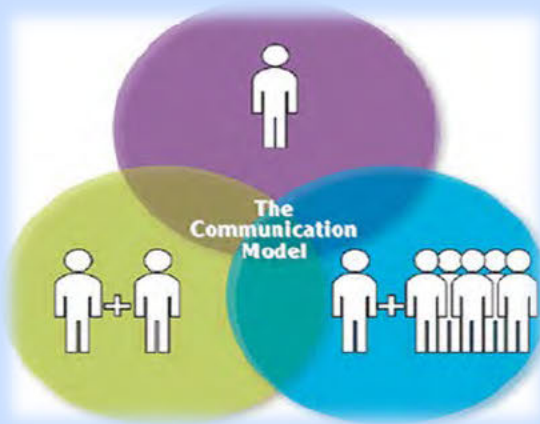
a. Check the appropriate box (1 or 2) for how that divides your subcontracting intentions:

Yes, I will be subcontracting portions of the contract. (If Yes, complete item b of the SECTION 2 and continue to item c of the SECTION 2.)

No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the breakdown of the contract, identify the percentage of the contract you expect to award to Total certified HUBs, and the percentage of the contract you anticipate awarding to vendors that are not a Total certified HUBs (i.e. Non-HUBs).

Item #	Subcontracting Opportunity/Description	Percentage of the contract expected to be subcontracted to HUBs with which you have a "continuous contract" in effect for one year for 12 months	Percentage of the contract expected to be subcontracted to HUBs with which you have a "continuous contract" in effect for one year for 12 months	Percentage of the contract expected to be subcontracted to non-HUBs
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
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361		%	%	%



● Communication

Changes to the HSP are not allowed by the Respondent, until after Contracts are awarded. The HUB Program Office must be notified immediately and in advance in order to receive approval of the HUB Subcontracting Plan.

The HUB Program Office will contact the awarded contractor requesting their participation in a **Post Award Meeting** once the contract has been awarded.

● Supporting Documentation for Method IV

Documentation is also a key to a successful HUB Subcontracting Plan. The Respondent must submit documentation to the HUB Program Office with their initial response to demonstrate that a Good Faith Effort was made in the process of developing and submitting an HSP.

Examples include :

1. Read Receipt from email
2. Fax Log
3. Certified Letter





Prime Contractor Progress Assessment Report

- Required Monthly with All Pay Request.
- List All Sub-contractors payments (HUBs and Non-HUBs).
- Required even if you are **Self-Performing** all the work.


Send notification to subcontractors within 10 days of the award and Email a copy to the HUB Program Office at HHSCHUB@hsc.state.tx.us



REPORT
DEFINITION



REPORT
ENDPOINT



HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report

This form must be completed and submitted to the contracting agency each month to document compliance with your HSP.

Contract/Requisition Number: _____ Date of Award: _____ Object Code: _____
(HHS00000000) (Agency Use Only)

Contracting Agency/University Name: _____

Contractor (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

Reporting (Month) Period: _____ Total Amount Paid this Reporting Period to Contractor: \$ _____

Report HUB and Non-HUB subcontractor information

Subcontractor's Name	Subcontractor's VID or HUB Certificate Number	Texas Certified HUB? (Yes or No)	Total Contract \$ Amount from HSP with Subcontractor	Total \$ Amount Paid to Subcontractor This Reporting Period	Total Contract \$ Amount Paid to Date to Subcontractor	Object Code (Agency Use Only)
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	

HHS HUB Program Office

Main Phone – 512-406-2570
hhschub@hhsc.state.tx.us

HHS HUB Manager

Laura Cagle-Hinojosa – 512-406-2443
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HHS HUB Assistant Manager

Stella Roland – 512-406-2534
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Keisha Gash – 512-406-2502
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The link below will access general information and step by step instructions concerning the required steps to complete the form(s).
http://www.hhsc.state.tx.us/about_hhsc/Contracting/rfp_atth/HSPPKG.pdf

The link below will access the HHSC website for HUB organizations and subcontracting opportunities.
http://comptroller.texas.gov/procurement/prog/hub/searching_cmb.html

Health and Human Services Commission – **HHSC**
Department of State Health Services – **DSHS**
Department of Family Protective Services – **DFPS**



SOLICITATION ADDENDUM ACKNOWLEDGEMENT FORM

Solicitation Name/Title: Durable Medical Equipment (DME) and Services				
Solicitation No: HHS0004979	Solicitation Due Date: 08/07/2020	Solicitation Due Time: 02	00	p.m.
Addendum Date: 07/22/2020	Addendum No. 3			

