



TEXAS
Health and Human Services

Charles Smith, Executive Commissioner

Request for Applications (RFA)
For
Community Mental Health Grant Program

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ARTICLE 1. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY

1.1 EXECUTIVE SUMMARY

The State of Texas, by and through the Texas Health and Human Services Commission (HHSC), seeks to implement the Community Mental Health Grant Program, as directed by House Bill 13, 85th Legislature, Regular Session, 2017. Through the Community Mental Health Grant Program, HHSC will award grants to local Texas communities, to be matched in accordance with the specifications outlined in Section 2.5.1, to address the mental health needs of individuals with mental illness in accordance with the specifications contained in this Request for Applications (RFA).

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

1.2 DEFINITIONS

Refer to **Exhibit B, HHSC Grantee Uniform Terms and Conditions** 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.

“Apparent Awardee” means an organization that has been selected to receive a grant award through response to this RFA but has not yet executed a grant agreement or contract. May also be referred to as "Apparent Grant Recipient" or "Apparent Grantee."

“Applicant” means the entity responding to this Solicitation. The Applicant will be the organization with which HHSC contracts and to which HHSC disburses grant funds. Any funds to be distributed to any Partner Organizations will be handled by the Applicant.

“Client” means a member of the priority population to be served by the Applicant's organization. For the purposes of this grant, a client is an individual age 18 or older who has a diagnosis of severe and persistent mental illness with an identified needs threshold and the highest need for intervention, which is operationalized as the uniform assessment; or children ages 3 – 17 with serious emotional disturbance who have a serious functional impairment or who:

1. Are at risk of disruption of a preferred living or children care environment due to psychiatric symptoms;

2. Are enrolled in special education because of a serious emotional disturbance; or
3. Or Client eligibility may be further defined by the Applicant. May also be referred to as “individual (s).”

(Excluding a single diagnosis of substance abuse, intellectual or developmental disability, dementia or autism spectrum disorder)

“Community Collaborative” means an entity including but not limited to federal, state, and local governmental entities, nonprofit community organizations, and faith-based community organizations which bring the public and private sectors together to coordinate and provide mental health services, and other support services essential to the provision of mental health services, to individuals. Community Collaboratives may be made up of member organizations that are not directly involved in providing services and supports as part of the Proposed Project. See also "Applicant" and "Partner Organizations."

“Direct Cost” means costs that can be identified specifically with particular cost objectives such as a grant, contract, project, function or activity. Direct costs generally include: salaries/wages, fringe benefits, contracted services required to accomplish specific grant

“eGrants” means the Texas.gov eGrants website, the online searchable database to search for, view details of, and find contact information for competitive funding grant announcements from Texas State agencies. eGrants can be accessed at <https://txapps.texas.gov/tolapp/egrants/search.htm>.

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

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

“Indirect Costs” means the expenses of doing business that are not readily identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. Cost allocation plans or indirect cost rates are used to distribute those costs across revenue sources.

“Key Personnel” means an Applicant organization's Project Contact, Fiscal Contact, and Executive Director, and/or any other key stakeholders in the Proposed Project.

“Local Behavioral Health Authority” means an entity designated as the local behavioral health authority by legacy Department of State Health Services (DSHS) in accordance with Texas Health and Safety Code, §533.0356.

“Local Mental Health Authority” means an entity designated as the local mental health authority by legacy DSHS in accordance with Texas Health and Safety Code, §533.0356.

“[Match](#)” means the share of costs that the Applicant and/or Partner Organizations are required to contribute to accomplish the purposes of the grant. Cash match includes non-federal or non-State funds contributed by the Lead Applicant, contributed by Partner Organizations, or donations from third parties. In-kind match may include the value of personnel, volunteer time, goods, services, direct costs, and indirect costs. All match, both cash and in-kind, can only come from non-federal and non-State sources.

“[Partner Organization](#)” means members of the project proposal that will assist in implementing the Proposed Project but that are not the Applicant. Also referred to as “Partners.”

“[Pass-through Organization](#)” means an organization that has been awarded grant funds, but is not carrying out or performing the grant, rather passing the funds through to another organization (i.e. Sub-recipient) who is responsible for completing the work of the grant.

“[Project](#)” means the work and activities for which grant funding is awarded and information is provided as part of the response to this Solicitation. During the open application period and before selection of grant recipients are made, the Project will be known as the Proposed Project.

“[Respondent](#)” means the entity responding to this Solicitation. May also be referred to as “Applicant.”

“[Solicitation](#)” means this Request for Applications including any Exhibits and Addenda, if any.

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

“[Successful Applicant](#)” means an organization that receives a grant award as a result of this RFA. May also be referred to as “Grantee,” “Awarded Applicant,” or “Grant Recipient.”

“[System Agency](#)” means the Texas Health and Human Services Commission, its officers, employees or authorized agents.

“[Uniform Assessment](#)” means an assessment used to determine the medical necessity of services for a person or patient. The assessment tool developed by HHSC includes the Adult Needs and Strengths Assessment (ANSA), the Children Assessment of Needs and Strengths (CANS), and HHSC-approved algorithms.

1.3 AUTHORITY

The System Agency is requesting applications under for the Community Mental Health Grant Program for fiscal year 2018 pursuant to Chapter 531 of the Texas Government Code.

ARTICLE 2. SCOPE OF GRANT AWARD

2.1 PROGRAM BACKGROUND

2.1.1 Purpose

House Bill 13, 85th Legislature, Regular Session, 2017, ("H.B. 13") directed HHSC to establish a grant program for community mental health. The Community Mental Health Grant Program seeks to establish mental health services for the purpose of supporting communities in the provision of treatment and the coordination of mental health services:

- Supporting community programs that provide mental health care services and treatment to individuals with a mental illness; and
- Coordinating mental health care services for individuals who have a mental illness with other transition support services.

2.1.2 Statewide Behavioral Health Strategic Plan

The Community Mental Health Grant Program is in alignment with the mission, vision, and goals of the [Fiscal Years 2017-2021 Statewide Behavioral Health Strategic Plan](#), published by the Statewide Behavioral Health Coordinating Council.

- **Vision:** to ensure that Texas has a unified approach to the delivery of behavioral health services that allows all Texans to have access to care at the right time and place.
- **Mission:** to develop a coordinated statewide approach to providing appropriate and cost-effective behavioral health services to Texans.

The Strategic Plan notes that “untreated behavioral health needs can affect all aspects of life including economic productivity, student success, criminal justice, and public health and safety.” The Community Mental Health Grant Program seeks to address identified gaps in the Fiscal Years 2017-2021 Statewide Behavioral Health Strategic Plan and in doing so will ensure coordination of contract funded services to eliminate duplication of efforts. Gaps that may be addressed:

- Gap 1: Access to Appropriate Behavioral Health Services
- Gap 2: Behavioral Health Needs of Public School Students
- Gap 3: Coordination across State Agencies
- Gap 4: Veteran and Military Service Member Supports
- Gap 5: Continuity of Care for Individuals Exiting County and Local Jails
- Gap 6: Access to Timely Treatment Services
- Gap 7: Implementation of Evidence-based Practices

- Gap 8: Use of Peer Services
- Gap 9: Behavioral Health Services for Individuals with Intellectual Disabilities
- Gap 10: Consumer Transportation and Access to Treatment
- Gap 11: Prevention and Early Intervention Services
- Gap 12: Access to Housing
- Gap 13: Behavioral Health Workforce Shortage
- Gap 14: Services for Special Populations
- Gap 15: Shared and Usable Data

The program intends to address one or more of the following goals from the Statewide Behavioral Health Strategic Plan:

- **Goal 1:** Program and Service Coordination – Promote and support behavioral health program and service coordination to ensure continuity of services and access points across state agencies.
- **Goal 2:** Program and Service Delivery – Ensure optimal service delivery to maximize resources in order to effectively meet the diverse needs of people and communities.
- **Goal 3:** Prevention and Early Intervention Services – Maximize behavioral health prevention and early intervention services across state agencies.
- **Goal 4:** Financial Alignment – Ensure that the financial alignment of behavioral health funding best meets the needs across Texas.

The program will attempt to address the gaps and achieve the goals listed above by employing one or more of the following strategies from the Statewide Behavioral Health Strategic Plan:

- 1.1: Increase statewide service coordination for special populations
- 1.2: Reduce duplication of effort and maximize resources through program and service coordination among state agencies
- 2.1: Expand the use of best, promising, and evidence-based behavioral health practices across service agencies
- 2.2: Develop clinical research and innovation in behavioral health by fiscal year 2021.
- 2.3: Ensure prompt access to coordinated, quality behavioral health services, including substance use services.
- 2.4: Strengthen the behavioral health workforce by fiscal year 2021.
- 2.5: Address current behavioral health service gaps and needs across program and service agencies.
- 2.6: Address the most urgent challenges and needs related to both state-funded and state-operated inpatient psychiatric facilities across Texas by 2021.
- 3.1: Expand the use of best, promising, and evidence-based practices for prevention and early intervention by fiscal year 2019.

2.2 GRANT AWARD AND TERM

2.2.1 Available Funding

Funding for grants is contingent on funding appropriated by the Texas Legislature. Applications funded as a result of this solicitation will be based on appropriated funding and the degree to which applications meet criteria described in Article 4 of this RFA as recommended by the Selection Committee and approved by the HHSC Executive Commissioner, or designee.

HHSC will reserve for each fiscal year 50 percent of the total to be awarded only as grants to a community mental health program located in a county with a population not greater than 250,000.

Grants awarded as a result of this RFA will be funded on a cost reimbursement basis, *and only to the extent that match is committed and reported by the grant recipient in accordance with the specifications outlined in Section 2.5.1.*

Under the cost reimbursement method of funding, grant recipients are required to pay for approved grant activities with their own funding. Grant payments are then made by HHSC to reimburse the grant recipients on a monthly basis for reported actual cash disbursements to be supported by adequate documentation.

Grant recipients must ensure that clients served through the project are eligible to receive services prior to requesting reimbursement for services provided. Grant recipients must maintain verification of client eligibility.

2.2.2 Grant Term

The anticipated initial award period of grants resulting from this RFA is **June 18, 2018 through August 31, 2019**. This period is subject to change and will be determined by HHSC for Successful Applicants through the negotiation process.

Successful Applicants will be notified of their selection to receive a grant. Per **Section 4.5 Negotiation and Award** of this RFA, HHSC may enter into negotiations with Successful Applicants to determine award periods, final award amounts, and contract terms to execute contracts.

2.3 ELIGIBLE APPLICANTS

To be awarded a contract as a result of this RFA, an Applicant must be a NONPROFIT ORGANIZATION or a GOVERNMENTAL ENTITY excluding Local Mental Health Authorities and Local Behavioral Health Authorities.

2.4 PROGRAM REQUIREMENTS

2.4.1 Community Collaboration

For the purpose of this grant program, community collaboration may be represented by a letter of support from the Local Mental Health Authority or Local Behavioral Health Authority (LMHA/LBHA), and by demonstrating coordination with an established local service delivery structure aligning mental health services within the community. Applicants are encouraged to review unmet needs, gaps, and goal areas identified in the following documents, in determining and aligning a proposal with the local service delivery structure:

- Fiscal Year 2017-2021 Texas Statewide Behavioral Health Strategic Plan.
- Comprehensive Plan for State-funded Inpatient Mental Health Services Report, System Transformation (3) and Other 2018-19 Projects (3, 6).
- LMHA/LBHA Consolidated Local Service Plan.

2.4.2 Services

The primary focus of the Community Mental Health Grant Program is to provide mental health care and treatment to individuals with mental illness. Community Mental Health Grant Programs can also support coordination, navigation, or case management of mental health services for individuals who have a mental illness with other transition support services.

Community Mental Health Grant Programs may also fund supportive services essential to provision of mental health services. These essential services must **address gaps in services** that may **prevent** individuals from **accessing and/or participating** in mental health programs.

However, applications and the Applicant's Expenditure and Match Proposal should reflect provision of mental health services, treatment, and coordination supports as the primary focus of the proposed project.

Client services to be provided as part of the proposed project must seek to:

- A. Improve existing mental health services or support services essential to mental health service provision, by:
 1. Incorporating evidence-based, best, and/or promising practices and expertise of mental health professionals;

2. Ensuring services are provided in a culturally competent manner and are culturally and linguistically sensitive; and
 3. Encouraging greater continuity of care for individuals receiving services through a diverse provider network.
- B. Increase availability of mental health services or support services essential to mental health service provision by:
1. Expanding the number and types of services available;
 2. Increasing the number of professionals providing services;
 3. Expanding in a flexible manner, where possible, services to meet the needs of each child, family, or adult close to their community; and
 4. Serving individuals with mental illness and co-occurring conditions such as a substance use disorder, and/or intellectual disability and developmental disabilities, and/or comorbid medical conditions.
- C. Increase and improve access to mental health services or support services essential to mental health service provision, by:
1. Assisting with navigating multiple service and benefit systems;
 2. Coordinating clinical and support services for individuals and family members; and
 3. Addressing transportation and other barriers to accessing services.

As a reference, Applicants may review information below related to providing mental health and supportive services to individuals and family members:

- [Fiscal Year 2017-2021 Texas Statewide Behavioral Health Strategic Plan](#);
- [Comprehensive Plan for State-funded Inpatient Mental Health Services Report](#) System Transformation (3) & Other 2018-19 Projects (3, 6)
- LMHA/LBHA Consolidated Local Service Plan

2.5 SCOPE

2.5.1 Introduction and Funding Match

The Community Mental Health Grant Program aligns with goals of HHSC, with a focus on the individuals served, enhancing external stakeholder partnerships, quality and innovation, and strategic policy coordination. Programs supported by Community Mental Health Grants must be designed to foster community collaboration, reduce the duplication of mental health services, and encourage greater continuity of care for individuals receiving services through a diverse local provider network.

