



TEXAS

Health and Human Services

TEXAS DEPARTMENT OF STATE HEALTH SERVICES

OPEN ENROLLMENT (OE) for Medical Staffing for a Declared Emergency/Disaster Event

OE No. HHS0014039

NIGP Class/Item No

948-00 Health Related Services;
948-33 Disease Prevention and Control Services, Non-Contagious;
948-34 Disease Prevention and Control Services, Contagious;
948-55 Medical and Laboratory Services, Non-Physician;
948-71 Physician Credentialing Services;
948-74 Professional Medical Services;
948-76 Psychological and Psychiatric Services;
948-92 Vaccination Services

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SECTION 1. SCHEDULE OF EVENTS

Enrollment Period Opens (Posted to HHS OE Opportunities webpage)	<i>11/15/2023</i>
Enrollment Period Closes (Final date for RECEIPT of Applications)	<i>11/15/2026</i>
Anticipated Contract Start Date	The effective date of a Contract, if any, awarded to an Applicant will be determined at the sole discretion of The Department of State Health Services (DSHS).

Applications must be **received** by DSHS prior to the closing date as indicated in this Schedule of Events or as changed via an Addendum posted to the HHS Open Enrollment Opportunities webpage. Every Applicant is solely responsible for ensuring its Application is received before the Enrollment Period closing date. DSHS is not responsible for lost, misdirected or late applications.

The dates in the Schedule of Events are tentative. DSHS reserves the right to modify these dates at any time by posting an Addendum to the HHS Open Enrollment Opportunities webpage.

By submitting an Application, Applicant represents and warrants that any individual submitting the Application and any related documents on behalf of Applicant is authorized to do so and to bind Applicant under any resulting Contract.

Withdrawal of Application:

Applications may be withdrawn from consideration or amended at any time prior to the Enrollment Period closing date by emailing a request to the Sole Point of Contact identified in Section 4 of this OE. The e-mail subject line must contain the OE number and title as indicated on the cover page. The Applicant is solely responsible for ensuring requests are received timely by DSHS. DSHS is not responsible for lost, misdirected or late emails.

SECTION 2. OVERVIEW

2.1. INTRODUCTION

The Texas Department of State Health Services (DSHS) is an agency within the Texas Health and Human Services (HHS) system.

DSHS is seeking Applications to establish Contract(s) with medical staffing companies that specialize in providing health professionals and allied health professionals (“Professional Personnel”) to be deployed throughout the State of Texas. These medical staffing companies will provide medical and public health services during a pending or actual disaster, which is also referred to herein as a “State Mission”, or for training and exercise events (“Events”) requested by DSHS. Applicants to this OE must possess a method and or company policy or procedure in which they have vetted, verified, and credentialed all Professional Personnel that will be deployed to provide services in response to a State Mission or Event. Medical staffing companies must be able to provide proof of required license(s) and certification(s) for Professional Personnel being provided for deployment to a State Mission or Event.

To be considered for award, Applicants must submit a comprehensive Application which meets all the requirements of this OE and includes all requested documentation.

2.2. LEGAL AUTHORITY

DSHS is soliciting the services listed herein under *Tex. Gov’t. Code* Chapters 12 and 1001; and Section 2155.144.

2.3. NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION

DSHS does not guarantee any volume, usage, or compensation to be paid to any Contractor under any Contract resulting from this Open Enrollment. Additionally, all Contracts resulting from this Open Enrollment are subject to appropriations, the availability of funds, and termination.

SECTION 3. DEFINITIONS AND ACRONYMS

Unless the context clearly indicates otherwise, throughout this Open Enrollment, the definition given to a term below applies whenever the term appears in this Open Enrollment, in any Application submitted in response to this Open Enrollment, and in any Contract awarded as a result of this Open Enrollment. All other terms have their ordinary and common meaning.

TERM	DEFINITION
Addendum	A written clarification or revision to this Open Enrollment. All Addenda will be posted to the HHS Open Enrollment Opportunities web page.
Application	All information and materials submitted by an Applicant in response to this Open Enrollment.
Applicant	Any person or entity that submits an application in response to this Open Enrollment.

TERM	DEFINITION
Activation	A written authorization from DSHS to assemble, deploy and assign medical staff to a location for an assigned period of time.
Calendar Day	Each day shown on the calendar beginning at 12:00 Midnight, including Saturdays, Sundays, and holidays.
Contract	Any Contract(s) awarded resulting from this Open Enrollment.
Contractor (Provider)	Each Applicant, if any, awarded a Contract as a result of this Open Enrollment. May also be referred to as "Provider". Unless the context clearly indicates otherwise, all terms and conditions of this Open Enrollment and resulting Contract that refer to Applicant apply with equal force to Contractor (Provider).
Disaster Declaration	A formal statement by a jurisdiction, either Mayor, Judge or Governor, that a disaster or emergency has exceeded the response and recovery capabilities of the State or a municipality. The issuance of a local or state Disaster Declaration allows public officials to exercise emergency powers to preserve life, property, and public health following a disaster as indicated in the <i>Tex. Gov't. Code</i> Chapter 418.
Event	A scheduled, non-emergency, planned activity such as training, a drill, an exercise or a conference to prepare, train or plan for a State Mission.
HHS Open Enrollment Opportunities	The HHS web page where Open Enrollments are posted: https://apps.hhs.texas.gov/pcs/openenrollment.cfm
Open Enrollment (OE)	This document, including all exhibits, attachments, and addenda, as applicable, posted on the HHS Open Enrollment Opportunities webpage.
Purchase Order (PO)	An official HHS document created by System Agency and sent to the Contractor to confirm System Agency's purchase of product(s) or service(s) from the Contractor.