PCS Contact Information

Purchasing Contact Phone: 512-406-2492	Purchasing Contact Name: Tomasz Gozdalski
Purchasing Contact Email: tomasz.gozdalski@hhsc.state.tx.us	

Description of Addendum

BE ADVISED THAT THE FOLLOWING CHANGES ARE APPLICABLE TO THE ABOVE REFERENCED SOLICITATION:

This Addendum No. 3 is issued for RFP No. HHS0004979 as provided by Section 3.5.6 of the RFP concerning posting responses to vendor questions on the ESBD:

- Responses to vendors questions submitted in accordance with Section 3.5.4 of the RFP are provided as an attachment to this Addendum No. 3, see "HHS0004979_Vendors_Questions_and_Answers.pdf".
- No other changes are made to RFP No. HHS0004979 as a result of this Addendum No. 3.

THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL SOLICITATION

RETURN ADDENDUM ACKNOWLEDGMENT FORM AS INSTRUCTED, FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OF RESPONSE.

- If respondent has submitted response prior to addendum, respondent may email the signed addendum to pcsbids@hhsc.state.tx.us prior to the solicitation due date and time.
- Acknowledge receipt of this addendum on the face of your response, or
- Sign and return this addendum to HHSC-PCS with the solicitation response to Procurement and Contracting Services, 1100 W. 49th Street, Austin, TX 78756; or

Authorized Signature		Respondent Name
Date (MM/DD/YYYY)	Phone	Email

Vendor Questions & HHSC Answers
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Durable Medical Equipment and Services

No.	RFP Section #	RFP Paragraph #	Page #	Text of passage being questioned	Question for the State	Response
1.	General	N/A	N/A	N/A	<p>Have you looked at SB1804 (ATP requirement) to see how this could impact your RFP? (see website: https://blog.usrehab.com/new-rules-in-texas-that-must-be-followed/)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p style="text-align: center;">New Rules in Texas that Must Be Followed U.S. Rehab Blog</p> <p>As a result of SB 1804, effective for Dates of Service 9/1/2011 and after, all WHEELED MOBILITY SYSTEMS provided to Medicaid beneficiaries will require the involvement of a Qualified Rehab Professional (QRP) at the clinical evaluation and delivery/ final fitting.</p> <p style="text-align: center;">blog.usrehab.com</p> </div>	<p>S.B 1804 does not affect this RFP.</p> <p>S.B. 1804 relates to medical assistance reimbursement for wheeled mobility systems for recipients of medical assistance and defines a qualified rehabilitation professional and wheeled mobility system.</p> <p>The Comprehensive Rehabilitation Services (CRS) program is a payor of last resort for individuals who have Traumatic Brain Injury (TBI) and Traumatic Spinal Cord Injuries (TSCI) from an external force and is not a medical assistance reimbursement program. Program eligibility is not dependent on income or any federal requirements. In addition, the CRS program requires a physician's prescription and/or evaluation from a therapist for any equipment considered for authorization.</p>

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2.	General	N/A	N/A	N/A	<p>From what I understand, CRS dollars are used for TBI's and Spinal Cord injuries across the state. Most of the clients have ancillary funding, which the provider must be or should be in network to provide benefits in lieu of the CRS funding. So limiting that network will increase state spending when a provider is out of network (i.e. larger co-pays for the State of Texas).</p> <p>I would like to have a Teams meeting to discuss the proposal. FYI, The Comptroller has tried this before and discontinued the process due to the access to care issues. Your timing is interesting due to Covid 19, lack of providers, lack of equipment and manufacturers having to close down due to the virus.</p>	<p>The CRS program assists eligible people who have TBI, TSCI, or both, with rehabilitation services to allow them to function independently in their home and community. The CRS program is a payor of last resort for eligible individuals and may support individuals who may have other funding sources and work to ensure they use their primary benefits before using available CRS funding.</p> <p>The CRS program does not limit the provider network. Any eligible Durable Medical Equipment (DME) Goods and/or Services providers may apply for the current Request for Proposal (RFP). The intent of the RFP is to build a large pool of eligible providers to ensure individuals supported by CRS can receive needed supports. This RFP is not a COVID-19 procurement related to the pandemic.</p>
3.	General	N/A	N/A	N/A	<p>I had some questions in regards to the solicitation, and wanted to see if you had some time in the near future to discuss by phone. We are a current provider for the CRS program and was needing some clarification on the services being requested.</p>	<p>This RFP outlines categories within Exhibit K, DME Categories, and Exhibit L, HCPCS Codes by Category. These two exhibits provide general categories, not an exhaustive list of all DME that may be required; goods and services are based on individual needs that have been assessed to be medically necessary and/or prescribed by a physician.</p>
4.	General	N/A	N/A	N/A	<p>Regarding this bid, we would like to inform you that we can send submissions for every single class except 430-48 and 948-15, as we can only source goods and not services.</p> <p>As such, we need parts lists so we can get started on this.</p>	<p>Please submit your proposal for all classes you are able to provide. All lists and categories have been provided in the RFP. Exhibit K lists 12 DME categories that will be considered, and Exhibit L contains a list of HCPCS Codes by category for reference.</p>