Funding Match

Awards are contingent on applicants demonstrating committed matching funds, which may include cash or in-kind contributions. Funding from **state or federal** awards, and funding used to match state or federal awards, **cannot be used** as match for grant funding. Match requirements based upon population thresholds are as follows:

- Equal to 50 percent of the grant amount if grant program is located in a county with a population of less than 250,000 or 1/3 of the total cost of the program. For example, if an organization meets this population criteria and receives an award of \$100,000, the funding match will total \$50,000 (i.e., 50% of the grant amount, and 1/3 of the total program cost of \$150,000);
- Equal to 100 percent of the grant amount if grant program is located in a county with a population of at least 250,000 or 1/2 of the total cost of the program. For example, if an organization meets this population criteria and receives an award of \$100,000, the funding match will total \$100,000 (i.e., 100% of the grant amount, and 1/2 of the total program cost of \$200,000); and
- Equal to the percentage of the grant amount for the county with the largest population in which a community mental health program is located if the Community Mental Health Grant Program is located in more than one county.

Fifty percent of the total funds awarded will be reserved for Community Mental Health Grant Programs located in counties with a population under 250,000.

Matching funds may be:

- Unrestricted cash contributed specifically for the Community Mental Health Grant Program by members of the county-based community collaborative, local philanthropic organizations, private businesses, cities, or counties; or
- In-kind contributions of goods or services used specifically for the Community Mental Health Grant Program by members of the county-based community collaborative.

In an effort to improve coordination between state agencies and to create a strategic approach to providing behavioral health services, the Texas Legislature through the 2016-17 General Appropriations Act, H.B. 1, 84th Legislature, Regular Session, 2015 (Article IX, Section 10.04), directed 18 state agencies receiving General Revenue behavioral health funding to work collectively to develop a collaborative five-year behavioral health strategic plan and coordinated expenditures proposal. These agencies developed the *Fiscal Years 2017-2021 Texas Statewide Behavioral Health Strategic Plan* which serves as the blueprint for behavioral health services in the state of Texas.

Grants distributed under the Community Mental Health Grant Program must address the gaps in services identified in the *Fiscal Year 2017-2021 Texas Statewide Behavioral Health Strategic Plan*, and align with the goals and strategies associated with each gap. Please refer to this strategic plan when completing Attachment I of this document.

Per the 2018-19 General Appropriations Act, S.B.1, 85th Legislature, Regular Session, 2017, (Article IX, Section 10.04), organizations receiving state behavioral health grant funds will be required to report to the Statewide Behavioral Health Coordinating Council on the impact grant funding has had on program implementation and mental health outcomes on the population served by the grant funding.

Reports will serve as an opportunity to increase collaboration for the effective expenditure of behavioral health funds among state and local entities. Additionally, presentations will serve to emphasize a systemic approach to delivering behavioral health services by demonstrating the relationship between state initiatives and local/community efforts.

2.5.2 Activities

Community Mental Health Grant Program awards are to be used for:

- Supporting community programs that provide mental health care services and treatment to individuals with mental illness; and
- Coordinating mental health care services for individuals with mental illness to other transition support services.

Within this criteria, applicants are asked to identify and address gaps represented in the *Fiscal Years 2017-2021 Texas Statewide Behavioral Health Strategic Plan*; including potential intersects with the new *Comprehensive Plan for State-funded Inpatient Mental Health Services Report System Transformation (3) & Other 2018-19 Projects (3, 6)* driving efficiencies within community service delivery structures.

2.5.3 Submission Requirements

Please respond to all questions in Attachment I, Sections A-I. The RFA narrative shall also make appropriate use of the headings listed in the RFA. Rows may be added to tables as needed.

Documents to be submitted include:

1. Responses to Community Mental Health Grant Program Proposal (Attachment I);
2. Response to Community Mental Health Grant Program Executive Summary (Attachment II);
3. Response to Community Mental Health Grant Program Administrative Forms (Attachment III Forms A-D);
4. Response to Community Mental Health Grant Program Budget and Match (Attachment IV Form P)
5. Required LMHA/LBHA Letter of Support for proposed program; and

6. Evidence of match committed for the program. Please reference the current version of the Uniform Grant Management Standards, Texas Comptroller of Public Accounts, Section III, State Uniform Administrative Requirements For Grants and Cooperative Agreements, Subpart C, Item 24 (page 70), for guidance related to match.

2.5.4 Narrative Plan and Budget

Narrative Plan

By completing all Attachments to this RFA, applicants will describe organizational structure, proposed services, processes, and methodologies in implementing program activities.

Applicants must:

- Identify all services and program activities to be performed during the grant funding period;
- Include all documents requested as part of completing Attachments to demonstrate fulfilling RFA requirements; and
- Include a letter of support from each LMHA/LBHA with a local service area that is covered wholly or partly by the applicant's proposed Community Mental Health Grant Program.

Budget

Community Mental Health Grant Program applicants must demonstrate how state requested dollars and matching funds will be leveraged to support grant program activities. To accomplish this, applicants must report matching funds using Attachment IV Form P and provide applicable required letters listed below.

Matching funds may be:

- Unrestricted cash contributed specifically for the Community Mental Health Grant Program by members of the county-based community collaborative, local philanthropic organizations, private businesses, cities, or counties; or
- In-kind contributions of goods or services used specifically for the Community Mental Health Grant Program by members of the county-based community collaborative.

State or federal funds may not be used as match. This includes contracts, grants, goods, services and any other funding allocated by, awarded to, or passed-through from state governmental entities.

Applicants awarded grant funding will be responsible for reporting all cash and in-kind match used to support the grant program. Applicants must demonstrate evidence of match committed for the program and provide documentation of all match funding in the budget. Determination of the value of donated materials, professional services, and

volunteer time is to be calculated in accordance with UGMS Section III, Subpart C, Item 24.

2.5.5 Identified Gaps in Service

- A. Identify all the gaps in service that will be addressed by the proposed Community Mental Health Grant Program **and** describe in detail how proposed program meets identified gaps in (Attachment I, C).
- B. Demonstrate how the estimated unduplicated number of clients to be served was determined.
- C. Estimate the total number of services to be provided including the total number of events within each service (e.g., the total number of assessments to be provided to clients, the total number of individual sessions provided to clients, total number of transportation assistance services provided...) as part of the proposed project. These estimated numbers will serve as benchmarks to monitor progress.
- D. HHSC is committed to capturing the impact and effectiveness of the Community Mental Health Grant Program and therefore requires, to the extent possible, a uniform and common measure to be used by all grantees. The primary common measures identified for this grant are the **Adult Needs and Strengths Assessment (ANSA)** for adults ages 18 years and older, and the **Child and Adolescent Needs and Strengths (CANS)** assessment tools for children or youth ages 3 to 17 years old. For grant purposes, these tools may be required depending on project approval to demonstrate improvement, and not necessarily used to determine a level of care with regard to recovery treatment plans.

Information about the CANS and ANSA tools can be found using these links:

- An overview of **ANSA**: <http://praedfoundation.org/tools/the-adult-needs-and-strengths-assessment-ansa/>
- An overview of **CANS**: <https://praedfoundation.org/tools/the-child-and-adolescent-needs-and-strengths-cans/>
- Materials (tools and instructions for using the tools)
[ANSA/CANS Texas Manuals & Forms:](#)

Information about [ANSA/CANS Training and Certification](#)

- Grantees may be required, depending on project approval, to register to use the HHSC **Clinical Management for Behavioral Health Services (CMBHS)** web-based clinical record-keeping system before providing services.

2.5.6 Timeline and Project Milestones

In Attachment I, Applicants must:

- A. Provide a project timeline outlining milestones and anticipated completion dates associated with project implementation. Include key activities described in the proposal related to improved service delivery systems and provision of new and/or enhanced services and supports in the timeline.
- B. Demonstrate ability to meet milestones and key activities included in the timeline.

2.5.7 Applicant Organization Experience and Experience of Key Personnel in Administering Similar Projects

In Attachment III, Form D, Applicants must:

- A. Describe the background of Applicant related to the following:
 - 1. Successful implementation of projects similar in scope and complexity to the Community Mental Health Grant Program; and
 - 2. Successful implementation of projects serving individuals with mental illness.
- B. Describe the previous experience of Applicant with grants and contracts related to:
 - 1. State and/or federal grants;
 - 2. Cost reimbursement funded grants; and
 - 3. Matching grants.
- C. Describe the experience of the Applicant related to collecting and reporting performance and outcome data.
- D. Provide descriptions of grant projects administered by the Applicant within the past five (5) years that demonstrate the ability to perform the activities described in Attachment V Statement of Work.
- E. Identify proposed key personnel as required by this RFA and submit **brief bio** and **current job descriptions** to demonstrate experience germane to Community Mental Health Grant Program roles.

2.5.8 Sustainability

The Community Mental Health Grant Program seeks to empower local communities to identify and address the mental health needs of individuals and family members. Community Mental Health Grant Program funds are intended to be a catalyst for communities to develop and support **sustainable approaches, collaborative relationships, and coordinated service delivery systems that continue to operate after the life of the grant.**

In Attachment II, Executive Summary, Applicants must describe specific effort(s) on behalf of the Applicant, to ensure the Community Mental Health Grant Program is sustainable beyond the HHSC grant period.

2.6.1 Reporting Requirements

To report on the progress and implementation of grant activities, Successful Applicants will be required to submit **monthly** expenditure and match reports and **quarterly** performance reports, and upon completion of the grant, will submit a **final** report.

2.6.2 Monthly Reports

Grantee will request payments using the State of Texas Purchase Voucher (Form B-13). Voucher and any supporting documentation will be mailed or submitted by fax or electronic mail.

2.6.3 Quarterly Reports

Grantees submit quarterly performance reports 30 days after each state fiscal quarter ends. In completing quarterly reports, grantees report on information described in the Statement of Work. Attachment V Statement of Work, including the following measures, will be used to assess Grantee's effectiveness in providing the services described in the Applicant's Statement of Work.

Grantee will:

- A. Implement Community Mental Health Grant Program in accordance with HHCS-approved work plan.
- B. Submit evidence of committed match in accordance with Section .24, Subpart C, of Uniform Grant Management Standards.
- C. Report all cash and in-kind match used to support the grant program on Attachment IV Form P;
- D. Complete as determined during contract negotiations, a Uniform Assessment for all individuals at time of intake, as Level of Care-Authorized indicates, and when there is a significant change in functioning.
- E. Submit data identified in Grantee's HHSC-approved work plan on a schedule to be determined during contract negotiations.
- F. Reports to the Statewide Behavioral Health Coordinating Council on the impact grant funding has had on program implementation and mental health outcomes on the population served by the grant funding (per the 2018-19 General Appropriations Act, Senate Bill 1, 85th Legislature, Regular Session, 201, (Article IV, Section 10.04).

HHSC is committed to capturing the impact and effectiveness of the Community Mental Health Grant Program and therefore requires, to the extent possible, a uniform and common measure to be used by all grantees to conduct pre- and post-assessments. The primary common measures identified for this grant are the **Adult Needs and Strengths Assessment (ANSA)** for adults ages 18 years and older, and the **Child and Adolescent**

Needs and Strengths (CANS) assessment tools for children or youth ages 3 to 17 years old. For grant purposes, and as determined during contract negotiations; these tools will be used to demonstrate improvement, and not necessarily used to determine a level of care with regard to recovery plans.

Grant recipients must ensure that clients served through the project are eligible to receive services. Grant recipients must maintain verification of client eligibility. In specific extenuating circumstances it may be unreasonable to obtain eligibility documentation for rendering services. The Grantee must notify HHSC of such circumstances and document due diligence to determine recipient status.

2.6.4 Satisfaction Survey

Grantees will also be responsible for ensuring satisfaction surveys are provided to and completed by individuals and family members who received services as part of the project. The survey is developed by HHSC and will be provided to the Grantee for distribution.

Performance Measure	Target Deliverable
Satisfaction of individual and or family members with program provided services	At least 90 percent of clients will be satisfied; less than 5 percent of clients will not be satisfied
Satisfaction of individual and or family members in addressing identified need	At least 90 percent of clients will find the grantee understood their needs
Barriers to accessing care will be addressed	At least 90 percent of clients will report accessing services as not challenging; less than 5 percent of clients will report accessing services as challenging

2.7 PROHIBITIONS

Grant funds may not be used to support the following services, activities, and costs:

- A. Inherently religious activities such as prayer, worship, religious instruction, or proselytization;
- B. Lobbying;
- C. Any portion of the salary of, or any other compensation for, an elected or appointed government official;
- D. Vehicles or equipment for government agencies that are for general agency use and/or do not have a clear nexus to terrorism prevention, interdiction, and disruption (i.e., mobile data terminals, body cameras, in-car video systems, or radar units, etc. for officers assigned to routine patrol);

- E. Weapons, ammunition, tracked armored vehicles, weaponized vehicles or explosives (exceptions may be granted when explosives are used for bomb squad training);
- F. Admission fees or tickets to any amusement park, recreational activity or sporting event;
- G. Promotional gifts;
- H. Food, meals, beverages, or other refreshments, except for eligible per diem associated with grant-related travel or where pre-approved for working events (exceptions may be granted when food, beverages, or other refreshments have a justifiable and reasonable programmatic purpose);
- I. Membership dues for individuals;
- J. Any expense or service that is readily available at no cost to the grant project;
- K. Any use of grant funds to replace (supplant) funds that have been budgeted for the same purpose through non-grant sources;
- L. Fundraising;
- M. Statewide projects;
- N. Any use of grant funds that would constitute sub-granting or cause the grantee to be a pass-through entity;
- O. Any other prohibition imposed by federal, state, or local law; and
- P. The acquisition of facilities.

State and federal funds and resources may **not** be used as match for this grant.

2.8 STANDARDS

Grantees must comply with the requirements applicable to this funding source cited in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200); the Texas *Uniform Grant Management Standards (UGMS)*, and all statutes, requirements, and guidelines applicable to this funding.

Grantees are required to conduct Project activities in accordance with federal and state laws prohibiting discrimination. Guidance for adhering to non-discrimination requirements can be found on the [Texas Health and Human Services \(HHS\) Civil Rights Office](#) website.

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

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, TX 78751

Phone Toll Free (888) 388-6332
Phone: (512) 438-4313
TTY Toll Free (877) 432-7232
Fax: (512) 438-5885

A Grantee must ensure that its policies do not have the effect of excluding or limiting the participation of persons in the Grantee's programs, benefits or activities on the basis of national origin, and must take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

Grantees must comply with Executive Order 13279, and its implementing regulations at 45 CFR Part 87 or 7 CFR Part 16, which provide that any organization participating in programs funded by direct financial assistance from the U.S. Dept. of Agriculture or U.S. Dept. of Health and Human Services must not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

2.9 DATA USE AGREEMENT

By entering into a Grant Agreement with the HHSC as a result of this Solicitation, Applicant as determined during contract negotiations, agrees to be bound by the terms of the Data Use Agreement attached as **Exhibit C**. If Applicant is a Governmental Entity, and has negotiated a specific version of the Data Use Agreement with HHSC, then the negotiated version of the Data Use Agreement will be used in the Grant Agreement.