TERM	DEFINITION
State Medical Operations Center (SMOC)	State Medical Operations Center serves as the Emergency Support Function 8 (ESF-8) Public Health and Medical coordination and communication point supporting the State Operations Center (SOC). The SMOC provides operational support and coordination of State level ESF-8 response and recovery activities and State public health and medical resource allocation.
State of Texas Assistance Request (STAR)	A STAR is a request for assistance that is submitted by a requesting governmental entity within Texas, including, but not limited to, a local jurisdiction or another state agency. STARs are typically submitted by a local jurisdiction to state agencies for support.
State Mission Assignment (SMA)	A deployment order that provides the objectives of the State Mission, the activities required, the length of activation and an estimated cost of the resource(s) required for deployment.
Statement of Work	The description of Services and Deliverables in this Open Enrollment that Contractor (Provider) is required to provide under the Contract.

SECTION 4. GENERAL INFORMATION

4.1. SOLE POINT OF CONTACT

All questions, requests for clarification, or other communication about this OE shall be made in writing only to the DSHS Sole Point of Contact listed below.

Attempts to ask questions by phone or in person will not be allowed or recognized as valid.

DSHS Sole Point of Contact

Fred L. Waterman

Contract Manager and Contract Representative

Email: Fred.Waterman@dshs.texas.gov

To be considered for contract award, applications must only be submitted to the above email address. See Section # 12, for submission requirements.

Do not contact other System Agency personnel regarding this OE.

This restriction, as to only communicating in writing with the DSHS Sole Point of Contact identified above, does not preclude discussions between Applicant and System Agency personnel for the purposes of conducting business unrelated to this OE.

Failure of an Applicant or its representatives to comply with these requirements may result in disqualification of the submitted Application.

4.2. CHANGES, MODIFICATIONS AND CANCELLATION

DSHS reserves the right to change, amend, modify or cancel this OE at any time.

All Applications, including those submitted after cancellation of the OE, become the property of DSHS upon receipt.

4.2.1. ADVERTISEMENT OF CHANGES, MODIFICATIONS OR CANCELLATION

If DSHS determines that the OE needs to be changed or modified, either an addendum will be posted on the OE Opportunities webpage or the OE will be canceled. The action to be taken will be determined at the sole discretion of DSHS. Furthermore, if the OE will be canceled, DSHS will determine, in its sole discretion, if a new OE will be posted.

System Agency will not be responsible or liable in any regard for the failure of any individual or entity to receive notification of any posting to the OE Opportunities webpage.

It is the responsibility of each Applicant to monitor the OE Opportunities webpage for any Addenda or additional information regarding this OE. Failure to monitor the OE Opportunities webpage will in no way release or relieve any Applicant or Contractor of its obligations to fulfill the requirements as posted.

4.3. OFFER PERIOD

By submitting an Application in response to this OE, Applicant agrees that its Application will remain a firm and binding offer to enter into a Contract with DSHS under all terms and conditions of this OE, for at least 240 days from the date Applications are due, unless withdrawn by Applicant before the Enrollment Period closes.

4.4. COSTS INCURRED

DSHS accepts no obligations for costs incurred in preparing, submitting, and screening an Application, including, but not limited to, costs or expenses related to contract execution.

Applicants understand that issuance of this OE or retention of Applications in no way constitutes a commitment by DSHS to award a Contract. All Applications shall be prepared simply and economically, providing a straightforward, concise delineation of the Applicant's capabilities to satisfy the requirements of this OE and submitted at the sole expense of the Applicant.

4.5. OE QUESTIONS OR CLARIFICATIONS

4.5.1. QUESTIONS AND REQUESTS FOR CLARIFICATION

Written questions and requests for clarification regarding this OE are permitted if submitted by e-mail to the Sole Point of Contact in Section 4.1.

Responses to questions and requests for clarification will not be posted. However, if DSHS determines, based on a question, request for clarification, or any other factor (including, but not limited to notices of ambiguity, conflict, or discrepancy as referenced in Section 4.5.3, below), that the OE needs to be amended or clarified, either an addendum will be posted on the OE Opportunities webpage, or the OE will be canceled. The action to be taken will be determined at the sole discretion of DSHS. Furthermore, if the OE will be canceled, DSHS will determine, in its sole discretion, if a new OE will be posted.

4.5.2. QUESTION AND CLARIFICATION FORMAT

Questions and requests for clarification must include the following information:

- a. the OE Number
- b. the question or request for clarification, providing the following information:
 - OE language, topic, section heading; and
 - Section, Paragraph and Page number(s) or Exhibit/Attachment.

The requestor must provide the following contact information:

- Company Name;
- Company Representative Name;
- Phone Number; and
- E-Mail address.

4.5.3. AMBIGUITY, CONFLICT, DISCREPANCY

Applicants must notify the Sole Point of Contact in Section 4.1, of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the OE. Notices must be submitted in the same manner for submitting questions.

Each Applicant submits its Application at its own risk.

If an Applicant fails to properly and timely notify the Sole Point of Contact, Section 4.1, of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the OE, the Applicant, whether awarded a contract or not:

- a. shall have waived any claim of error or ambiguity in the OE and any resulting contract;
- b. shall not contest the interpretation by DSHS of such provision(s); and
- c. shall not be entitled to additional compensation, relief, or time by reason of ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

SECTION 5. CONTRACT TERM

5.1. TERM OF CONTRACT

DSHS may award one or more Contracts under this OE. It is anticipated that any Contract resulting from this OE will be effective on the signature date of the latter of the Parties to sign the Contract resulting from the OE and will expire on **November 15, 2028**, unless terminated earlier pursuant to the terms and conditions of the Contract.