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5.	General	N/A	N/A	N/A	<p>Good morning, I was extremely surprised to see a solicitation from the Comptroller on DME on your website. Especially from agency 529 or HHSC.</p> <p>Can you provide some more details and color to the expectations on this proposal? Furthermore, I do not know how much DME HHSC purchases anymore, most of it is purchased by MCO's now. If you have utilization numbers that would be great to have and understand. Could you also provide any direction as to how this came about?</p>	<p>This RFP is being solicited by HHSC, not the Comptroller of Public Accounts. The intent of this RFP is to identify a pool of Successful Respondents who are able to provide the Goods and Services to be used on an “as needed basis” by the CRS program. It is expected that the Successful Respondents will be able to provide the minimum requirements laid out in the RFP and expand the provider network for the State of Texas, by finding as many eligible providers to provide these services.</p> <p>The CRS program is a state-wide program, serving an estimated 800 individuals a year, with many of the eligible individuals needing ancillary services of various levels. The program is the payor of last resort for individuals who have a TBI, TSCI, or both, from an external force. Program eligibility is not dependent on income, therefore, some individuals may have Medicaid or other benefits, while others will not.</p>
6.	3.5.7	N/A	22	N/A	Will this presentation be posted?	The power point presentation used during the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) held on July 14, 2020, has been posted to the ESBD as the attachment to Addendum #2 on July 14, 2020.
7.	3.5.7	N/A	22	N/A	Can we get a list of all attendees on this call?	The Attendee Report from the Optional HUB Subcontracting Plan Webinar Training (Vendor Conference) held on July 14, 2020, has been posted to the ESBD as the attachment to Addendum #2 on July 14, 2020.

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8.	General	N/A	N/A	N/A	<p>Is the Controller aware that CMS has removed non-invasive vents from competitive bid - See link- https://www.dmecompetitivebid.com/nivremoval</p>	<p>The CRS program is not part of the DMEPOS Competitive Bidding Program and is not federally funded. The CRS program serves individuals who have a TBI, TSCI, or both from an external force and provides rehabilitation and Goods and/or Services associated with the TBI/TSCI, not COVID. The CRS program also does not require individuals supported by the program to have Medicare. See also response to question #5 above.</p> <p>The link mentioned in the question is regarding the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program with Centers for Medicare & Medicaid Services (CMS). Due to the novel COVID-19 pandemic, the non-evasive vents have been removed from the CMS DMEPOS Competitive bidding program for Round 2021.</p>
9.	General	N/A	N/A	N/A	<p>Please review HR 1865 for the Federal exemption of wheelchairs codes the were exempted from competitive bidding on the CMS level. It is my understanding that HHSC follows CMS guidance. It should be duly noted noted that some of the power wheelchair codes and components codes do not work for the codes under bidding. Do you have a cross reference you can provide?</p>	<p>The CRS program is not part of the CMS competitive bidding process See also response to question #8 above.</p>
10.	General	N/A	N/A	N/A	<p>Can you provide expenses by code that are being bid for the past three years?</p>	<p>The CRS Program is unable to provide past expenditures by code. All 12 DME categories are listed in Exhibit K, and Exhibit L contains a list of HCPSC Codes by category for reference.</p>