Dependent on project proposal, applicant may be required to utilize web-based Clinical Management of Behavioral Health Services (CMBHS) operational system to input service data.

2.10 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION

HHSC makes no guarantee of volume, usage, or total compensation to be paid to any Applicant under any awarded Grant, if any, resulting from this Solicitation. Any awarded Grant is subject to appropriations and continuing availability of funds.

HHSC reserves the right to cancel, make partial award, or decline to award a Grant under this Solicitation at any time at its sole discretion.

There should be no expectation of additional or continued funding on the part of the Grant Recipient. Any additional funding or future funding may require submission of an application through a subsequent RFA.

ARTICLE 3. ADMINISTRATIVE INFORMATION

3.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Release Date	Friday, December 8, 2017
Applicant Conference	Wednesday, January 10, 2018, 10 a.m.
Deadline for Submitting Questions	Thursday, January 11, 2018
Answers to Questions Posted	Thursday, January 18, 2018, 5 p.m.
Deadline for submission of Application Package NOTE: Applications must be <u>RECEIVED</u> by HHSC by the deadline.	Wednesday, January 31, 2018, 2 p.m.
Anticipated Notice of Award	June 15, 2018
Anticipated Contract Start Date	June 15, 2018

Note: These dates are a tentative schedule of events. HHSC reserves the right to modify these dates at any time upon notice posted to the HHSC website. Any dates listed after the Application Package submission deadline will occur at the discretion of HHSC and may occur earlier or later than scheduled without notification on the r HHSC website.

3.2 CHANGES, AMENDMENT OR MODIFICATION TO SOLICITATION

HHSC 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 HHSC and will post such on the HHS Grants Opportunities page website. It is the responsibility of Applicant to periodically check the HHS Grants Opportunities page website 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 Point of Contact listed in **Section 3.4.1** as soon as possible so corrective addenda may be furnished to prospective Applicants.

3.4 INQUIRIES

3.4.1 Point of Contact

All requests, questions or other communication about this Solicitation shall be made in writing to the HHSC's Procurement Project Manager addressed to the person listed below. All

communications between Applicants and other HHSC staff members concerning the Solicitation are strictly prohibited, unless noted elsewhere in this RFA. **Failure to comply with these requirements may result in disqualification of the Application Package.**

Name: James Gonzalez
Title: Procurement Project Manager,
HHS Procurement and Contracting Services
Address: 1100 W. 49th Street, Austin, Texas 78756
Phone: (512) 406-2563
Email: james.gonzalez@hhsc.state.tx.us

3.4.2 Prohibited Communications

All communications between Applicants and other HHSC staff members concerning the Solicitation may not be relied upon and Applicant should send all questions or other communications to the Point of Contact noted above. 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 Applicant's Application Package.**

3.4.3 Questions

HHSC will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by U.S. First Class mail **or** e-mail to the Point of Contact listed in **Section 3.4.1** above. Applicants' 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
- F. Question

Note: Questions or other written requests for clarification must be received by the Point of Contact by the deadline set forth in Section 3.1 above.

However, HHSC, at its sole discretion, may respond to questions or other written requests received after the deadline. Please provide entity name, address, phone number, fax number, e-mail address, and name of contact person when submitting questions.

3.4.4 Clarification request made by Applicant

Applicants must notify the Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the Solicitation in the manner and by the deadline for submitting questions.

3.4.5 Responses

Responses to questions or other written requests for clarification may be posted on the HHS Grants Opportunities page website. The HHSC reserves the right to amend answers prior to the deadline of Application Package submission. Amended answers may be posted on the HHS Grants Opportunities page website. It is Applicant's responsibility to check the HHS Grants Opportunities page website or contact the Point of Contact for updated responses. HHSC also reserves the right to decline to answer any question or questions or to provide a single consolidated response of all questions they choose to answer in any manner at the System Agencies' sole discretion.

3.4.6 Applicant Conference

HHSC will conduct a pre-submittal Informational Applicant conference via webinar. The webinar is scheduled to be held Wednesday, January 10, 2018 from 10 a.m. to 12 p.m. Central Standard Time, but is subject to change. **Applicants may register for the webinar using the following link:**

<https://attendee.gotowebinar.com/register/2383479912473492226>

3.5 APPLICATION PACKAGE SUBMISSION COMPOSITION

3.5.1 Generally

All Applications **must** be:

- Clear and legible;
- Sequentially page-numbered and include the Applicant's name at the top of each page;
- Organized in the sequence outlined in **Article 9 - Submission Checklist**;
- The RFA Narrative is limited to 20 (twenty) 8 1/2" x 11" pages, double spaced.
- In Arial or Times New Roman font, size 12 or larger for normal text, no less than size 10 for tables, graphs, and appendices;
- Completed using blank forms provided in Attachments;
 - electronic reproduction of the forms is acceptable; however, all forms must be identical to the original form(s) provided and must include all questions asked;
 - do not change fonts used on forms provided;

- Completed with each answer to each question being clearly labeled (e.g., in Attachment I, G "Work Plan", the question should be followed by answers beginning with labels 1, 2, 3a, 3b, 3c, 3d and 4);
- Correctly identified with the RFA number and submittal deadline;
- In compliance with noted word or page limits;
- Responsive to all RFA requirements; and
- Signed by an authorized official in each place a signature is needed (copies must be signed but need not bear original signatures).
- Supporting documents, including forms, letters of commitment, or written agreements developed and submitted as part of this RFA will not be counted as part of this 20 page narrative limit.

Failure to comply with one or more of the above criteria may result in disqualification of the application.

3.5.2 Submission in Separate Parts

- A. Administrative Information, including all forms;
- B. Narrative Proposal;
- C. Executive Summary;
- D. Expenditure and Match Proposal;
- E. LMHA/LBHA Letter of Support; and
- F. Applicable Exhibits and Required Forms.

Paper documents (i.e. the original and all hard copies) must be separated by parts. Electronic submissions must be separated in electronic medium used for submission (i.e. folders or documents on a flash drive).

The entire Application Package – all paper documents and electronic copies – must then be submitted in one package to HHSC at the address listed in **Section 3.6.3**. The number of copies and directions for submitting an "Original" and "Copies" are outlined in **Article 9**.

3.6 APPLICATION PACKAGE SUBMISSION AND DELIVERY

3.6.1 Deadline

Application Packages must be received at the address in **Section 3.6.3** and time-stamped by HHSC no later than the date and time specified in **Section 3.1**.

Applicants are solely responsible for ensuring that the Application Package is received prior to the deadline outlined in this RFA. Application Packages received after the deadline may not be evaluated or considered for award.

3.6.2 Labeling

Application Packages shall be placed in a sealed box and clearly labeled as follows:

SOLICITATION NO.: RFA #HHS0000460

SOLICITATION NAME: Mental Health Grant Program

APPLICATION PACKAGE DEADLINE: Wednesday, January 31, 2018, 2 p.m.

HHSC will not be held responsible for any Application Package that is mishandled prior to receipt by HHSC. It is Applicant's responsibility to mark appropriately and deliver the Application Package to HHSC by the specified date and time.

3.6.3 Delivery

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Applicant must deliver Application Package by one of the methods below to the address noted. Application Packages submitted by any other method (e.g. facsimile, telephone, email) will NOT be evaluated or considered for award.

To be delivered by U.S. Postal Service, overnight or express mail, or hand delivery to:

HHSC Procurement and Contracting Services
Bid Room
Attn: James Gonzalez
1100 W. 49th Street, MC 2020
Service Building (Building S)
Austin, Texas 78756

Note: All Application Packages become the property of HHSC after submission and will not be returned to Applicant.

3.6.4 Alterations, Modifications, and Withdrawals

Prior to the Solicitation submission deadline, an Applicant may:

- A. Withdraw its Application Package by submitting a written request to the Point of Contact identified in **Section 3.4.1**; or
- B. Modify its Application Package by submitting a written amendment to the Point of Contact identified in **Section 3.4.1**.

The HHSC may request Application Package Modifications at any time.

ARTICLE 4. APPLICATION PACKAGE EVALUATION AND AWARD PROCESS

4.1 GENERALLY

A three-step selection process will be used:

- A. Eligibility and risk screening;
- B. Evaluation based upon specific selection criteria; and
- C. Final Selection based upon State priorities.

4.2 ELIGIBILITY AND RISK SCREENING

4.2.1 Eligibility Screening

Applications will be reviewed for eligibility. All complete applications meeting the minimum qualifications will move to the Evaluation stage. Minimum qualifications for eligibility are:

- A. Application is received by published deadline.
- B. Submitted application is complete and includes required attachments.
- C. Applicant has a Letter of Support from the LMHA/LBHA .
- D. Application is signed by Authorized Representative.
- E. Applicant is an eligible applicant per the criteria listed in **Section 2.3 Eligible Applicants.**
- F. Applicant does not have an exclusion record in the System for Award Management.

Failure to meet one or more of the above criteria may result in the Application not being evaluated or considered for award.

4.2.2 Risk Evaluation

Applicants will also be evaluated for potential risks. An evaluation designed to be a proactive measure to prevent fraud, waste, and abuse, and to alert the HHSC Executive Commissioner of potential risks before an award is approved and a contract is executed. Risks assessed include:

- A. Financial stability of the Applicant;
- B. Fiscal Controls and Management Systems for the Proposed Project;
- C. Applicant's previous experience and performance with grants and contracts;
- D. Prior single audit reports; and
- E. Contract and litigation history.

4.3 EVALUATION

Eligible Applications will be evaluated and scored in accordance with the factors required by the Community Mental Health Grant Program and other factors deemed relevant by HHSC. HHSC intends to award multiple grants to eligible applicants based on appropriated funding and the degree to which proposals meet the criteria outlined in this RFA and as described in H.B. 13.

1. The commission shall develop criteria for the evaluation of those applications or proposals and the selection of grant recipients. The selection criteria will:
2. Evaluate and score:
 - a. Fiscal controls for the project;
 - b. Project effectiveness;
 - c. Project cost; and
 - d. Applicant's previous experience with grants and contracts.
3. Address whether the services proposed in the application or proposal would duplicate services already available in the applicant's service area.
4. Address the possibility of and method for making multiple awards.
5. Include other factors that the HHSC Executive Commissioner considers relevant.

Decisions for award are at the sole discretion of HHSC. As part of the evaluation and selection process, HHSC may seek the input of external stakeholders including the Statewide Behavioral Health Coordinating Council and the Behavioral Health Advisory Committee.

4.3.1 Specific Selection Criteria

Community Mental Health Grant Program applications submitted in response to this RFA will be evaluated based upon the following:

1. Cost effectiveness of the program - 10%;
2. Program effectiveness as demonstrated by the strength of the program design, including how the model will implement and coordinate mental health care services for individuals with mental illness with other transition support services - 20%;
3. The plans for monitoring and oversight of the services proposed -10%;
4. The plan for tracking and reporting data, and providing supervision and oversight - 15%;
5. Description of your organization's plan to obtain or secure matching funds from non-state and non-federal sources in cash or in-kind match - 15%;
6. An applicant's previous experience with grant and contracts - 10%;
7. Description in detail of the need for the proposed program - 10%;

8. The degree to which the proposal identifies and addresses gaps from the Statewide Behavioral Health Strategic Plan - 10%.

4.4 FINAL SELECTION

4.4.1 Selection Committee

HHSC intends to make multiple awards. After initial eligibility screening, risk evaluation, and scoring of specific criteria listed above in **Section 4.3**, a selection committee will review applications to determine which proposals should be awarded in order to most effectively accomplish state priorities.

H.B. 13 permits other factors that the HHSC Executive Commissioner considers relevant to be included in selection criteria. The selection committee will consider the following in making a recommendation of grant awards to the HHSC Executive Commissioner:

- A. Evaluation Scores of Applications;
- B. Risk Evaluation; and
- C. Geographic distribution of funding and program services across the state represented by recommended Applications.

4.4.2 Final Award Approval

The HHSC Executive Commissioner, or designee will make the final award approval based on eligibility, geographic distribution across the state, state priorities, reasonableness, availability of funding, and cost-effectiveness.

HHSC may announce tentative or apparent grant recipients once the HHSC Executive Commissioner, or designee has given approval to initiate negotiation and execute contracts.

4.5 NEGOTIATION AND AWARD

The specific dollar amount awarded to each successful Applicant will depend on the:

- Merit and scope of the Application,
- Recommendation of the selection committee, and
- Decision of the HHSC Executive Commissioner, or designee.

Not all Applicants who are deemed eligible to receive funds are assured of receiving an award.

The negotiation phase will involve direct contact between the successful Applicant and HHSC representatives via phone and/or email. During negotiations, successful Applicants may expect:

- In-depth discussions of the submitted Narrative Proposal and Expenditure and Match Proposal; and

- Requests from HHSC for clarification or additional detail regarding submitted Application.

The final funding amount and the provisions of the contract will be determined at the sole discretion of HHSC staff.

Any exceptions to the requirements, terms, conditions, or certifications in the RFA or attachments, addendums, or revisions to the RFA or General Provisions sought by the Applicant must be specifically detailed in writing by the Applicant on Exhibit D: Exception Form in this proposal and submitted to HHSC for consideration. HHSC will accept or reject each proposed exception. HHSC will not consider exceptions submitted separately from the Applicant's proposal or at a later date.

HHSC will post to the HHS Grants Opportunities page website and may publicly announce a list of Applicants who's Applications are selected for final award. This posting does not constitute HHSC's agreement with all the terms of any Applicant's proposal and does not bind HHSC to enter into a contract with any Applicant whose award is posted.

4.6 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE HHSC

HHSC reserves the right to ask questions or request clarification from any Applicant at any time during the application process.

ARTICLE 5. NARRATIVE PROPOSAL

5.1 NARRATIVE PROPOSAL

5.1.1 Executive Summary

Using **Attachment II** to this RFA, Applicants will provide the name of the Proposed Project and provide a high-level overview of the Applicant's approach to meeting RFA requirements. The summary must demonstrate an understanding of grant goals and objectives.