5.2. EXTENSION OPTION

At the end of the Contract term, DSHS, at its sole option, subject to availability of funding, and with at least 15 Calendar Days' advance written notice to Contractor, may extend the Contract resulting from the OE as necessary to ensure continuity of service, for purposes of transition, or as otherwise determined by DSHS to serve the best interests of the State, for up to 12 months, in one-month intervals, at the then-current Contract rate or rates (if applicable) as modified during the term of the Contract.

SECTION 6. MINIMUM QUALIFICATIONS

To be eligible to apply and be awarded a Contract, Applicant(s), must be eligible, qualified and meet all of the following Minimum Qualifications.

6.1. MINIMUM QUALIFICATIONS

To be eligible to receive an award through this Open Enrollment, Applicants I must meet the following Minimum Qualifications:

- Applicant must be an established company providing agency staffing services (no individuals may apply);
- Applicant must have a minimum of three (3) years relevant experience performing the Services delineated in Section 7.1 Statement of Work of this OE, or similar services;
- Applicant must be capable of providing the Services described in Section 7.1 Statement of Work of this EO;
- Applicant and all Professional Personnel assigned to provide Services under the Contract shall possess all permits, licenses, and certifications required by applicable law to perform the Services.
- All Professional Personnel to be provided under the Contract shall have a minimum two (2) years' experience in providing medical services specific to their medical specialty;
- Applicant must be registered with the Internal Revenue Service (IRS), having an Employer Identification Number issued by the IRS;
- Applicant must not be debarred from receiving any federal or state funds at the time of the Contract award;
- Applicant must be legally authorized to do business in the State of Texas with a franchise tax account status of "Active" with the Texas Comptroller of Public Accounts. Applicants can check their status at <http://www.cpa.state.tx.us/taxinfo/coasintr.html>;
- Applicant must be free from negative reports in the Vendor Performance Tracking System on the Centralized Master Bidder List (CMBL); and
- Applicants must provide a minimum of three (3) references reflecting positive performance for current or previous contracts for similar or same services during the two (2)-year period immediately preceding submission of the Application.

SECTION 7. STATEMENT OF WORK

7.1. PROJECT OVERVIEW

The DSHS Regional and Local Health Operations (Division) Center for Health Emergency Preparedness and Response (Program) solicits for medical staffing companies to provide trained professional medical personnel (Professional Personnel) to assist in responding to a State Mission or Event in the State of Texas. A State Mission or Event may be declared by the President of the United States or the Governor of Texas. Activation of a Contractor to respond to a State Mission or Event will be engaged by DSHS - by and through the DSHS State Medical Operations Center (SMOC) Director; the DSHS Center for Health Emergency Preparedness and Response Director; or the DSHS Contract Management Section Director - submitting a SMA or STAR to Contractor. Once

Contractor receives the SMA or STAR, Contractor shall immediately respond to the State Mission or Event in accordance with the activation and deployment orders stated in the SMA or STAR. Deployment of Professional Personnel to respond to the State Mission or Event is engaged on a case-by-case basis and as needed to accomplish the specific State mission assignment.

DSHS intends to enter into Contracts with several Contractors Statewide through the Open Enrollment in order to have available a sufficient number of Professional Personnel to provide a sufficient response to a State Mission or Event. DSHS may issue STAR Purchase Orders (PO's) or funded PO's under the awarded contract(s) for any deployment request for which a Federal or State Disaster Declaration is issued. Such funding awards to the established contracts with Contractors are based on Contractor's ability to provide the requested number of Professional Personnel required to respond to a State Mission or Event within the deployment timeframe stated within the SMA or STAR. Each Contractor, through its credentialing and onboarding process, shall determine how its staff are organized throughout the State and provide Professional Personnel according to the activation and deployment orders stated within the SMA or STAR. DSHS reserves the right to issue any number of SMAs or STARs contingent upon specific jurisdictional assignments within the State as needed to meet any specific STAR or SMA requirements.

7.2. STATEMENT OF SERVICES TO BE PROVIDED

7.2.1. Contractor shall provide one or more of the following types of Professional Personnel under the Contract to respond to a State Mission or Event:

- *Licensed Vocational Nurse(s);*
- *Certified Respiratory Care Practitioner(s);*
- *Licensed Paramedic(s);*
- *Licensed Pharmacist(s);*
- *Registered Pharmacy Technician(s);*
- *Licensed Social Worker(s);*
- *Licensed Professional Counselor(s);*
- *Licensed Psychologist(s);*
- *Phlebotomist(s);*
- *Emergency Medical Technician(s);*
- *Epidemiologist(s);*
- *Entomologist(s);*
- *Sanitarian(s);*
- *Staffing Specialist Coordinator(s);*
- *On-site Staffing Consultant(s);*
- *Administrative Staff(s) (e.g., medical records clerk);*
- *Medical Administrator(s) (Licensed);*
- *Scribe(s);*
- *Medical Supply Unit Lead(s);*
- *CT Tech(s);*
- *Xray Tech(s);*

7.2.2. Activation may occur at any time of the day or night, including weekends, and national and State holidays specified in Section 662.003(a) of the Texas Government Code. This will occur only after consultation with Contractor and pursuant to an official written SMA or STAR, signed and issued by DSHS to Contractor.

7.3. DSHS RESPONSIBILITIES

7.3.1. DSHS will provide deployment orders through a SMA or STAR to Contractor for Professional Personnel to be deployed to a State Mission or Event. The SMA will include: the dates authorized for deployment of Professional Personnel; the dates for duration of deployment; authorized staffing (Professional Personnel) types/quantities; response location where Services and Goods are to be provided; points of contact at the response location; and other requirements.

7.3.2. DSHS can, in some circumstances, limit the number of individual billable hours during deployment and demobilization.