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11.	General	N/A	1	NIGP 430-48 Medical Gases	Although I see medical gases included on page 1 of the solicitation, I do not see a place for pricing on the various gases on the pricing form. Can you please verify that this bid is for durable equipment only? Thank you for your time.	The Successful Respondent would provide pricing for medical gases as part of the response to WOQ on an “as needed basis”. The medical gases fall under Category 1 listed in Exhibit K, Durable Medical Equipment Categories, and “Oxygen” listed in Exhibit L, HCPCS Codes by Category.
12.	Section 6.3	paragraphs 2 &3	23	Paragraph 2: “Respondent must disclose any civil or criminal litigation or investigation over the last five (5) years that involves Respondent”, Paragraph 3: “Respondent must also disclose any settlement agreements entered into in the last five (5) years related to alleged contractual failures.”	We operate locations in several states, must we report this information for ALL locations or only those operating within the state of Texas?	RFP Section 6.3 applies to all locations, not just contracts related to operations within the State of Texas.
13.	Section 2.1.4.p.4	Last bullet	12	“Honor all warranties for DME Goods and Services provided through the contract.”	Clarify that you mean supplier will honor manufacturer warranties, which may vary.	The CRS program staff understand that warranties will vary. It will be the responsibility of the contractor to explain how they will honor the manufacturer’s warranties and document what the warranties are when the Goods and/or Services are being provided to the individuals supported by the CRS program
14.	Exhibit K	Category no. 12	1	“Category 12, description: Delivery/Set up and/or Dispensing Service.”	Clarify what the intent of this category is. Delivery/set up and/or dispensing of what type of services?	Exhibit K, Category 12, Delivery/Set up and/or Dispensing Service ensure that successful DME providers meet all of the requirements set out in Subsections (f) through (l) of Section 2.1.4, Performance Standards of the RFP. The Respondents will detail this in their narrative response described in Section 5.1.5, Delivery.

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15.	Section 7.1	Paragraph 1	34	“Respondent must submit a cost proposal utilizing Exhibit J, Cost Proposal for the Lead Item per each category of DME goods listed in Article II.”	Confirming intent of cost proposal. We are submitting 1 price for the Lead Item, as notated, that price will be used to determine cost viability, over-all, for the specific product category by supplier? Lead Item pricing will not in any way impact other products within the same category?	The cost proposal is detailed in RFP Section 7.1, Cost Proposal. The Lead Item price will be only used to evaluate the initial cost, worth 20% of the total score, to establish the master contracts pool. It will not have an impact on price of other products within the same category.
16.	Section 2.2.4.4	Paragraph 4	16	“Quotes may be adjusted based on the final evaluation once awarded, but the adjustment must not exceed a 10 percent (10%) increase.”	This could be problematic if the winning WOQ bidder, upon their own evaluation with the clinical team, determines original specs need to be significantly modified. Consider revising or removing the increase amount. We understand CRS is trying to control costs but winning bidders can’t be held responsible for evaluations they don’t participate in.	The CRS program requires a physician’s prescription and/or evaluation from a therapist for any equipment considered for authorization. These typically have specific codes for services needed and should not vary from the original quote.
17.	Section 2.2.4.5.d	very last bullet of the section	16	“Out of Network: The CRS program may pay up to but not exceeding the contracted rate.”	By limiting contracted vendors HHSC/CRS could have increased spend if awarded respondents are not contracted with the majority of commercial and MCO payers in the state – state could be subject to higher co-pays or pay for items that should be covered by insurance had the provider been contracted with the health plan.	The CRS program is the payor of last resort. Therefore, individuals are required to utilize primary benefits prior to CRS covering the costs, which may include co-pays or deductibles.
18.	General	N/A	N/A	N/A	Are you able to provide utilization numbers by HCPC for the last 1-2 years paid by the CRS program to allow suppliers to better understand the impact of this solicitation? It is our understanding most reimbursement would run through primary insurance or MCO.	The CRS program is not able to provide utilization numbers by HCPC. With CRS being the payor of last resort, all eligible individuals served in the program are required to utilize their primary insurance benefits, if applicable, prior to CRS paying for the contracted item. There is no reimbursement from insurance or MCOs.