5.1.2 Project Work Plan

Using **Attachment I, G** to this RFA, Applicants will describe proposed services, processes, and methodologies for meeting all components described in **Article 2**, including the Applicant's approach to meeting the timeline and associated milestones.

The Applicant must:

- Identify all services and project activities to be performed during the grant funding period, and
- Include all documents requested as part of completing Forms to demonstrate fulfilling **Article 2** requirements.

ARTICLE 6. REQUIRED APPLICANT INFORMATION

6.1 ADMINISTRATIVE ENTITY INFORMATION

Applicant must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in this Solicitation. As a part of the Application Package requested in **Article 3**, Applicant must provide the following information using **Attachment III, Forms A, B, and C** to this RFA.

6.2 LITIGATION AND CONTRACT HISTORY

Applicant must include in its Application Package a complete disclosure of any alleged or significant contractual failures as requested in **Attachment III, Form B**.

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

Application Package may be rejected based upon Applicant'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.

6.3 CONFLICTS

Applicant must certify, as part of **Attachment III, Form B**, that it does not have any personal or business interests that present a conflict of interest with respect to the RFA and any resulting contract. Additionally, if applicable, the Applicant must disclose all potential conflicts of interest. The Applicant 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 HHSC will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the contract term. Failure to identify actual and potential conflicts of interest may result in disqualification of an Application Package 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 Applicant awarded a contract greater than \$1 million dollars, or that requires an action or vote of the governing body, must submit a disclosure of interested parties to the state agency at the time the business entity submits the signed contract. Rules and filing instructions may be found on the Texas Ethics Commissions public website and additional instructions will be given by HHSC to successful Applicants.

6.4 GRANT APPLICATION DISCLOSURE

In an effort to maximize state resources and reduce duplication of effort, HHSC, at its discretion, may require the Applicant to disclose information regarding application for or award of state, federal, and/or local grant funding by the Applicant, within the past two years to provide mental health services and supports to Texas individuals and family members.

6.5 AFFIRMATIONS AND CERTIFICATIONS

Applicant must review all of the following listed exhibits to this RFA. Applicants are to complete and return exhibits as instructed in **Article 9**.

- A. Exhibit A, Affirmations and Solicitation Acceptance;
- B. Exhibit B, Grantee Uniform Terms and Conditions;
- C. Exhibit C, Data Use Agreement; and
- D. Exhibit D, Exceptions Form.

6.6 HUB

If a Successful Applicant chooses to contract for goods and services using funding awarded through this grant program, HHSC encourages the Applicant to use HUBs to provide those goods and services where possible. An Applicant may be required at a later date to submit a HUB Subcontracting Plan if subcontracting opportunities are identified.

ARTICLE 7. EXPENDITURE AND MATCH PROPOSAL

7.1 EXPENDITURE AND MATCH PROPOSAL

Attachment IV Form P of this RFA includes the template for submitting the Expenditure and Match Proposal. Applicants must complete these forms in their entirety and place it in a separate, sealed package, clearly marked with the:

- Applicant's name,
- RFA number, and
- RFA submission date.

Applicant must base the Expenditure and Match Proposal on the Scope of Work described in **Article 2** and as proposed in Attachment I. This section should include any business, economic, legal, programmatic, or practical assumptions that underlie the Expenditure and Match Proposal. HHSC reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into the contract resulting from this RFA are deemed rejected by HHSC.

Applicants must demonstrate that project costs outlined in the Expenditure and Match Proposal are reasonable, allowable, allocable, and developed in accordance with applicable state and federal grant requirements.

Applicant must:

- Use the HHSC template provided in native file (Excel) format,
- Identify grant activity costs to be requested from HHSC and grant activity costs to be matched, and
- Break out costs to a degree sufficient to determine if costs are reasonable, allowable, and necessary for successful project performance.

Costs will be reviewed for compliance with UGMS and federal grant guidance found in 2 CFR Part 200, as modified by UGMS, with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

Costs included in the Expenditure and Match Proposal are entered into budget tables and must be supported by narrative descriptions in the Proposal describing:

- How each cost supports grant activities and meeting grant project goals and objectives, and
- A calculation demonstrating how the cost was derived.

Matching funds must be identified in the Expenditure and Match Proposal, including both committed and anticipated matching funds. Matching funds included in the Expenditure and Match Proposal must support grant activities for the funding period. Matching funds to be used outside of this period may not be counted.

Matching funds may be:

- Cash provided through unrestricted funding provided by the Lead Applicant or Partner Organizations, local philanthropic, private, city, or county funds;
- In-kind contributions of goods or services committed specifically for the Proposed Project by the Lead Applicant and/or Partner Organizations;
- Donated resources; or
- Volunteer time to accomplish activities specifically for the Proposed Project.

State or federal funds may not be used as match. This includes contracts, grants, goods, services and any other funding allocated by, awarded to, or passed-through from state or federal governmental entities.

For the purposes of this grant, matching funds may be characterized by the following terms:

- **“Committed”** - funds or resources have been received or documentation is provided by the donor committing resources for the purpose of meeting this grant’s match requirement.
- **“Anticipated”** - funds or resources have been identified but are not yet received or there is no documentation to support the identified match.
- **“To be Raised”** - matching funds or resources have not yet been identified and/or a commitment for funds or resources has not yet been secured.

Applicants are not required to have 100 percent of matching funds committed at the time of application submission. However, state awards must ultimately be matched in accordance with the specifications outlined in Section 2.5.1 by the grant recipient. No state funding will be released prior to an equivalent amount of committed match demonstrated by the grantee to HHSC. Grantees must report matching funds monthly as they are utilized. All match must be utilized within the grant period.

Special consideration may be given to Applicants who demonstrate matching funds are committed at the time of application, per instructions listed below. Applicants able to demonstrate higher levels of the required match as part of their application may receive preference over an Applicant who demonstrates lesser amounts of the required match is committed.

To document matching funds as committed, Applicants must provide the documentation listed and determination of the value of donated materials, professional services, and volunteer time is to be calculated in accordance with Section .24, Subpart C, of UGMS.

A. For cash contributions:

1. A letter from the donor on the donor’s letterhead to the Applicant demonstrating donor intent to meet the Applicant’s match;
2. A written resolution or consent from the Applicant’s governing board or senior official that a donation obtained by the Applicant will meet the Applicant’s match; **or**
3. A donor’s notation on a check reflecting the purpose of the donation; **and**
4. Copies of cancelled donor checks or bank statement showing the transfer of funds by wire or receipt of credit card payments.

- B. For donated or discounted materials or services: a commitment of resources and their retail value described on the donor's letterhead.
- C. For in-kind resources including donated professional services: a letter from the donor organization on the donor's letterhead committing specific resources and stating the retail value of the specific resources.
- D. For volunteer labor: a signed letter of commitment from the Applicant's governing board or senior official outlining:
 - the number of volunteers,
 - the number of volunteer hours,
 - volunteer activity description, and
 - the rate at which volunteer labor will be valued.

Volunteer labor to be provided to an Applicant by individuals will be valued at rates consistent with those ordinarily paid for similar work in the Applicant's organization. If the Applicant does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market.

- E. Each month, the Successful Applicant must report all cash and in-kind match used.

In attached Attachment IV **Form P**, Applicants must complete the table, noting the organization providing the match and if the match is **committed, anticipated, or to be raised**, per UGMS requirements noted.

ARTICLE 8. GENERAL TERMS AND CONDITIONS

8.1 GENERAL CONDITIONS

8.1.1 Costs Incurred

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

8.1.2 Contract Responsibility

The HHSC will look solely to the Applicant for the performance of all contractual obligations that may result from an award based on this Solicitation. The Applicant shall not be relieved of its obligations for any nonperformance by any Partner Organizations.

8.1.3 Public Information Act

Application Packages are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request. Subject to the PIA, certain information may be protected from public release. Applicants who wish to protect portions of the Application Package from public disclosure should familiarize themselves with this law. Information pertaining to the Solicitation will be withheld or released only in accordance with the PIA.

8.1.4 News Releases

Prior to final award and announcement by HHSC of selected grant recipients, an Applicant **may not** issue a press release or provide any information for public consumption regarding its participation in the procurement. Requests and questions should be directed to the HHSC Point of Contact Identified in **Article 3**.

8.1.5 Additional Information

By submitting an application, the Applicant grants HHSC the right to obtain information from any lawful source regarding the Applicant and its directors', officers', and employees': (1) past business history, practices, and conduct; (2) ability to supply the goods and services; and (3) ability to comply with contract requirements. By submitting an application, an Applicant generally releases from liability and waives all claims against any party providing HHSC information about the Applicant. HHSC may take such information into consideration in evaluating proposals.

ARTICLE 9. SUBMISSION CHECKLIST

This checklist identifies documents that must be submitted with this Solicitation in order to be considered responsive. Any Application Package received without these required documents may be deemed nonresponsive and may not be considered for contract award.

Original Application Package

The Solicitation Package must include the "Original" Application Package in **hard-copy** consisting of the Submission Checklist and the four application parts described in detail below, each under separate cover but packaged together and clearly labeled "Original" on each.

1. Submission Checklist

2. Administrative Information (Forms A-D)

- a. Form A: Face Page.....
- b. Form B: Entity Information and Contract History.....
 - i. Form B-1: Governmental Entity (if applicable).....
 - ii. Form B-2: Nonprofit Entity (if applicable).....
 - iii. Applicable Attachments: Evidence of nonprofit status.....
- c. Form C: Financial Capacity and Fiscal Controls.....
 - i. Form C-1 Financial Management and Administration Questionnaire.....
 - ii. Applicable Attachments: 1) Financial statements for most recently completed fiscal year **and** 2) Audited financial report from within the past two fiscal years.....
- d. Form D: Organization Experience and Experience of Key Personnel Administering Similar Projects.....

2. Narrative Proposal & Summary (Attachments I & II)

- a. Attachment I: Community Mental Health Grant Program Proposal.....
- b. Attachment II: Executive Summary.....
- c. Attachment III: Administrative Forms.....

3. Budget Expenditure and Match Proposal (Attachment IV Form P)

- d. Attachment IV Form P: Budget/Match.....

- i. Applicable Attachments: Documentation for committed matching funds, resources, and/or goods.....
- ii. Applicable Attachments: If applicable, federally negotiated indirect cost agreement identifying approved indirect cost rate.....

4. Applicable Exhibits

- a. Exhibit A. Affirmations and Solicitation Form.....
- b. Exhibit D. Exceptions Form.....

Copies of Application Package

Applicant will provide the following number of **electronic** copies (all clearly labeled as "copy") in addition to the hard-copy "Original" Application Package. Electronic copies must be submitted on a USB Drive and separated by folders.

- **1** Electronic copy of **Administrative Information** and applicable attachments
- **1** Electronic copy of **Narrative Proposal** (*in native Microsoft Word format*) and applicable attachments
- **1** Electronic copy of **Expenditure and Match Proposal** (*in native Excel format*) and applicable attachments
- **1** Electronic copy of **Letter(s) of Support**.....
- **1** Electronic copy of **Applicable Exhibits**.....

9.1 LIST OF ATTACHMENTS TO THIS RFA

Attachment	Title	Return with Application
Attachment I	Community Mental Health Grant Program Proposal	Yes
Attachment II	Community Mental Health Grant Program Executive Summary	Yes
Attachment III	Administrative Information Forms A-D	Yes
Attachment IV	Community Mental Health Grant Program Form P Budget	Yes
Attachment V	Community Mental Health Grant Program Statement of Work	No

Attachment I
Community Mental Health Grant Program Proposal

Please complete sections A-I in accordance with Article 3, 3.5 Application Package Submission Composition of this RFA

A. Name of Grant Program-- Provide the name of the community mental health grant program:

--

B. Grant Program Status-- Check if the community mental health grant program is a new program, a continuation of an existing program, or an expansion of an existing program:

<input type="checkbox"/> New	<input type="checkbox"/> Continuation	<input type="checkbox"/> Expansion
------------------------------	---------------------------------------	------------------------------------

C. Identified Gaps in Service

Check all the gaps in service that will be addressed by the proposed community mental health grant program **and** describe in detail how proposed program meets identified gaps.

<input type="checkbox"/> Gap 1: Access to Appropriate Behavioral Health Services
<input type="checkbox"/> Gap 2: Behavioral Health Needs of Public School Students
<input type="checkbox"/> Gap 3: Coordination across State Agencies
<input type="checkbox"/> Gap 4: Veteran and Military Service Member Supports
<input type="checkbox"/> Gap 5: Continuity of Care for Individuals Exiting County and Local Jails
<input type="checkbox"/> Gap 6: Access to Timely Treatment Services
<input type="checkbox"/> Gap 7: Implementation of Evidence-based Practices
<input type="checkbox"/> Gap 8: Use of Peer Services
<input type="checkbox"/> Gap 9: Behavioral Health Services for Individuals with Intellectual Disabilities
<input type="checkbox"/> Gap 10: Consumer Transportation and Access to Treatment
<input type="checkbox"/> Gap 11: Prevention and Early Intervention Services
<input type="checkbox"/> Gap 12: Access to Housing
<input type="checkbox"/> Gap 13: Behavioral Health Workforce Shortage
<input type="checkbox"/> Gap 14: Services for Special Populations
<input type="checkbox"/> Gap 15: Shared and Usable Data

D. Demographics

1. Describe the county or counties that will be the focus of program implementation in your local service area, including:
 - a. Name of county;
 - b. County population;
 - c. Designation as rural or urban; Prevalence of individuals with a mental illness;
 - d. Prevalence of individuals with a mental illness and Co-occurring psychiatric substance use disorder (COPSD);
 - e. Number of mental health providers (regardless of funding source); and
 - f. Other demographic information that is pertinent to the proposed grant program.

E. Local Need

1. What similar services are already provided in the community, if any?
2. Describe unmet service needs within the community that grant funds will address. Include the following:
 - a. Describe where the unmet service needs and identified gaps exist within your organizational structure and community.
 - b. What specific population(s) would be served by grant program?