7.3.3. DSHS, in its sole discretion, may dismiss Professional Personnel deployed for a State Mission or Event that are non-performing or that are unable to meet production or reporting standards as set-forth by the facility that requested the support under the deployment instructions for the State Mission or Event.

7.3.4. The SMOC and/or Contract Management Section will maintain communications with Contractor throughout the deployment to ensure that services are being provided adequately and to communicate any changes in deployment times.

7.3.5. DSHS may request a staffing agency liaison to support in person at a State Mission or Event to assist with coordination during the State Mission or Event.

7.3.6. DSHS will provide demobilization orders to Contractor for Professional Personnel deployed through SMAs or via email communication format.

7.3.7. DSHS reserves the right to issue specific jurisdictional or city assignments within the State of Texas as needed to meet any specific STAR or SMA need.

7.4. CONTRACTOR (PROVIDER) RESPONSIBILITIES

7.4.1. Contractor must ensure licensing, permitting, and credentialing compliance that meets all state and federal requirements prior to deployment of Professional Personnel, to include Professional Personnel that are licensed outside of the State who are being provided by Contractor for deployment to State Missions or Events.

7.4.2. Upon request by DSHS, credentialing requirements may include Contractor, at its own expense, to conduct a background check for all Professional Personnel prior to deployment. Specific checks that must be included through the background check process will be provided to Contractor by DSHS during the STAR or SMA issuance and as needed for any State Mission or Event.

7.4.3. Contractor shall also comply with all requirements with the Texas Medical Board (TMB) as well as any other licensing oversight authorities for Professional Personnel deployed under all authorized STARs or SMAs, in alignment with both State and Federal requirements.

7.4.4. DSHS reserves the right to release deployed Professional Personnel who have not met all credentialing or licensing requirements. DSHS will not be responsible to Contractor for any costs or expenses associated with released Professional Personnel.

7.4.5. If Professional Personnel are not licensed in Texas, they must be allowed to work in Texas in their capacity as Professional Personnel under other current authority or agreement (i.e., interstate compact agreement) or through specific waivers issued by the State of Texas to perform the required Services specified in this Open Enrollment. It is the Contractors responsibility to ensure any state specific waivers or approvals are obtained from the required licensing oversight authorities.

7.4.6. If Contractor or any of its Professional Personnel self-deploys without proper notification from DSHS SMOC, the DSHS Center for Health Emergency Preparedness and Response, or the DSHS Contract Management Section, then Contractor shall not be eligible to receive payment under the Contract for the self-deployed Professional Personnel.

7.4.7. If Contractor deploys Professional Personnel that exceed the quantities or position types requested by DSHS SMOC, Contractor shall not be eligible for payment for any Professional Personnel counts or quantity that deviate from the STAR or SMA deployment request. No other entity, to include Hospital Preparedness Providers, are authorized to approve additional Professional Personnel or relocate Professional Personnel without authorization from the SMOC.

7.4.8. If deployed Professional Personnel self-demobilize before the end of the State Mission Assignment, Contractor shall fill the position within 24 hours.

7.4.9. Contractor must be able to provide proof of required license(s) and certification(s) for Professional Personnel provided for deployment to State Missions or Events.

7.4.10. Contractor is responsible for ensuring all State issued equipment or ID badges are returned to DSHS in the same condition as originally provided. Contractor is responsible for all costs associated with lost equipment or equipment that is returned damaged or that requires repair or replacement.

7.4.11. Unless stated otherwise at the time of activation, Professional Personnel deployed by Contractor shall operate under the command, control, and oversight of the assigned facility, organization, or jurisdiction, including medical oversight, as directed by DSHS.

7.4.12. Contractor may work with regional DSHS Hospital Preparedness Providers for coordination of assignment of Professional Personnel and onboarding of Professional Personnel to facilities.

7.4.13. Contractor shall be responsible for any costs or expenses associated with deploying and releasing Professional Personnel who have not met all credentialing or licensing requirements.

7.4.14. Upon acceptance of deployment activation, Contractor must have Professional Personnel in route to the designated State Mission within 24 hours from the time Contractor receives the SMA. Activated Professional Personnel shall work eight (8) to twelve (12) hour shifts per day depending on the State Mission they are responding to. The number of days worked per week will be decided per each State Mission. Professional Personnel may be required to take one day off work. Contractor will be paid for days worked by Professional Personnel.

7.4.15. Contractor shall provide a staffing agency liaison to support in person at the SMOC to assist with coordination during the State Mission as requested by DSHS.

7.4.16. Contractor shall comply with and submit all requested reporting requirements in the template and format provided by DSHS during an active SMA or STAR and within the prescribed timelines to be determined by DSHS during the State Mission.

7.5. FULLY LOADED RATE

- A. The Contractor shall follow the established fully loaded hourly rates listed in **Exhibit I**, for all Professional Personnel requested by DSHS and as authorized under any approved SMA issued to Contractor. The fully loaded hourly rate includes the following costs:
- a. Straight pay;
 - b. Overtime pay;
 - c. Meals;
 - d. Lodging;
 - e. In theater transportation (fuel, tolls, parking, rental cars, charter buses, ride sharing charges); and
 - f. Incidentals.
- B. Contractor agrees to provide DSHS all required supporting documentation for payment and reimbursement – as defined by DSHS or as required by any Federal Grant, or Federal reimbursement agencies.

7.6. FLSA REQUIREMENTS

Contractor understands that Professional Personnel provided to DSHS under the Contract may be determined to be joint employees of DSHS and Contractor pursuant to the Fair Labor Standards Act ("FLSA"). Therefore, DSHS has an interest in ensuring Contractor complies with FLSA paid overtime and minimum wage requirements for Professional Personnel furnished under the Contract.