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19.	General	N/A	N/A	N/A	<p>Confirm that WOQs will be awarded to winning bidders that can meet the requirements and offer the best pricing. Additional comments/questions:</p> <p>a. Why are bids required for equipment when other insurance is involved? Why not allow existing providers to continue providing and work with CRS directly for payment on co-pay, co-ins, deductible amounts</p> <p>b. Why issue this solicitation if there will continue to be a bid process in order to win the business?</p> <p>c. Why are you changing the contracting process, why not contract with existing providers that have demonstrated the ability to provide quality services and have established primary insurance contracts with the majority of payers?</p> <p>d. What if the client is already working with a supplier or has a longstanding relationship with a supplier, is there no longer a patient choice? End users will be forced to work with the winning bidder?</p> <p>e. What if supplier participates in the original equipment evaluation then it's determined that client has CRS benefits and WOQ bid is awarded to a different provider. Is</p>	<p>Yes, the Successful Respondents who are able to meet the requirements and offer the best price will be awarded the WOQ. See Section 2.2.4.4, Evaluation and Award of the WOQ, of the RFP for more information.</p> <p>a. As insurances and those who accept insurance may vary, the WOQ will allow contractors, to inform CRS through the WOQ, if they take the insurance and how that will affect price overall. CRS must utilize primary benefits, as well as, ensure best value for goods and services.</p> <p>b. The purpose of the RFP is to have a pool of contracted providers that can provide goods and services to all the individuals CRS supports, throughout the entire State of Texas. The individual WOQ Response bid process is to allow the program to use its funds efficiently for particular counties/regions in Texas.</p> <p>c. The individuals supported by CRS will have consumer choice when applicable, however, the program must also identify and purchase items at best value to the State. CRS is looking to expand the provider network for the State of Texas, by providing the opportunity for any eligible DME Goods and/or Services providers to apply for the current RFP.</p> <p>d. CRS will review the WOQs submitted and will consider consumer choice, in accordance with CRS Standards for</p>

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					<p>there any consideration for reimbursing suppliers for evaluation time when not awarded bids for existing clients?</p> <p>f. The additional bidding process related to WOQ may prolong the provision of equipment, particularly when there is primary insurance involved that will cover the service.</p>	<p>Providers, as a best value factor when applicable (Texas Government Code Section 2155.144(d)).</p> <p>e. Any CRS services must be pre-authorized to provide payment for services. Evaluations will be done by physicians or therapists who are currently working with the individual supported by CRS. If an evaluation is needed by the contractor, then this should be included in the WOQ.</p> <p>f. The CRS program currently utilizes a bid process for purchasing goods and/or services. The WOQ will not prolong the provision of goods and/or services. Currently, CRS requires contractors to get pre-authorization and provide a quote of services that they are able to provide.</p>
20.	2.1 / 2.1.2	All	9	<p>2.1.1 Project Scope The CRS Durable Medical Equipment (DME) as defined in Section 1.2 is any prescribed and medically necessary equipment and training that can withstand repeated use that provides therapeutic benefits for rehabilitation and/or supportive equipment to a person with a TBI or TSCI that can be utilized to improve independence in the home or community. DME must assist the person supported by CRS with meeting their treatment goals and</p>	<p>Are you requiring an individual to have an ATP certification or other clinical license to conduct initial evaluations to determine equipment/service needs of the customers?</p>	<p>Respondents must meet all minimum qualifications as set out in Section 4.1.2, Minimum Qualifications of the RFP. Depending on what goods and or services the applicant provides will depend on the license/accreditation they have. If a Successful Respondent will be providing goods and/or services that require certification they would need to have an ATP certification or other clinical license to conduct that evaluation.</p>