F. Program Design

1. Provide a detailed description of the proposed grant program, including a description of the services to be offered.
2. Describe how grant program will coordinate mental health care services for individuals with mental illness with other transition support services.
3. Will the program require hiring staff? Yes or No
If yes, please include details using Attachment IV Form P: Personnel Budget Category Detail Form (Attachment IV). In addition, include brief position(s) descriptions.
4. Describe the screening and assessment process, including the instruments that will be utilized to determine eligibility for services.
5. Identify evidence-based practices to be used in grant program.
6. If applicable, describe strategies to serve individuals in remote or underserved areas within service delivery structure.

G. Work Plan

Provide a detailed work plan for program implementation. Work plan must include the following elements:

1. Description of all program activities to be performed during the grant funding period;
2. Description of how grant program will address the unmet services needs and identified gaps in your organizational structure and community;

3. Description of how your organization will use grant funding to achieve the following:
 - a. Enhance external stakeholder partnerships;
 - b. Foster community collaboration;
 - c. Encourage greater continuity of care for individuals receiving services through a diverse provider network; and
 - d. Reduce duplication of mental health services provided in your local service area, if applicable;
4. Description of how the grant program will address the unmet services needs and identified gaps in your organizational structure and community;
5. Description of your organization’s plan to obtain or secure matching funds from non-state and non-federal sources in cash or in-kind match;
6. Number of staff to be hired, if applicable and required staff trainings;
7. Date when client services will begin and proposed number of individuals to be served each fiscal year;
8. Description of how evidence-based practices will be used in your grant program, and how fidelity to evidence-based practice(s) will be addressed; and
9. Description of how your organization will monitor and provide oversight of the grant program, including the following elements:
 - a. Identify and describe outcome measures that will be used to assess program effectiveness;
 - b. Ensure quality services are being provided;
 - c. How data will be used to assess service delivery and monitor outcome measures; and
 - d. Describe the fiscal controls that will be put in place to effectively monitor program.

H. Milestones

Identify program implementation milestones congruent with work plan. Include information related to the identified task, responsible staff, and the target date for each milestone. If subcontracts are required for the provision of services, include the dates that subcontracts will be executed, the names of subcontractors, and a plan for monitoring subcontracts.

Task	Responsible Staff	Target Date

I. Program Budget

Provide separate fiscal year 2018 and 2019 budgets using Attachment IV Form P.

Attachment II

Community Mental Health Grant Program Executive Summary

Please complete sections A & B in accordance Article 3, 3.5 Application Package Submission Composition of this RFA.

- A. Provide the name of the Proposed Project listed in **Attachment I, A**.
- B. Provide a high-level overview of the Proposed Project. This summary must include:
 - 1. Identified Health Region(s) and State House District(s) Proposed Project sited;
 - 2. The Proposed Project's goals and how they will be achieved;
 - 3. A brief description of the services to be provided through the Proposed Project;
 - 4. What identified Gaps are addressed in the Proposed Project unique to the local community;
 - 5. How the Project approach meets RFA requirements and demonstrates understanding of Community Mental Health Grant Program goals and objectives; and
 - 6. Describe specific effort(s), to ensure the project is sustainable beyond the HHSC grant period.

Response must be limited to 750 words.

Name of the Proposed Project listed in **Attachment I, A**: [Click here to enter text.](#)

Response: [Click here to enter text.](#)

ATTACHMENT III
ADMINISTRATIVE INFORMATION FORMS

FORM A: FACE PAGE

*This form requests basic information about the Applicant and project, including the signature of the authorized representative. The face page is the cover page of the proposal and **must be completed in its entirety.***

Applicant Organization Information

Legal Name	Click here to enter text.
Legal Doing Business As (DBA) Name:	
Mailing Address Include street address, city, county and ZIP	Click here to enter text.
Physical Address <i>If different from Mailing Address</i> Include street address, city, county and ZIP	Click here to enter text.
Payee Name and Address <i>If different from Mailing & Physical Address</i> Include street address, city, county and ZIP	Click here to enter text.
Website For public use to access information about services	Click here to enter text.
Phone Number Include number clients contact to access services	Click here to enter text.
Federal Tax ID Number	Click here to enter text.
DUNS Number	Click here to enter text.
Type of Entity	<input type="checkbox"/> Local Governmental Entity <input type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> LMHA/LBHA <input type="checkbox"/> State Public University <input type="checkbox"/> Other Click here to enter text. <input type="checkbox"/> Nonprofit Organization

Project Information

Name of Project Contact This person will oversee the grant project	Click here to enter text.
Title of Project Contact	Click here to enter text.
Phone	Click here to enter text.
Email	Click here to enter text.

Name of Fiscal Contact This person will oversee grant expenditures and finances	Click here to enter text.
Title of Fiscal Contact	Click here to enter text.
Phone	Click here to enter text.
Email	Click here to enter text.
Name of Proposed Project See also Attachment I : Executive Summary	Click here to enter text.
Total Project Cost Attachment IV Form P: Budget Summary	\$ Click here to enter text.
State Funds Requested	\$ Click here to enter text.
Matching Funds (must meet community population requirements)	\$ Click here to enter text.
Proposed Project Service Area by Region List Region served from Health Service Regions	Click here to enter text.
State Senate and House Districts of Proposed Project Service Area	Click here to enter text.
Number of individuals to be served through Proposed Project From Attachment I, G. Work Plan	Click here to enter text.

Signature of Authorized Representative

The facts affirmed by me in this Application Package are truthful and I warrant the Applicant is in compliance with the assurances and certifications contained in **Appendix A - Affirmations and Solicitation Acceptance**. 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 Applicant and I, the person signing below, am authorized to represent the Lead Applicant.

Signature

Date

Name of Authorized Representative: Click here to enter text.
 Title: Click here to enter text.
 Phone: Click here to enter text.
 Email: Click here to enter text.

ATTACHMENT IV - Community Mental Health Grant Program Form P Budget

FORM B: ENTITY INFORMATION AND CONTRACT AND LITIGATION HISTORY

*This form provides information regarding identification and contract history of the Applicant, executive management, project management, governing board members, and/or principal officers. Applicant 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 and/or evaluating proposals.

Identifying Information

1. The Applicant must attach the following information:

If a Governmental Entity complete Form B-1.

Names (last, first, middle) and addresses for the officials who are authorized to enter into a contract on behalf of the Applicant.

If a Nonprofit Entity complete Form B-2.

Full names (last, first, middle), addresses, telephone numbers, titles and occupation of members of the Board of Directors or any other principal officers. Indicate the office held by each member (e.g. chairperson, president, vice-president, treasurer, etc.).

2. Is Applicant a nonprofit organization?

YES NO

*If YES, Applicant **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 Applicant 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 Applicant organization is a local nonprofit affiliate.

FORM B: ENTITY INFORMATION AND CONTRACT AND LITIGATION HISTORY
continued

Conflict of Interest and Contract and Litigation History

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

Examples of potential conflicts include an existing or potential business or personal relationship between the Applicant, 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 RFA.

Similarly, any existing or potential personal or business relationship between the Applicant, 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 Applicant may be disqualified from further consideration for the award of a contract.

Pursuant to Texas Government Code Section 2155.004, an Applicant is ineligible to receive an award under this RFA if the bid includes financial participation with the Applicant by a person who received compensation from HHSC to participate in preparing the specifications or the RFA on which the bid is based.

3. Does anyone in the Applicant organization have an existing or potential conflict of interest relative to the performance of the requirements of this RFA?

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.)

4. 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 RFA participate financially with Applicant as a result of an award under this RFA?

YES NO

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

5. Will any provision of services or other performance under any contract that may result from this RFA 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.)

6. Are any current or former employees of the Applicant 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.

7. 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.

8. Has any member of Applicant'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.

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

YES NO

10. Is Applicant or any member of Applicant'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.)

11. Has the Applicant 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 non-profit 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.

12. 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.)

13. Has Applicant 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.

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

Click here to enter text.

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

Click here to enter text.

ALL ADDITIONAL PAGES REQUIRED BY RESPONSES TO FORM B SHOULD BE INSERTED HERE.

FORM B-1: GOVERNMENTAL ENTITY

Authorized Officials

Include the full names (last, first, middle) and addresses for the officials who are authorized to enter into a contract on behalf of the Applicant.

Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> Ext. <u>Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
<hr/>	
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> Ext. <u>Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
<hr/>	
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> Ext. <u>Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
<hr/>	
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> Ext. <u>Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
<hr/>	
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> Ext. <u>Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>

FORM B-2: NONPROFIT ENTITY

Board of Directors and Principal Officers

Include the full names (last, first, middle), addresses, telephone numbers, and titles of members of the Board of Directors or any other principal officers. Indicate the office/title held by each member (e.g. chairperson, president, vice-president, treasurer, etc.).

Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> <u>Ext. Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> <u>Ext. Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> <u>Ext. Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> <u>Ext. Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Name: <u>Click here to enter text.</u>	Mailing Address (incl. street, city, county)
Title: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Phone: <u>Click here</u> <u>Ext. Click here</u>	<u>Click here to enter text.</u>
Fax: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>
Email: <u>Click here to enter text.</u>	<u>Click here to enter text.</u>

FORM C: FINANCIAL CAPACITY AND FISCAL CONTROLS

Applicant must:

- A. Submit financial statements for the most recently completed fiscal year or a period of 12 months **and** most recently audited financial report (within the past two years) including all supplements, management discussions and analysis, and actuarial opinions, and other documents as applicable.

 - B. Complete **Form C-1: Financial Management and Administration Questionnaire**.
-

FORM C-1: ORGANIZATIONAL FINANCIAL INFORMATION AND INTERNAL CONTROLS QUESTIONNAIRE

FORM D: APPLICANT ORGANIZATION EXPERIENCE AND EXPERIENCE OF KEY PERSONNEL IN ADMINISTERING SIMILAR PROJECTS

Applicant must:

A. Describe the background of the Applicant Organization and any Partner Organizations as they relate to the following:

1. Successful implementation of projects similar in scope and complexity to the Proposed Project.
2. Successful implementation of projects serving individuals with mental illness and family members.

B. Describe the previous experience of the Applicant Organization and any Partner Organizations with grants and contracts related to:

1. State and/or federal grants;
2. Cost reimbursement funded grants; and
3. Matching grants.

C. Describe the experience of the Applicant and any Partner Organizations in collecting and reporting performance and outcome data.

D. Provide descriptions of grant projects administered by the Applicant within the past five (5) years **in the table below** that demonstrate the ability to perform the Scope of Work as described in this RFA.

E. Identify proposed key personnel in the table below and submit **brief bio** and **current job descriptions** to demonstrate experience germane to Proposed Project roles.

Response must be limited to 1,000 words, not including tables.

Role	Name	Current Job Title	Bio/Job Description provided? (Y/N)
Person responsible for directing project	Click here to enter text.	Click here to enter text.	Click here to enter text.
Person responsible for day-to-day project activities	Click here to enter text.	Click here to enter text.	Click here to enter text.
Person responsible for billing/accounting and match	Click here to enter text.	Click here to enter text.	Click here to enter text.
Person responsible for data collection/reporting	Click here to enter text.	Click here to enter text.	Click here to enter text.

Name of Grant Program	Grantor/Funding Organization	Amount	Grant Award Period	Matching requirement
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Response: Click here to enter text.

ORGANIZATION FINANCIAL INFORMATION (for nonprofit organizations only)

1. According to your organization's most recent audit or balance sheet, are the total current assets greater than the liabilities?
 YES NO

2. Is the total amount requested for this Community Mental Health Grant Program funding opportunity greater than 25% of your organization's current total annual budget?
 YES NO

ACCOUNTING

3. Briefly describe your organization's accounting system and accounting processes, including:
 - A. Is the accounting system computerized, manual, or a combination of both? If your accounting system is computerized, indicate the name of the financial software.
[Click here to enter text.](#)

 - B. How are different types of transactions (e.g., cash disbursements, cash receipts, revenues, journal entries) recorded and posted to the general ledger?
[Click here to enter text.](#)

 - C. Your expenditure reports will be due by the 20th of each month. (If the 20th falls on a Saturday, Sunday, or State of Texas holiday, expenditure reports are due the next business day.) To ensure that you submit expenditure reports timely, please respond to the following:
 - 1) By what date must any Partner Organizations submit reimbursement requests to your agency (e.g., Partner Organizations must submit their reimbursement request, General Ledger report, and supporting documentation to us no later than the 10th of each month)?
[Click here to enter text.](#)

 - 2) By what date do you close the General Ledger (e.g., GL is closed no later than the 10th of each month)?
[Click here to enter text.](#)

 - D. How are transactions organized, maintained, and summarized in financial reports?
[Click here to enter text.](#)

Answer each of the following questions with either a "YES", "NO", or "NOT APPLICABLE" by checking the respective box.

4. The Community Mental Health Grant Program adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) and UGMS as the fiscal and administrative guidelines for this grant program. Is the staff who will

be responsible for the financial management of your award familiar with these documents?

YES NO

5. Does your organization have written accounting policies? Do your policies include policies on the procurement of goods/services?

YES NO

6. Does your accounting system identify and segregate:

- Allowable and unallowable costs;
- Direct and indirect expenses;
- Grant costs and non-grant costs; and
- The allocation of indirect costs.

YES NO

7. If your organization has more than one State of Texas contract, does your accounting system have the capability of identifying the receipt and expenditures of program funds and program income separately for each State of Texas contract?

YES NO NOT APPLICABLE

8. Are individual cost elements in your organization's chart of accounts reconciled to the cost categories in the approved budget?

YES NO

9. Are your accounting records supported by source documentation (invoices, receipts, approvals, receiving reports, canceled checks, etc.) and on file for easy retrieval?

YES NO

GENERAL ADMINISTRATION AND INTERNAL CONTROLS

10. Does your organization have written personnel policies?

YES NO

11. Does your organization have written job descriptions with set salary levels for each employee?

YES NO

12. UGMS requires that any staff paid from State grant funds, such as Community Mental Health Program grant funds, to keep a record of time and attendance.

A. For staff funded 100% by the Community Mental Health Program grant, each staff person only needs to certify their time monthly. Both the employee and the employee's supervisor must sign the monthly certification of time worked.

B. For staff who split their time between the Community Mental Health Program grant and other funding sources, they will need to keep a time record that complies with the UGMS II(B)(11)(h)(5,7) which states that personnel activity reports or equivalent documentation must meet the following standards:

- 1) They must reflect an after-the-fact distribution of the actual activity of each employee.
- 2) They must account for the total activity, for which each employee is compensated.
- 3) They must be prepared at least monthly and must coincide with one or more pay periods; and
- 4) They must be signed by the employee and the supervisory official having first-hand knowledge of the work performed by the employee.