To ensure these requirements have been met, Contractor shall furnish DSHS annually with either:

- i. A summary of payroll records, together with all supporting documentation, showing compliance with FLSA overtime and minimum wage requirements for all Professional Personnel provided to DSHS by Contractor during the prior Contract year; or
- ii. An independent audit of Contractor's prior Contract year payroll records for all Professional Personnel provided to DSHS certifying Contractor paid those staffed individuals overtime and minimum wages in compliance with the FLSA. The independent auditor must be pre-approved by DSHS.

Contractor acknowledges and agrees it is solely responsible for all costs incurred in furnishing the foregoing required items.

7.7. ACTIVATION REQUIREMENT

A Contract resulting from this OE may be activated by the SMOC Director, the DSHS Center for Health Emergency Preparedness and Response Director, or the DSHS Contract Management Section Director by issuing a SMA or STAR to any Contractor to respond to and support a State Mission or Event within a specific jurisdiction. Prior to issuance of a STAR or SMA to a Contractor, Contractor will be consulted by DSHS to determine activation and deployment parameters to be identified within the SMA or STAR.

7.8. PERFORMANCE CRITERIA

DSHS will look solely to Contractor(s) for the performance of all contractual obligations resulting from an award based on this OE. No Contractor will be relieved of its obligations for any nonperformance by its subcontractors. Contractor must ensure that its subcontractors comply with all requirements, terms, and conditions of the Contract. Unless the context clearly indicates otherwise, every requirement and every prohibition set forth in this OE and any resulting contract that applies to a Contractor applies with equal force to its employees, agents, representatives, and subcontractors.

7.9. SPECIFIC PERFORMANCE STANDARDS

DSHS will actively monitor Contractor's performance under the Contract including, but not limited to, the requirements set forth in this Open

Enrollment to the Contract. All Work under the Contract shall be provided at a quality level acceptable to DSHS, as determined by DSHS in its sole discretion, and in a manner consistent with acceptable industry standard, custom, and practice.

7.10. CONTRACTOR PERFORMANCE

- A.** Contractor shall not employ or contract with or permit the employment of unfit or unqualified persons or persons to be provided under the Contract not skilled in the tasks assigned to them.
- B.** Contractor shall at all times employ sufficient Professional Personnel to provide the required services in the manner and time prescribed by the Contract.
- C.** Contractor shall be responsible for the acts and omissions of Contractor's employees, agents (including, but not limited to, lobbyists) and subcontractors and shall enforce strict discipline among Contractor's employees, agents (including, but not limited to, lobbyists) and subcontractors performing the services under the Contract.
- D.** DSHS, at its sole discretion, may request in writing the immediate removal of any Professional Personnel providing Services under the Contract. Upon such request, Contractor shall immediately remove the subject Professional Personnel and submit in writing to DSHS, within 10 Calendar Days of DSHS's request for removal, confirmation of the removal, and assurance of continued, compliant Contract performance.

7.11. NOTICE OF CRIMINAL ACTIVITY

Within its Application, an Applicant shall provide confirmation that the Applicant, any person with ownership or controlling interest in Applicant, and Applicant's agents, employees, subcontractors and volunteers who will be providing the required services:

- a. have not engaged in any activity that does or 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; and
- b. have not 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 sex crime.

This is a continuing disclosure requirement for each Applicant. Prior to Contract award, if any, Applicants must notify the DSHS Sole Point of Contact within five days of the date Applicant learns of actions set forth in subsections (a) and (b) above.

Additionally, this is a continuing disclosure requirement for each Contractor, during the term of the Contract, to immediately report, in writing, to the DSHS Contract Representative when Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Contractor, or any of Contractor's agents, employees, subcontractors or volunteers has: engaged in any activity that does or 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 the involvement in any financial matter, federal or state program, or sex crime.

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

Professional Personnel with sex offender, child or adult abuse, or fraud offenses shall not be allowed to provide Contract Services and shall not be allowed access to System Agency property, facilities, or documents.

Professional Personnel with misdemeanor offenses must receive prior approval by the System Agency before being allowed to work under the Contract.

DSHS, at its sole discretion, may terminate any Contract if Contractor, its agents, employees, subcontractors, or volunteers are arrested, indicted, or convicted of any criminal activity.

7.12. NOTICE OF INSOLVENCY OR INDEBTEDNESS

Within its Application, the Applicant shall provide detailed written descriptions of any insolvency, incapacity, or outstanding unpaid obligations of Applicant owed to the Internal Revenue Service (IRS) or the State of Texas, or any agency or political subdivision of the State of Texas. This is a continuing disclosure requirement; prior to Contract award, if any, Applicants must notify the DSHS Sole Point of Contact within five days of the date Applicant learns of such financial circumstances after submission of the Application. Additionally, Contractors are under a continuing obligation to notify the DSHS Contract manager, as applicable, within five days of the date Contractor learns of such financial circumstances after Contract award.

7.13. BACKGROUND CHECKS FOR PERSONNEL

Contractor shall conduct, or will retain an independent third party to perform, comprehensive, statewide Texas Department of Public Safety (DPS) criminal and sex offender background checks on all Professional Personnel who will be assigned to

perform services under the Contract. Contractor is responsible for all background check expenses.

The background checks must be completed prior to any Contractor personnel arriving on State property, if applicable, and/or beginning the required Contract services.

Supporting documentation for the background checks is subject to review upon request by DSHS. Failure to produce the requested documentation, as with any violation of the Contract, may constitute grounds for termination of the Contract and/or Purchase Order for cause.

The background checks shall include, but not be limited to:

- Social Security Number verification; and
- Statewide criminal and sex offender records for all Texas counties and out-of-state counties based on the current and previous addresses of the Professional Personnel for the last seven (7) years.