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			<p>independence in the home and community. Parts and supplies to repair or maintain DME are also included. See Exhibit K, DME Categories for a complete categories list.</p> <p>The Successful Respondent must be able to assess/evaluate the request, deliver, set-up/install, modify and provide education and training on use of the Goods and/or Services. The Goods and/or Services provided must be medically necessary for individuals with TBI and TSCI based upon comprehensive assessments, treatment goals and outcomes. This must be coordinated by the Interdisciplinary Team (IDT) and included in an IPP. All goods and services must have prescriptions and be pre-authorized by CRS staff prior to order and delivery. DME can be complex and multi-faceted to address simultaneous needs. The individual quotes for goods and services will be placed utilizing the WOQ process that is further explained</p>		
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			<p>in this RFP. A Service Authorization, see Exhibit N, Service Authorization Template, will be issued when the Work Order is awarded to the Successful Respondent(s).</p> <p>2.1.2 Minimum Requirements In order to be selected as a DME provider, in addition to meeting all applicable specifications and submitting all requested information, applicants must demonstrate the following:</p> <ul style="list-style-type: none">a. The ability to provide DME Goods and Services to CRS members in HHSC Service Areas;b. The guaranteed ability to provide DME Goods and Services covered under the Eligible Person's health plan;c. A proven track record of successful service to, including working with managed care organizations to effectively manage the medical needs of the Eligible Persons;d. The ability to meet prior authorization, claims submission, quality management and reporting requirements of CRS;		
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				<p>e. The ability to comply with regulatory requirements;</p> <p>f. Texas medical device manufacturer or distributor license, as applicable;</p> <p>g. The ability to track, report and deliver exceptional Eligible Person satisfaction, effective management and oversight of use of equipment, Eligible Person and provider resource use patterns;</p> <p>h. The ability to set and adhere to delivery, service and other quality service levels;</p>		
21.	7.1	1	34	<p>Respondent must submit a cost proposal utilizing Exhibit J, Cost Proposal, for the Lead Item per each category of DME goods listed in Article II, Scope of Work. Respondent must also complete and return Form A, Respondent and Supplemental Information, to indicate proposal's coverage areas. The cost proposal for each Lead Item shall include all labor, materials, tools, supplies, equipment, and personnel, including but not limited to,</p>	<p>In reviewing the pricing structure and excel sheet, providers are asked to complete "Bid Amount" and "Estimated Capacity." This seems to be an attempt to standardize a "fee schedule" according to HCPCS codes, however, for this demographic (i.e. SCI & TBI), much of their equipment, technology and services will need some level of customization which is not accounted for with the HCPCS codes that are listed. Please confirm if Exhibit J – Price Proposal is all encompassing for the items that will be distributed under this Master Contract or is it for the purpose of helping HHSC develop a set fee schedule for only the items listed? Ramps are also not listed on this</p>	<p>Refer to the response for #15.</p>

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			<p>travel expenses, associated costs and incidental costs necessary to provide the products and services according to the minimum specifications, requirements, provisions, terms, and conditions set forth in this RFP. The quote cost will be used to evaluate cost to establish pool of vendors to be considered for award of the Master Contracts. The orders will be placed by issuing a competitive Work Order notice to applicable pool of Successful Respondents on an as needed basis. The WOQ process is further explained in this RFP, see Section 2.2.4. The Respondent will also submit a list of goods and or services they do not provide. Please note that the Contract may cover items not identified in the cost proposal if deemed medically necessary for the CRS participant the Respondent would be able to provide those additional DME goods and/or services.</p>	<p>price list. Since this is a current service, how do we need to submit pricing?</p>	
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22.	Exhibit L/J/K	N/A	N/A	N/A	<p>I noticed the RFP included only the following NIGP Codes. Can you please confirm if this contract covers the following services: 1) Durable Medical Equipment 2) Complex Rehab Mobility Equipment 3) Assistive Technology Equipment 4) All Service Evaluations to identify customer's needed (i.e. Assistive Technology, DME, etc.) 5) Environment Control Unit (ECU's) Equipment 6) Services/Labor Charges (including: a) Training on all equipment provided b) Install and setup for all equipment provided) 7) Programming Service for ECU's and Assistive Technology? Some of the services/equipment listed above does not fall within the NIGP Codes on the RFP, however all of the listed services I mentioned are currently being provided to the CSR program. If this RFP does not include all of the services I listed, how will procurement be handled for those needed services?</p> <p>NIGP Class-Item Codes</p> <ul style="list-style-type: none"> · 430-48: Medical Gases, Anesthesia and Respiration Therapy: Carbon Dioxide, Cyclopropane, Nitrous Oxide, Pure Oxygen, etc. · 465-00 Hospital and Surgical Equipment, Instruments, and Supplies · 470-00 Hospital, Nursing Home or Residential Specialized Equipment for the Disabled · 475-00 Hospital, Surgical, and Medical Related Accessories and Sundry Items 	<p>The RFP includes currently used DME Goods and Services, due to the nature of individualized services some of the items may fall under category #8, Adaptive Aids for ADL's, listed in Exhibit K. See Section 1.2, Definitions of the RFP for the definitions of these terms.</p> <p>The RFP lists all 12 DME categories in Exhibit K and Exhibit L lists HCPCS Codes by category for reference.</p>
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					<ul style="list-style-type: none">· 710-00 Prosthetic Devices, Hearing Aids, Auditory Testing Equipment, Electronic Reading Devices, etc.· 936-45 Hearing Devices, Aids, Auditory Training Equipment, etc.· 948-15 Audiology Services, Including Hearing Aid Services	
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