13. Does your organization maintain personnel activity reports that meet the above criteria?

YES NO

14. If your Community Mental Health Program grant application says that your organization will use volunteer time as match, UGMS requires these volunteers to keep a record of time and attendance that complies with UGMS II (B)(11)(h)(5,7) which states that personnel activity reports or equivalent documentation must meet the following standards:

- a) They must reflect an after-the-fact distribution of the actual activity of each employee.
- b) They must account for the total activity, for which each employee is compensated.
- c) They must be prepared at least monthly and must coincide with one or more pay periods; and
- d) They must be signed by the employee and the supervisory official having first-hand knowledge of the work performed by the employee.

15. Does your organization maintain personnel activity reports or equivalent documentation that meet the above criteria?

YES NO

16. Are payroll checks prepared after receipt of approved time/attendance records and are payroll checks based on those time/attendance records?

YES NO

17. Is the employees' time/attendance record the basis of the calculation of GES recorded in the general ledger for each cost objective?

18. Are procedures in place to determine the allowability, allocability, and reasonableness of costs?

YES NO

The Organizational Financial Information and Internal Controls Questionnaire must be signed by an authorized person who has completed the form or reviewed the form and can attest to the accuracy of the information provided.

Approved by:

Signature: _____

Date: [Click here to enter a date.](#)

Printed Name: [Click here to enter text.](#)

Title: [Click here to enter text.](#)

ATTACHMENTS

Attachment V

I. INTRODUCTION

The Texas Health and Human Services Commission (HHSC) seeks to implement community mental health grant programs as directed by House Bill 13, 85th Legislature, Regular Session, 2017. The purpose of the grant program is to provide matching grants to support community mental health programs providing services and treatment to individuals experiencing mental illness.

II. GRANTEE RESPONSIBILITIES

- A. Implement a community mental health grant program to support mental health programs providing services, treatment, and coordination supports. The community mental health grant program must:
1. Align with the mission, vision, and goals of the Fiscal Years 2017-2021 Texas Statewide Behavioral Health Strategic Plan and address gaps, goals, and strategies identified in the strategic plan;
 2. Support community programs that provide mental health care services and treatment to individuals with mental illness;
 3. Coordinate mental health care services for individuals with mental illness with other transition support services;
 4. Enhance external stakeholder partnerships;
 5. Foster community collaboration;
 6. Encourage greater continuity of care for individuals receiving services through a diverse local provider network; and
 7. Reduce the duplication of mental health services provided in local service area.
- B. Implement a community mental health grant program that meets the following funding match requirements:
1. Obtain committed matching funds which may include cash or in-kind contributions from a person or organization, but may not include money from state or federal funds. Non-state or federal sourced funding may include gifts, grants, or donations from any person or organization. Matching requirements are as follows:
 - a. Counties with a population less than 250,000: The match requirement is equal to 50 percent of the grant amount, or 1/3 of the total cost of the program. For example, if an organization meets this population criteria and receives an award of \$100,000, the funding match will total \$50,000 (i.e., 50% of the grant amount, and 1/3 of the total program cost of \$150,000);
 - b. Counties with a population greater than or equal to 250,000: The match requirement is equal to 100 percent of the grant amount, or 1/2 of the total cost of

the program. For example, if an organization meets this population criteria and receives an award of \$100,000, the funding match will total \$100,000 (i.e., 100% of the grant amount, and 1/2 of the total program cost of \$200,000); and

- c. Equal to the percentage of the grant amount for the largest county in which a community mental health program is located if the community mental health program is located in more than one county.
2. Report all cash and in-kind match used to support the grant program.
 3. Provide evidence of committed match in accordance with Section .24, Subpart C, UGMS.
- C. Provide services in accordance with HHSC-approved work plan as outlined in the Community Mental Health Grant Program RFA.
 - D. Create a Local Reporting Unit to identify service encounters related to the community mental health grant program.
 - E. Hire qualified staff to provide services identified in community mental health grant program.
 - F. Ensure staff complete required trainings as identified in Grantee's work plan and by System Agency.

SECTION III. PERFORMANCE MEASURES

The terms of this Statement of Work, including the following measures, will be used to assess Grantee's effectiveness in providing the services described in this Statement of Work

Grantee will:

- A. Implement community mental health grant program in accordance with HHCS- approved work plan.
- B. Submit evidence of committed match in accordance with Section .24, Subpart C, of UGMS.
- C. Report all cash and in-kind match used to support the grant program;
- D. Submit a budget in accordance with the schedule outlined by HHSC and on a budget form approved by HHSC. System Agency will review, and provide notification of approval for the budget.
- E. Complete a Uniform Assessment for all individuals at time of intake, as Level of Care- Authorized indicates, and when there is a significant change in functioning.
- F. Submit data identified in Grantee's HHSC-approved work plan on a schedule to be determined during contract negotiations.
- G. Reports to the Statewide Behavioral Health Coordinating Council on the impact grant funding has had on program implementation and mental health outcomes on the population served by the grant funding (per the 2018-19 General Appropriations Act, Senate Bill 1, 85th Legislature, Regular Session, 201, (Article IV, Section 10.04).

SECTION IV: PAYMENT METHODOLOGY AND FUNDING

- A. Grantee will request payments using the State of Texas Purchase Voucher (Form B-13). Voucher and any supporting documentation will be submitted by electronic mail to HHSC Accounts Payable at HHSC_AP@hhsc.state.tx.us with a copy to mhcontracts@dshs.state.tx.us and the HHSC Contract Manager. Alternative submission arrangements must be approved by the assigned HHSC Contract Manager.

- B. Grantee shall provide specification on required matching funds, depending on the population of the county where the grant program is located, the matching requirement will range between 50 and 100 percent of the award amount. Describing non-state funds or other consideration (e.g., in-kind, donations).

EXHIBITS

List of Exhibits to this RFA

Exhibit	Title	Document	Return with Application
Exhibit A	Affirmations and Solicitation Acceptance	Included in Exhibits section of RFA	Yes
Exhibit B	Grantee Uniform Terms and Conditions, version 2.12	Included in Exhibits section of RFA	No
Exhibit C	HHSC Special Conditions	Included in Exhibits section of RFA	
Exhibit D	HHS Data Use Agreement, version 8.3	Included in Exhibits section of RFA	No
Exhibit E	Exceptions Form	Included in Exhibits section of RFA	Yes (if applicable)

Exhibit A. AFFIRMATIONS AND SOLICITATION ACCEPTANCE

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 acknowledges that its Solicitation Response and subsequent documents submitted are subject to the Texas Public Information Act.
4. 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.
5. Respondent's Solicitation Response will remain a firm and binding offer for 240 days from the date the Solicitation Response is due.
6. Respondent accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation. Respondent agrees that all exceptions to the Solicitation are rejected unless expressly accepted by HHSC.
7. 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.
8. Respondent generally releases from liability and waives all claims against any party providing information about the Respondent at the request of HHSC.
9. Respondent acknowledges all addenda and amendments to the Solicitation.
10. Respondent represents and warrants that if a Texas address is shown as the address of Respondent, Respondent qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §20.32(68).
11. Respondent represents and warrants that it qualifies for all preferences claimed under 34 Texas Administrative Code §20.38 or Chapter 2155, Subchapter H of the Texas Government Code as indicated below (check applicable boxes):

- a. Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - b. Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - c. Agricultural products grown in Texas
 - d. Agricultural products offered by a Texas bidder
 - e. Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - f. Services offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - g. Texas Vegetation Native to the Region
 - h. USA produced supplies, materials or equipment
 - i. Products of persons with mental or physical disabilities
 - j. Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - k. Energy Efficient Products
 - l. Rubberized asphalt paving material
 - m. Recycled motor oil and lubricants
 - n. Products produced at facilities located on formerly contaminated property
 - o. Products and services from economically depressed or blighted areas
 - p. Vendors that meet or exceed air quality standards
 - q. Recycled or Reused Computer Equipment of Other Manufacturers
 - r. Foods of Higher Nutritional Value
 - s. Commercial production company or advertising agency located in Texas
12. 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.
 13. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), the vendor 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.
 14. Under Section 2155.006, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the vendor 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.
 15. Under Section 2261.053, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the contractor certifies that the individual or business entity named in this 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.

16. Pursuant to Section 231.006(c), Texas Family Code (relating to delinquent child support), identify below the name and social security number (SSN) of each individual, sole proprietor, partner, shareholder, and owner with an ownership interest of at least 25 percent (25%) of the business entity submitting this Solicitation Response:

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: Disclosure of requested Social Security Numbers (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. Failure by a Respondent to provide the required SSNs may result in disqualification of the Respondent's Solicitation Response.

17. Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
18. Respondent certifies that: (a) the entity executing this Solicitation Response; (b) its principals; (c) its subcontractors; and (d) any personnel designated to perform services related to any contract resulting from this Solicitation are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal Department or Agency. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's Subcontracts if payment in whole or in part is from federal funds.
19. Respondent certifies that it, its principals, its subcontractors, and any personnel designated to perform services related to any contract resulting from this Solicitation are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity.
20. Respondent certifies it is in compliance with all State of Texas statutes and rules relating to procurement; and that (a) the entity executing this Solicitation Response; (b) its principals; (c) its subcontractors; and (d) any personnel designated to perform services related to any contract resulting from this Solicitation are not listed on the federal government's terrorism watch list described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/public/SAM/>, which Respondent may review in making this certification.
21. In accordance with Texas Government Code Section 669.003 (relating to contracting with the executive head of a state agency), Respondent certifies that it (1) is not the

- executive head any HHS Agency; (2) was not at any time during the past four years the executive head of any HHS Agency; and (3) does not employ a current or former executive head of any HHS Agency.
22. 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.
 23. 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).
 24. Respondent represents and warrants that it will comply with Texas Government Code Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.
 25. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Respondent will not allow any former employee of an HHS Agency to perform services under any contract resulting from this Solicitation during the twelve (12) month period immediately following the employee's last date of employment an HHS Agency.
 26. Respondent acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of an HHS Agency who during the period of state service or employment participated on behalf of an HHS Agency in a procurement or contract negotiation involving Respondent may not accept employment from respondent before the second anniversary of the date the officer's or employee's service or employment with an HHS Agency ceased.
 27. 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 would not reasonably create an appearance of impropriety
 28. Respondent understands that HHSC does not tolerate any type of fraud. The agencies' 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.
 29. Respondent represents and warrants that it has not violated state or federal antitrust laws and has not communicated its Solicitation response directly or indirectly to any competitor or any other person engaged in such line of business. Respondent hereby

assigns to HHSC any claims for overcharges associated with any contract resulting from this Solicitation under 15 U.S.C. § 1, *et seq.*, and Texas Business and Commerce Code § 15.01, *et seq.*

30. 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 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 the HHSC's consideration of entering into a contract. In addition, 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.
31. Pursuant to Texas Government Code §2270.002, Respondent affirms that it: (a) does not boycott Israel; and (b) will not boycott Israel during the term of any Contract awarded.
32. Respondent affirms that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization.
33. 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.
34. 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, statues, codes, and other laws that pertain to any contract resulting from this Solicitation.
35. Respondent represents and warrants that the individual signing this Solicitation response is authorized to sign on behalf of Respondent and to bind Respondent.

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

Legal Name of Respondent: _____

Signature of Authorized

Date Signed

Representative

**Printed Name and Title of
Authorized Representative**

Phone Number

**Federal Employer Identification
Number**

Fax Number

DUNS Number

Email Address

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

HHSC Uniform Terms and Conditions Version 2.15
Published and Effective: September 1, 2017
Responsible Office: Chief Counsel



TEXAS

Health and Human Services

Health and Human Services Commission
HHSC Uniform Terms and Conditions - Grant
Version 2.15

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.01 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 hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.

“[Attachment](#)” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.

“[Contract](#)” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.

“[Deliverable](#)” means the work product(s) required to be submitted to the System Agency including all reports and project documentation.

“[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.

“[Grantee](#)” means the Party receiving funds under this Contract, if any. May also be referred to as "Contractor" in certain attachments.

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

“[HUB](#)” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“[Intellectual Property](#)” means inventions and business processes, whether or not patentable; works of authorship; trade secrets; trademarks; service marks; industrial designs; and creations that are subject to potential legal protection incorporated in any Deliverable and first created or developed by Grantee, Grantee's contractor or a subcontractor in performing the Project.

“[Mentor Protégé](#)” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

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

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

“[Program](#)” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

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

“[Public Information Act](#)” or “[PIA](#)” means Chapter 552 of the Texas Government Code.

“[Statement of Work](#)” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

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

“[Solicitation or "RFA"](#)” means the document issued by the System Agency under which applications for Program funds were requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

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

“[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 Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“[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, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“[Technical Guidance Letter](#)” or “[TGL](#)” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

1.02 Interpretive Provisions

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- 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 thereto, 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 within this Contract, 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 METHODS AND RESTRICTIONS

2.01 Payment Methods

Except as otherwise provided by the provisions of the Contract, the payment method will be one or more of the following:

- a. cost reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
- b. unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
- c. advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law and at the sole discretion of the System Agency.

Grantees shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.02 Final Billing Submission

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received in the System

Agency's offices more than forty-five (45) calendar days following the termination of the Contract may not be paid.

2.03 Financial Status Reports (FSRs)

Except as otherwise provided in these General Provisions or in the terms of any Program Attachment(s) that is incorporated into the Contract, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to Accounts Payable by the last business day of the month following the end of each quarter of the Program Attachment term for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

2.04 Debt to State and Corporate Status

Pursuant to Tex. Gov. Code § 403.055, the Department will not approve and the State Comptroller will not issue payment to Grantee if Grantee is indebted to the State for any reason, including a tax delinquency. Grantee, if a corporation, certifies by execution of this Contract that it is current and will remain current in its payment of franchise taxes to the State of Texas or that it is exempt from payment of franchise taxes under Texas law (Tex. Tax Code §§ 171.001 et seq.). If tax payments become delinquent during the Contract term, all or part of the payments under this Contract may be withheld until Grantee's delinquent tax is paid in full.