7.14. REPORTING CRITERIA

As requested, Contractor shall comply with and submit all requested reporting requirements in the template and format provided by DSHS and within the prescribed timelines to be determined by DSHS.

7.15. INVOICE REQUIREMENTS AND PAYMENT

7.15.1. INVOICE REQUIREMENTS

Contractor shall submit to DSHS detailed and accurate invoice(s) which include the information below. Request for reimbursement should be submitted to DSHS monthly, for services rendered in the prior month and should continue throughout the State Mission or Event activation for services rendered by Contractor

The e-mail address for submitting an invoice is: invoices@dshs.texas.gov and cmsinvoices@dshs.texas.gov.

The invoice shall include, at a minimum:

- a. Contractor's Name;
- b. Agency Number – 537;
- c. Order Date;
- d. Document Amount;
- e. Payee Name and Address;
- f. Contractor's Tax Identification Number;
- g. Contract and Purchase Order Number;
- h. STAR or SMA number;

- i. Identification of Services provided; and
- j. Service date(s).

No payment will be remitted under this Contract without submission of detailed, accurate invoices submitted as outlined above.

7.15.2. PAYMENT

Contracts issued under this OE will be paid monthly and in accordance with the fully loaded rates established by position type. Invoices should be submitted using the State of Texas Request for Reimbursement Form B-13.

7.16. DATA USE AGREEMENT (DUA)

By submitting an Application and, if applicable, signing a Contract resulting from this OE, any non-governmental Applicant agrees to the terms and conditions in **Exhibit D, HHS Data Use Agreement (version 8.5)**, and any governmental Applicant agrees to the terms and conditions in **Exhibit E, HHS Data Use Agreement – Governmental Entity (version 8.5)**.

Any non-governmental Applicant must complete, sign, and return with its Application, **Exhibit D-1, Attachment 2 to Exhibit D, Security and Privacy Initial Inquiry (SPI)**. Any governmental Applicant must complete, sign, and return with its Application, **Exhibit E-1, Attachment 2 to Exhibit E, Security and Privacy Initial Inquiry**.

7.17. TERMS AND CONDITIONS

Submission of an Application in response to this OE constitutes acceptance of all Terms and Conditions attached to, referenced, or set forth in the OE. Applicants are not permitted to submit additional or different terms and conditions.

Any term, condition, or other part of an Applicant's submitted Application that has been rejected by DSHS, that is not accepted in writing by DSHS, or that conflicts with applicable law, this OE, any resulting Contract, or applicable terms and conditions will not constitute part of the Contract.

7.18G. STANDARDS OF CONDUCT FOR VENDORS

Pursuant to *Texas Administrative Code* Title 1, Part 15, Chapter 391, Subchapter D, contractors, respondents, and vendors interested in working with HHS are required to implement standards of conduct to apply to all matters involving, or related to, those solicitations and contract(s) between themselves and HHS. These standards must adhere to ethics requirements adopted in rule, in addition to any ethics policy, or code of ethics approved by the HHSC Executive Commissioner, and must be at least as

restrictive as those applicable to HHS personnel in the applicable ethics law and policy provisions.

The standards of conduct must include the ten standards of ethical conduct set forth in Section I of the HHS Ethics Policy and requirements to comply with ethical standards set forth in federal and state law (including, but not limited to, *Texas Administrative Code* Title 1, Part 15, Chapter 391, Subchapter D).

The standards of conduct, together with the responsibilities and restrictions incorporated herein, also apply to subcontractors of contractors, respondents and vendors.

Standards of conduct of any contractor, respondent or vendor may be reviewed and/or audited by the State Auditor and HHSC. Additionally, pursuant to *Texas Administrative Code* Title 1, Part 15, Chapter 391, Subchapter D, HHS may examine a respondent's standards of conduct in the evaluation of a bid, offer, proposal, quote, or other applicable expression of interest in a proposed purchase of goods or services.

Any vendor or contractor that violates a provision of *Texas Administrative Code* Title 1, Part 15, Chapter 391, Subchapter D may be barred from receiving future contracts or have an existing contract canceled. Additionally, HHSC may report the vendor's actions to the Comptroller of Public Accounts for statewide debarment, or law enforcement.

SECTION 8. DSHS CONTRACT ADMINISTRATION

DSHS will designate a Contract Manager and provide the manager's contact information to Contractor.

After award of any Contract resulting from this OE, all communications related to the Contract will be processed through the designated Contract Representative. Additional requirements apply to legal notices which must be provided to the HHSC Chief Counsel as well as the Contract Manager.

SECTION 9. INSURANCE REQUIREMENTS

9.1. INSURANCE COVERAGE

In its Application, Applicant must provide a statement of its intent to obtain and maintain for the term of the Contract (including any renewal periods or additional extensions) the minimum insurance coverage specified below and, as applicable, any bonds required. Applicant should also describe other insurance coverage maintained by Applicant in the ordinary course of business and provide proof of same in its Application. DSHS may request any form of proof of insurance or bond coverage as DSHS, in its sole discretion, deems necessary.

Applicants shall submit bond documentation and current certificates of insurance or other proof acceptable to DSHS at the time of notification of a potential award and such proof must be received by DSHS prior to execution of any contract.

DSHS may designate a deadline for submission of proof of required insurance or bonds. Failure to timely submit acceptable proof may result in DSHS's revocation of any Contract award.

Contractor shall maintain the required insurance during the initial Contract term, including any renewal or extension period exercised. Contractor shall be responsible for ensuring its Subcontractors are in compliance with all applicable insurance and bond requirements.

9.2. GENERAL INSURANCE REQUIREMENTS

1. Contractor shall carry insurance in the types and amounts indicated in this OE for the duration of the Contract. The insurance shall be evidenced by delivery to System Agency of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, System Agency, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements.
2. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for withholding of payment until renewal is provided to System Agency.
3. Contractor shall provide and maintain all insurance coverage with the minimum amounts described throughout the life of the Contract.
4. Failure to maintain insurance coverage, as required, may be grounds for suspension of Work for cause.
5. Contractor shall deliver to System Agency true and complete copies of certificates and corresponding policy endorsements upon award.
6. Failure of System Agency to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of System Agency to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
7. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to System Agency in the Contract.
8. The insurance coverage and limits established below shall not be interpreted as any representation or warranty that the insurance coverage and limits necessarily will be adequate to protect Contractor.
9. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company or similar rating company or otherwise acceptable to System Agency.

9.3. REQUIRED POLICY CLAUSES

Policies must include the following clauses, as applicable:

1. This insurance shall not be canceled, materially changed, or non-renewed except after thirty (30) days written notice has been given to System Agency.
2. It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by System Agency for liability arising out of operations under the Contract with System Agency. The Texas Health and Human Services Commission, its officials, directors, employees, representatives, and volunteers are added as additional insureds in respect to operations and activities of, or on behalf of the named insured performing under Contract with System Agency. The additional insured status must cover completed operations as well. This is not applicable to workers' compensation policies.
3. A waiver of subrogation in favor of the Texas Health and Human Services Commission shall be provided in all policies.
4. Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing Work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above.
5. As an alternative, Contractor may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. Contractor shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Contract plus seven (7) years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. System Agency shall be entitled, upon request and without expense, to receive copies of these certificates.

9.4. SPECIFIC INSURANCE COVERAGE REQUIRED

1. **Workers' Compensation.** Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation in favor of the Texas Health and Human Services Commission, employer's liability insurance of not less than:
 - a. \$1,000,000 each accident;
 - b. \$1,000,000 disease each employee; and
 - c. \$1,000,000 disease policy limit.

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

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

The term "You" as referenced in the subsection above, means the Contractor.

3. **Comprehensive Automobile Liability Insurance.** Covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$1,000,000 per accident. No aggregate shall be permitted for this type of coverage.
4. **Cyber/Privacy Liability Insurance Policy.** Contractor shall provide Cyber/Privacy Liability Insurance to cover risk of loss to electronic data. The policy must include coverage for electronic vandalism to electronic data, including coverage for a third party's willful electronic alteration of data, introduction of viruses which impact electronic data, unauthorized use of electronic data, or denial of service to web site or email destinations. Cyber Liability Insurance \$1,000,000 Claim/\$1,000,000 Aggregate.
5. **Professional Liability Insurance.** Contractor shall obtain, pay for and maintain professional liability errors and omissions insurance during the Contract term, insuring Contractor for an amount of not less than \$1,000,000.
6. **Umbrella Liability Insurance.** Applicant shall obtain, pay for and maintain umbrella liability insurance during the Contract term, insuring Applicant for an amount of not less than \$2,000,000 that provides coverage at least as broad as and applies in excess and follows the form of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

9.5. ALTERNATIVE INSURABILITY

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

SECTION 10. CONFIDENTIAL OR PROPRIETARY INFORMATION

10.1. PUBLIC INFORMATION ACT

Applicant Requirements Regarding Disclosure

Applications and contracts are subject to the Texas Public Information Act (PIA), *Tex. Gov't Code Chapter 552*, and may be disclosed to the public upon request. Other legal authority also requires HHSC to post certain contracts and Applications on HHSC's website and to provide such information to the Legislative Budget Board for posting on its website.

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

a. Mark Original Application:

- (1)** Mark the original Application, on the top of the front page, the words "CONTAINS CONFIDENTIAL INFORMATION" in large, bold, capitalized letters (the size of, or equivalent to, 12-point Times New Roman font or larger); and
- (2)** Identify, adjacent to each portion of the Application that Applicant claims is exempt from public disclosure, the claimed exemption from disclosure (NOTE: no redactions are to be made in the original Application);

b. Certify in Original Application - HHS Solicitation Affirmations

(attached as Exhibit A to this OE): certify, in the designated section of the HHS Solicitation Affirmations, Applicant's confidential information assertion and the filing of its Public Information Act Copy; and

c. Submit Public Information Act Copy of Application: submit a separate "Public Information Act Copy" of the original Application (in addition to the original and all copies otherwise required under the provisions of this OE). The Public Information Act Copy must meet the following requirements:

- (1)** The copy must be clearly marked as "Public Information Act Copy" on the front page in large, bold, capitalized letters (the size of, or equivalent to, 12-point Times New Roman font or larger);

- (2) Each portion Applicant claims is exempt from public disclosure must be redacted; and
- (3) Applicant must identify, adjacent to each redaction, the claimed exemption from disclosure. Each identification provided as required in subsection (c) of this section must be identical to those set forth in the original Application as required in section a.(2), above. The only difference in required markings and information between the original Application and the "Public Information Act Copy" of the Application will be redactions - which can only be included in the "Public Information Act Copy." There must be no redactions in the original Application.

By submitting an Application to this OE, Applicant agrees that, if Applicant does not mark the original Application, provide the required certification in the HHS Solicitation Affirmations, and submit the Public Information Act Copy, Applicant's Application will be considered to be public information that may be released to the public in any manner including, but not limited to, in accordance with the Public Information Act, posted on HHSC's and/or DSHS's public website, and posted on the Legislative Budget Board's website.