2.05 Application of Payment Due

Grantee agrees that any payments due under this Contract will be applied towards any debt of Grantee, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

2.06 Use of Funds

Grantee shall expend funds provided under this Contract only for the provision of approved services and for reasonable and allowable expenses directly related to those services.

2.07 Use for Match Prohibited

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

2.08 Program Income

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use the addition alternative, as provided in UGMS § __.25(g)(2), for the use of Project income to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report this income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term and may not carry Program Income forward to any succeeding term. Grantee shall refund program income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using it for the purposes and under the conditions specified in this Contract.

2.09 Nonsupplanting

Grantee shall not use funds from this Contract to replace or substitute for existing funding from other but shall use funds from this Contract to supplement existing state or local funds currently available. Grantee shall make a good faith effort to maintain its current level of support. Grantee may be required to submit documentation substantiating that a reduction in state or local funding, if any, resulted for reasons other than receipt or expected receipt of funding under this Contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.01 Funding

This Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for this Contract, the System Agency may restrict, reduce, or terminate funding under this Contract. This Contract is also subject to immediate cancellation or termination, without penalty to the System Agency, if sufficient and adequate funds are not available. Grantee will have no right of action against the System Agency if the System Agency cannot perform its obligations under this Contract as a result of lack of funding for any activities or functions contained within the scope of this Contract. In the event of cancellation or termination under this Section, the System Agency will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

3.02 No debt Against the State

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

3.03 Debt to State

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment, the Grantee acknowledges the System Agency's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

3.04 Recapture of Funds

The System Agency may withhold all or part of any payments to Grantee to offset overpayments made to the Grantee. 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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs will be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

ARTICLE IV ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.01 Allowable Costs.

System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. The System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. If the System Agency has paid funds to Grantee for unallowable or ineligible costs, the System Agency will notify Grantee in writing, and Grantee shall return the funds to the System Agency within thirty (30) calendar days of the date of this written notice. The System Agency may withhold all or part of any payments to Grantee to offset reimbursement for any unallowable or ineligible expenditure that Grantee has not refunded to the System Agency, or if financial status report(s) required under the Financial Status Reports section are not submitted by the due date(s). The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee’s repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include-

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local and Tribal Governments	2 CFR, Part 225	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR, Part 220	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR, Part 230	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles, Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.02 Independent Single or Program-Specific Audit

If Grantee, within Grantee's fiscal year, expends a total amount of at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The \$750,000 federal threshold amount includes federal funds passed through by way of state agency awards. If Grantee, within Grantee's fiscal year, expends a total amount of at least \$750,000 in state funds awarded, Grantee must have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits. HHSC Single Audit Services will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the Single Audit Determination Form within thirty (30) calendar days after notification by HHSC Single Audit Services to do so, Grantee shall be subject to the System Agency sanctions and remedies for non-compliance with this Contract. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

4.03 Submission of Audit

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically, one copy of the Single Audit or Program-Specific Audit to the System Agency as directed in this Contract and another copy to: single_audit_report@hhsc.state.tx.us

ARTICLE V AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.01 General Affirmations

Grantee certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

5.02 Federal Assurances

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

5.03 Federal Certifications

Grantee further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Grantee is in compliance with each of the requirements reflected therein. **In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.**

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ARTICLE VI OWNERSHIP AND INTELLECTUAL PROPERTY

6.01 Ownership

The System Agency will own, and Grantee hereby assigns to the System Agency, all right, title, and interest in all Deliverables.

6.02 Intellectual Property

- a. The System Agency and Grantee will retain ownership, all rights, title, and interest in and to, their respective pre-existing Intellectual Property. A license to either Party's pre-existing Intellectual Property must be agreed to under this or another contract.
- b. Grantee grants to the System Agency and the State of Texas a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Intellectual Property invented or created by Grantee, Grantee's contractor, or a subcontractor in the performance of the Project. Grantee will require its contractors to grant such a license under its contracts.

ARTICLE VII RECORDS, AUDIT, AND DISCLOSURE

7.01 Books and Records

Grantee will 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. Unless otherwise specified in this Contract, Grantee will maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

7.02 Access to records, books, and documents

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors will 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 will 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 will 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. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee will include this provision concerning

the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

7.03 Response/compliance with audit or inspection findings

- a. Grantee must act to ensure its and its Subcontractor's 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 goods or services provided hereunder. Any such correction will be at Grantee or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance will be solely the decision of the System Agency.
- b. As part of the Services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

7.04 SAO Audit

Grantee understands that 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's Office (SAO), or any successor agency, 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 SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Grantee agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Grantee and the requirement to cooperate is included in any Subcontract it awards.

7.05 Confidentiality

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Grantee agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Grantee. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

7.06 Public Information Act

Information related to the performance of this Contract may be subject to the PIA and will be withheld from public disclosure or released only in accordance therewith. Grantee must make all information not otherwise excepted from disclosure under the PIA available in portable document file (".pdf") format or any other format agreed between the Parties.

ARTICLE VIII CONTRACT MANAGEMENT AND EARLY TERMINATION

8.01 Contract Management

To ensure full performance of the Contract and compliance with applicable law, the System Agency may take actions including:

- a. Suspending all or part of the Contract;

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- b. Requiring the Grantee to take specific corrective actions in order to remain in compliance with term of the Contract;
- c. Recouping payments made to the Grantee found to be in error;
- d. Suspending, limiting, or placing conditions on the continued performance of the Project;
- e. Imposing any other remedies authorized under this Contract; and
- f. Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.

8.02 Termination for Convenience

The System Agency may terminate the Contract 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 HHSC's notice of termination.

8.03 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:

a. Material Breach

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any or Grantee's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

b. 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 Grantee no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

8.04 Equitable Settlement

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

ARTICLE IX MISCELLANEOUS PROVISIONS

9.01 Amendment

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

9.02 Insurance

Unless otherwise specified in this Contract, Grantee will acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee will provide evidence of insurance as required

under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee will secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage.

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

9.03 Legal Obligations

Grantee will 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. Grantee will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

9.04 Permitting and Licensure

At Grantee's sole expense, Grantee will 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 Grantee to provide the goods or Services required by this Contract. Grantee will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee agrees to be responsible for payment of any such government obligations not paid by its contactors or subcontractors during performance of this Contract.

9.05 Indemnity

TO THE EXTENT ALLOWED BY LAW, GRANTEE WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- a. GRANTEE'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF GRANTEE, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- b. ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY GRANTEE, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- c. EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST GRANTEE, ITS OFFICERS, OR ITS AGENTS; OR**

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- d. WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

GRANTEE WILL COORDINATE ITS DEFENSE WITH THE SYSTEM AGENCY AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE SYSTEM AGENCY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.

9.06 Assignments

Grantee may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Grantee from its obligations under the Contract.

Grantee understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

9.07 Relationship of the Parties

Grantee is, and will be, an independent contractor and, subject only to the terms of this Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the System Agency any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Grantee or any other Party.

Grantee will be solely responsible for, and the System Agency will have no obligation with respect to:

- a. Payment of Grantee's employees for all Services performed;
- b. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work;
- c. Withholding of income taxes, FICA, or any other taxes or fees;
- d. Industrial or workers' compensation insurance coverage;
- e. Participation in any group insurance plans available to employees of the State of Texas;
- f. Participation or contributions by the State to the State Employees Retirement System;
- g. Accumulation of vacation leave or sick leave; or
- h. Unemployment compensation coverage provided by the State.

9.08 Technical Guidance Letters

In the sole discretion of the System Agency, and in conformance with federal and state law, the System Agency may issue instructions, clarifications, or interpretations as may be required during Work performance in the form of a Technical Guidance Letter. A TGL must be in

writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the System Agency will be incorporated into the Contract by reference herein for all purposes when it is issued.

9.09 Governing Law and Venue

This Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract will be in a court of competent jurisdiction in Travis County, Texas unless otherwise elected by the System Agency. Grantee irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

9.10 Severability

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Contract unenforceable.

9.11 Survivability

Termination or expiration of this Contract or a Contract for any reason will not release either party from any liabilities or obligations in this Contract that the parties have expressly agreed will survive any such termination or expiration, remain to be performed, or by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

9.12 Force Majeure

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

9.13 No Waiver of Provisions

Neither failure to enforce any provision of this Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

9.14 Publicity

Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject

matter, including in any promotional or marketing materials, customer lists, or business presentations.

Grantee may publish, at its sole expense, results of Grantee 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.

9.15 Prohibition on Non-compete Restrictions

Grantee will 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.

9.16 No Waiver of Sovereign Immunity

Nothing in the Contract will be construed as a waiver of sovereign immunity by the System Agency.

9.17 Entire Contract and Modification

The 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 by the System Agency.

9.18 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.

9.19 Proper Authority

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Grantee before this Contract is effective or after it ceases to be effective are performed at the sole risk of Grantee with respect to compensation.

9.20 Employment Verification

Grantee will confirm the eligibility of all persons employed during the contract term to perform duties within Texas and all persons, including subcontractors, assigned by the contractor to perform work pursuant to the Contract.

9.21 Civil Rights

- a. Grantee agrees to comply with state and federal anti-discrimination laws, including:
 1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
 2. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 3. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
 4. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 5. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 6. Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and

7. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

- b. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- c. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hscx.hsc.texas.gov/system-support-services/civil-rights/publications>
- d. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- e. Upon request, Grantee will provide HHSC Civil Rights Office with copies of all of the Grantee's civil rights policies and procedures.
- f. Grantee must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313

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TTY Toll Free: (877) 432-7232
Fax: (512) 438-5885.

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TEXAS

Health and Human Services

Health and Human Services Commission

Special Conditions

Version 1.1

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HHSC SPECIAL CONDITIONS

The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in HHSC Grantee Uniform Terms and Conditions -- Version 2.14

ARTICLE I. SPECIAL DEFINITIONS

“Conflict of Interest” means a set of facts or circumstances, a relationship, or other situation under which Grantee, a Subcontractor, or individual has past, present, or currently planned personal or financial activities or interests that either directly or indirectly: (1) impairs or diminishes the Grantee's, or Subcontractor's ability to render impartial or objective assistance or advice to the HHSC; or (2) provides the Grantee or Subcontractor an unfair competitive advantage in future HHSC procurements.

“Grantee Agents” means Grantee's representatives, employees, officers, as well as any contractor or subgrantee's employees, contractors, officers, principals and agents.

“Data Use Agreement” means the agreement incorporated into the Contract to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information.

“Item of Noncompliance” means Grantee's acts or omissions that: (1) violate a provision of the Contract; (2) fail to ensure adequate performance of the Project; (3) represent a failure of Grantee to be responsive to a request of HHSC relating to the Project under the Contract.

“Minor Administrative Change” refers to a change to the Contract that does not increase the fees or term and done in accordance with Section Section 4.01 of these Special Conditions.

“Confidential System Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Grantee; or that Grantee may create, receive, maintain, use, disclose or have access to on behalf of HHSC or through performance of the Project, which is not designated as Confidential Information in a Data Use Agreement.

“State” means the State of Texas and, unless otherwise indicated or appropriate, will be interpreted to mean HHSC and other agencies of the State of Texas that may participate in the administration of HHSC Programs; provided, however, that no provision will be interpreted to include any entity other than HHSC as the contracting agency.

“UTC” means HHSC's Uniform Terms and Conditions --Grantee- Version 2.15

ARTICLE II.

ARTICLE II. GRANTEES PERSONNEL

Section 2.01 QUALIFICATIONS

Grantee agrees to maintain the organizational and administrative capacity and capabilities proposed in its response to the Solicitation, as modified, to carry out all duties and responsibilities under the Contract. Grantee Agents assigned to perform the duties and responsibilities under the Contract must be and remain properly trained and qualified for the functions they are to perform. Notwithstanding the transfer or turnover of personnel, Grantee remains obligated to perform all duties and responsibilities under the Contract without degradation and in strict accordance with the terms of the Contract.

Section 2.02 CONDUCT AND REMOVAL

While performing the Project, Grantee Agents must comply with applicable Contract terms, State and federal rules, regulations, HHSC's policies, and HHSC's requests regarding personal and professional conduct; and otherwise conduct themselves in a businesslike and professional manner.

If HHSC determines in good faith that a particular Grantee Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may provide Grantee with notice and documentation regarding its concerns. Upon receipt of such notice, Grantee must promptly investigate the matter and, at HHSC's election, take appropriate action that may include removing the Grantee Agent from performing the Project.

ARTICLE III. CONFIDENTIALITY

Section 3.01 CONFIDENTIAL SYSTEM INFORMATION

HHSC prohibits the unauthorized disclosure of Confidential System Information. Grantee and all Grantee Agents will not disclose or use any Confidential System Information in any manner except as is necessary for the Project or the proper discharge of obligations and securing of rights under the Contract. Grantee will have a system in effect to protect Confidential System Information. Any disclosure or transfer of Confidential System Information by Grantee, including information requested to do so by HHSC, will be in accordance with the Contract. If Grantee receives a request for Confidential System Information, Grantee

will immediately notify HHSC of the request, and will make reasonable efforts to protect the Confidential System Information from disclosure until further instructed by the HHSC.

Grantee will notify HHSC promptly of any unauthorized possession, use, knowledge, or attempt thereof, of any Confidential System Information by any person or entity that may become known to Grantee. Grantee will furnish to HHSC all known details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist HHSC in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential System Information.

HHSC will have the right to recover from Grantee all damages and liabilities caused by or arising from Grantee or Grantee Agents' failure to protect HHSC's Confidential Information as required by this section.

IN COORDINATION WITH THE INDEMNITY PROVISIONS CONTAINED IN THE UTC, Grantee WILL INDEMNIFY AND HOLD HARMLESS HHSC FROM ALL DAMAGES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COSTS) CAUSED BY OR ARISING FROM GRANTEE OR GRANTEE AGENTS FAILURE TO PROTECT CONFIDENTIAL SYSTEM INFORMATION. GRANTEE WILL FULFILL THIS PROVISION WITH COUNSEL APPROVED BY HHSC.

ARTICLE IV. MISCELLANEOUS PROVISIONS

Section 4.01 MINOR ADMINISTRATIVE CHANGES

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Project or the Contract that do not increase the fees or term. Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in the UTC. Upon approval of a Minor Administrative Change, HHSC and Grantee will maintain written notice that the change has been accepted in their Contract files.

Section 4.02 CONFLICTS OF INTEREST

Grantee warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and further that Grantee or Grantee Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Grantee will, and require Grantee Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal gain. Grantee and Grantee Agents will operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract.

Grantee agrees that, if after Grantee's execution of the Contract, Grantee discovers or is made aware of a Conflict of Interest, Grantee will immediately and fully disclose such interest in writing to HHSC. In addition, Grantee will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Grantee or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Grantee agrees to abide by HHSC's decision.

If HHSC determines that Grantee was aware of a Conflict of Interest and did not disclose the conflict to HHSC, such nondisclosure will be considered a material breach of the Contract. Furthermore, such breach may be submitted to the Office of the Attorney General, Texas Ethics Commission, or appropriate State or federal law enforcement officials for further action.

Section 4.03 FLOW DOWN PROVISIONS

Grantee must include any applicable provisions of the Contract in all subcontracts based on the scope and magnitude of work to be performed by such Subcontractor. Any necessary terms will be modified appropriately to preserve the State's rights under the Contract.

ARTICLE V. DSHS LEGACY PROVISIONS

Section 5.01 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

- (a) **Grantee shall immediately report in writing to their contract manager when Grantee has knowledge or any reason to believe that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, subcontractor or volunteer that is providing services under this Contract has:**

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

Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

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

Section 5.02 NOTICE OF IRS OR TWC INSOLVENCY

Grantee shall notify in writing their assigned contract manager their insolvency, incapacity or outstanding unpaid obligations to the Internal Revenue Service (IRS) or Texas Workforce Commission within five days of the date of becoming aware of such.

Section 5.03 EDUCATION TO PERSONS IN RESIDENTIAL FACILITIES

Grantee shall ensure that all persons, who are housed in System Agency licensed or funded residential facilities and are 22 years of age or younger, have access to educational services as required by Texas Education Code § 29.012.

Grantee shall notify the local education agency or local early intervention program as prescribed by this Section not later than the third calendar day after the date a person who is 22 years of age or younger is placed in Grantee's residential facility

Section 5.04 DISASTER SERVICES

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

- a. Community evacuation;
- b. Health and medical assistance;
- c. Assessment of health and medical needs;
- d. Health surveillance;
- e. Medical care personnel;
- f. Health and medical equipment and supplies;
- g. Patient evacuation;
- h. In-hospital care and hospital facility status;
- i. Food, drug and medical device safety;
- j. worker health and safety;
- k. Mental health and substance abuse;
- l. Public health information;
- m. Vector control and veterinary services; and
- n. Victim identification and mortuary services.

Section 5.05 CONSENT BY NON-PARENT OR OTHER STATE LAW TO MEDICAL CARE OF A MINOR

Unless a federal law applies, before a Grantee or its subcontractor can provide medical, dental, psychological or surgical treatment to a minor without parental consent, informed consent must be obtained as required by Texas Family Code Chapter 32.

Section 5.06 TELEMEDICINE /TELEPSYCHIATRY MEDICAL SERVICES

If Grantee or its subcontractor uses telemedicine/telepsychiatry, these services shall be in accordance with the Grantee's written procedures. Grantee must use a protocol approved by Grantee's medical director and equipment that complies with the System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine service must include the following requirements:

- a. Clinical oversight by Grantee's medical director or designated physician responsible for medical leadership;
- b. Contraindication considerations for telemedicine use;
- c. Qualified staff members to ensure the safety of the individual being served by telemedicine at the remote site;
- d. Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
- e. Use by credentialed licensed providers providing clinical care within the scope of their licenses;
- f. Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- g. Priority in scheduling the system for clinical care of individuals;
- h. Quality oversight and monitoring of satisfaction of the individuals served; and
- i. Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

Section 5.07 SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

- a. Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities.
- b. Grantee shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- c. Grantee shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

Section 5.08 THIRD PARTY PAYORS

Except as provided in this Contract, Grantee shall screen all clients and may not bill the System Agency for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.

As applicable, the Grantee shall:

- a. Enroll as a Medicaid provider, or enter into a network provider agreement with a Children's Health Insurance Program and Medicaid Managed Care Organization (MCO) under terms and conditions that are mutually-agreeable to the Grantee and MCO. If providing approved services authorized under this Contract that may be covered by Medicaid or CHIP, the Grantee will bill those programs or contracted MCOs for the covered services;
- b. Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
- c. Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
- d. Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
- e. Bill all third party payors for services provided under this Contract before submitting any request for reimbursement to System Agency; and
- f. Provide third party billing functions at no cost to the client.

Section 5.09 HIV/AIDS MODEL WORKPLACE GUIDELINES

Grantee shall implement System Agency's policies based on the Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), AIDS Model Workplace Guidelines for Businesses at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>, State Agencies and State Grantees Policy No. 090.021.

Grantee shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas. Health & Safety Code §§ 85.112-114.

Section 5.10 MEDICAL RECORDS RETENTION

Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

Section 5.11 NOTICE OF A LICENSE ACTION

Grantee shall notify their contract manager of any action impacting its license to provide services under this Contract within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the license action; and
- d. License or case reference number.

Section 5.12 INTERIM EXTENSION AMENDMENT

- a. Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.
- b. The System Agency shall provide written notice of interim extension amendment to the Grantee under one of the following circumstances:

1. Continue provision of services in response to a disaster declared by the governor; or
 2. To ensure that services are provided to clients without interruption.
- c. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
 - d. Grantee will provide and invoice for services in the same manner that is stated in the Contract.
 - e. An interim extension under Section (b)(1) above shall extend the term of the contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
 - f. An interim extension under Section (b)(2) above shall be a one-time extension for a period of time determined by the System Agency.

Section 5.13 CHILD ABUSE REPORTING REQUIREMENT

- a. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
- b. Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.
- c. Grantee shall use the System Agency's Child Abuse Reporting Form located at <http://www.dshs.texas.gov/childabusereporting/> as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

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**DATA USE AGREEMENT BETWEEN THE
TEXAS HEALTH AND HUMAN SERVICES ENTERPRISE AND
_____ (" CONTRACTOR ")**

This Data Use Agreement ("DUA"), effective as of the Base Contract ("Effective Date"), is entered into by and between the Texas Health and Human Services Enterprise agency _____ ("HHS") and _____ ("CONTRACTOR"), and incorporated into the terms of HHS Contract No. _____, in Travis County, Texas (the "Base Contract").

ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to 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. **45 CFR 164.504(e)(1)-(3)** 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 Business Associates 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 of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

ARTICLE 2. DEFINITIONS

For the purposes of this DUA, **capitalized, underlined terms have the meanings set forth in the following:** Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C.

§1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C.

§§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

"Authorized Purpose" means the specific purpose or purposes described in the Scope of Work of 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.

"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:

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- (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.

“**Legally Authorized Representative**” of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; Estates Code Ch. 752 and Texas Prob. Code § 3.

ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

Section 3.01 *Obligations of CONTRACTOR*

CONTRACTOR agrees that:

(A) CONTRACTOR will 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 any portion of the Confidential Information from being used in a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. **45 CFR 164.502(b)(1); 45 CFR 164.514(d)**

(B) CONTRACTOR will not, without HHS's prior written consent, disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out the Authorized Purpose or as Required by Law.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. **45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101**

(C) CONTRACTOR will 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 will maintain evidence of sanctions and produce it to HHS upon request. **45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)**

(D) CONTRACTOR will not, without prior written approval of HHS, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying HHS 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 will refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief. **45 CFR 164.504(e)(2)(ii)(A)**

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. **45 CFR 164.502(d)(2)(i) and (ii)** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. **45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002**

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, HHS Data Use Agreement V.8.3 HIPAA Omnibus Compliant April 1, 2015

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maintain, use, disclose, have access to or transmit Confidential Information, on behalf of CONTRACTOR without requiring that Subcontractor first execute the Form Subcontractor Agreement, Attachment 1, which ensures that the Subcontractor will comply with the identical terms, conditions, safeguards and restrictions as contained in this DUA for PHI and any other relevant Confidential Information and which permits more strict limitations; and **45 CFR 164.502(e)(1)(1)(ii); 164.504(e)(1)(i) and (2)**

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. **45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.**

(H) If CONTRACTOR maintains PHI in a Designated Record Set, CONTRACTOR will make PHI available to HHS in a Designated Record Set or, as directed by HHS, provide PHI to the Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. **45 CFR 164.524 and 164.504(e)(2)(ii)(E)**

(I) CONTRACTOR will make PHI as required by HIPAA available to HHS for amendment and incorporate any amendments to this information that HHS directs or agrees to pursuant to the HIPAA. **45 CFR 164.504(e)(2)(ii)(E) and (F)**

(J) CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. **45 CFR 164.504(e)(2)(ii)(G) and 164.528**

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI by any Individual subject to this DUA, it will promptly forward the request to HHS; however, if it would violate HIPAA to forward the request, CONTRACTOR will promptly notify HHS of the request and of CONTRACTOR's response. Unless CONTRACTOR is prohibited by law from forwarding a request, HHS will respond to all such requests, unless HHS has given prior written consent for CONTRACTOR to respond to and account for all such requests. **45 CFR 164.504(e)(2)**

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. **45 CFR 164.308; 164.530(c); 1 TAC 202**

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use or disclose PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's legal responsibilities if: **45 CFR 164.504(e)(ii)(1)(A)**

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D);

(2) CONTRACTOR obtains reasonable assurances from the Person to whom the information is disclosed that the Person will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) 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

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. **45 CFR 164.504(e)(4)(ii)(B)**

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if requested by HHS, use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. **45 CFR 164.504(e)(2)(i)(B)**

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, return to HHS or Destroy, at HHS's election, and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information.

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CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, 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 will immediately notify HHS of the reasons such return or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. **45 CFR 164.504(e)(2)(ii)(J)**

(P) CONTRACTOR will create, maintain, 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. **45 CFR 164.306; 164.530(c)**

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 2 . The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will 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 will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. **45 CFR 164.306**

(R) CONTRACTOR will establish, implement and maintain any and all appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other 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. **45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards)**

(S) CONTRACTOR will designate and identify, subject to HHS approval, a Person or Persons, as Privacy Official **45 CFR 164.530(a)(1)** 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 will 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. **45 CFR 164.308(a)(2)**

(T) CONTRACTOR represents and warrants 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 pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. **45 CFR 164.502; 164.514(d)**

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the DUA. **45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1)**

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR on behalf of HHS for HHS's review and approval within 30 days of execution of

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this DUA and upon request by HHS the following business day or other agreed upon time frame. **45 CFR 164.308; 164.514(d)**

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary, or other federal or state law. **45 CFR 164.504(e)(2)(i)(I)**

(Y) CONTRACTOR will 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 or otherwise protected as required by rule, regulation or law. HHS Confidential Information at rest requires Encryption unless there is adequate administrative, technical, and physical security, or as otherwise protected as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. **45 CFR 164.312; 164.530(d)**

(Z) CONTRACTOR will 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 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- 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; and
- Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

Section 4.01. Breach or Event Notification to HHS. 45 CFR 164.400-414

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's satisfaction (the "incident
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response period"). **45 CFR 164.404**

(C) Breach Notice:

1. Initial Notice.

a. For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, **or in a timeframe otherwise approved by HHS in writing**, initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA; and **IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.**

b. Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. **45 CFR 164.410**

c. Name, and 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.

2. 48-Hour Formal Notice. No later than 48 consecutive clock hours after Discovery, or a time within which Discovery reasonably should have been made by CONTRACTOR of an Event or Breach of Confidential Information, **provide** formal notification to the State, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: **For (a) - (m) below: 45 CFR 164.400- 414**

a. The date the Event or Breach occurred;

b. The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

c. A brief description of the Event or 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, to the extent known or can be reasonably determined by CONTRACTOR at that time;

g. CONTRACTOR's initial risk assessment of the Event or 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 without limitation 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 Event or Breach;

k. Identify, describe or estimate of the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

l. A reasonable schedule for CONTRACTOR to provide regular updates to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed

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by HHS, 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 an Event or Breach that HHS requests following Discovery.

Section 4.02 *Investigation, Response and Mitigation. For A-F below: 45 CFR 164.308, 310 and 312; 164.530*

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or 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 4.03 *Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (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 obtain HHS's prior written approval of the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities. 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 will provide HHS with copies of distributed and approved communications.

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

(E) If HHS delegates notice requirements to CONTRACTOR, 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 and reports.

ARTICLE 5. SCOPE OF WORK

Scope of Work means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Scope of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

ARTICLE 6. GENERAL PROVISIONS

Section 6.01 *Ownership of Confidential Information*

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

Section 6.02 *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 6.03 *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 or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

Section 6.04 *Term; Termination of DUA; Survival*

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA is updated automatically concurrent with such extension or amendment.

(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(D) 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.

(E) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary.

(F) 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 6.05 *Governing Law, Venue and Litigation*

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Travis County, Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

Section 6.06 *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 6.07 *Indemnification*

CONTRACTOR will 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 its 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 its Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure and continues to apply even in the event insurance coverage required, if any, in the DUA or Base Contract is denied, or coverage rights are reserved by any insurance carrier. Upon demand, CONTRACTOR will reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third 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 6.08 *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 non-contributory status, with required insurance coverage, by the Effective Date, or as required by HHS.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect,

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at the request of HHS.

Section 6.09 *Fees and Costs*

Except as otherwise specified in this DUA or the Base Contract, including but not limited to requirements to insure and/or indemnify HHS, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

Section 6.10 *Entirety of the Contract*

This Data Use Agreement 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 6.11 *Automatic Amendment and Interpretation*

Upon the effective date of any amendment or issuance of additional regulations to HIPAA, or any other 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 HIPAA or any other law applicable to Confidential Information.

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 identical 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 or Event as defined by the DUA that SUBCONTRACTOR Discovers will 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 will:

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 reasonably 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 _____, **201** .

DATE: _____

EXHIBIT D. EXCEPTIONS AND ASSUMPTIONS

(Note to Applicants: Completion of this Exhibit is not required if there are no exceptions. See Section 3.6.5 and 3.6.6)

No exception -- nor any term, condition, or provision in an Application Package 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 HHSC.

Solicitation Document	Solicitation Document Section Number	Solicitation Language to which Exception is Taken (set forth language from solicitation)	Basis of Exception	Applicant's Proposed Language	Still Want to be Considered for Contract Award if Exception Denied? (State "Yes" or "No")