If Applicants submit partial, but not complete, information suggesting inclusion of confidential information and failure to comply with the requirements set forth in this section, DSHS, in its sole discretion, reserves the right to (1) disqualify all Applicants that fail to fully comply with the requirements set forth in this section, or (2) to offer all Applicants that fail to fully comply with the requirements set forth in this section additional time to comply.

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

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

DSHS will strictly adhere to the requirements of the PIA regarding the disclosure of public information. As a result, by participating in this OE process, Applicant acknowledges that all information, documentation, and other materials submitted in the Application in response to this OE may be subject to public disclosure under the PIA. HHSC does not have authority to agree that any information submitted

will not be subject to disclosure. Disclosure is governed by the PIA and by rulings of the Office of the Texas Attorney General. Applicants are advised to consult with their legal counsel concerning disclosure issues resulting from this process and to take precautions to safeguard trade secrets and proprietary or otherwise confidential information. DSHS assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Applicants.

For more information concerning the types of information that may be withheld under the PIA or questions about the PIA, refer to the *Public Information Act Handbook* published by the Office of the Texas Attorney General, or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). The *Public Information Act Handbook* may be accessed at:

<https://www.texasattorneygeneral.gov/open-government/members-public>

10.2. APPLICANT WAIVER – INTELLECTUAL PROPERTY

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

SECTION 11. BINDING OFFER

All Applications should be responsive to the OE as issued or amended through written and posted Addenda, not with any assumption that DSHS will negotiate any or all terms, conditions, or provisions of the OE. Furthermore, all Applications constitute binding offers. **Any Application that includes any type of disclaimer or other statement indicating that the Application submitted in response to this OE does not constitute a binding offer may be disqualified.**

SECTION 12. REQUIRED APPLICATION DOCUMENTS

Documentation Required for Application Submission

All documentation listed must be completed and returned for a complete Application. Provide the documentation in the same sequence as outlined below by using the Item number(s) and title(s) as necessary.

Exhibit A – HHS Solicitation Affirmations

Must be completed and signed.

Important Note: Applications received without the signed Exhibit A will be disqualified.

OE Addenda, if applicable - signed

Exhibit D-1, Attachment 2, Security and Privacy Initial Inquiry, to Data Use Agreement

Must be completed and signed if the Respondent is a non-governmental entity.

or

Exhibit E-1, Attachment 2, Security and Privacy Initial Inquiry, to Data Use Agreement – Governmental Entity

Must be completed and signed if the Respondent is a governmental entity.

Exhibit F – Federal Assurances, Non-Construction Programs

Must be completed and signed.

Exhibit G – Federal Certification Regarding Lobbying

Must be completed and signed.

Exhibit H - Fiscal Federal Funding Accountability and Transparency Act (FFATA)

Must be completed and signed.

Form A: Face Page – Must be completed and signed

Form B: Open Enrollment Application Submission Checklist - Must be completed

Form C: Contact Person Information Form - Must be completed

Form D: Vendor Information Form - Must be completed and signed

Form E: Written Acknowledgement of Completion of Cybersecurity Training Program - Must be completed and signed

FORM F Notice of Criminal Offense Self-Reporting- Must be completed and signed

Minimum Qualifications – Reference Section # 6

Required Experience:

Provide documentation of demonstrated experience to confirm the Applicant meets the minimum requirements. This applies to the Applicant’s business, Subcontractor(s) and both Applicant’s and Subcontractor’s personnel.

References:

Applicants must provide a minimum of three (3) references for contracts of similar size and scope of services within the last seven (7) years.

For each reference, provide the following documentation with Application:

- Name, address, and phone number for each reference;
- Dates services performed and/or goods provided;
- Description of services performed and/or goods provided; and
- Key staff assigned to the referenced contract/project who will be designated for work for any resulting Contract under this OE.

Licensure or Accreditation

Provide current documentation of applicant’s internal procedure in meeting all required Licensure and Accreditation for the Applicant and Applicant’s personnel as required in Section 7.4 Contractors (Provider) Responsibilities.

Additional Minimum Qualifications:

Provide documentation of qualifications to confirm the Applicant meets the minimum requirements. This applies to the Applicant's business, Subcontractor(s) and both Applicant's and Subcontractor's personnel.

Organizational Chart and Key Personnel

Applicant must provide an organizational chart for the key staff members who will be responsible for the performance of the services requested under this OE. Include profiles and resumes for all staff. The profiles and/or resumes shall include the first, middle name or initial and last names for all key staff.

Executive Summary

- **Statement of Work – Section #7**
Provide the Applicant's approach to meeting the requirements of the Statement of Work including any other requirements of this OE.

- **Applicant Business Structure or Company Type:**
Provide the entity type (e.g., Private, Non-Profit, State Agency, Local Government, etc.). If a corporation, provide State of Incorporation and filing number.

- **Court or Governmental Agency Proceedings, Investigations, or Other Actions:**
Applicant shall provide information required pursuant to the HHS Solicitation Affirmations (Exhibit A), paragraph 36.

Notice of Criminal Activity – Reference Section #7.11

Provide confirmation that the Applicant, any person with ownership or controlling interest, their agent, employee, Subcontractor or volunteer who will be providing the required services are not:

- a. 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
- b. 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 sex crime.

Notice of Insolvency or Indebtedness – Reference Section # 7.12

Provide with the Application detailed written descriptions of any insolvency, incapacity, and outstanding unpaid obligations of Applicant owed to the Internal Revenue Service (IRS) or the State of Texas, or any agency or political subdivision of the State of Texas.

Applicant Contact Information

Titles of personnel for contact information:

- Person Authorized to Sign Contract
- Primary Contact for Questions Regarding Application
- Financial Officer
- Accounts Payable
- Primary Contact for Contract Management
- Alternate Contact for Contract Management

Provide this information for each contact listed above:

- Name and Title
- Mailing Address
- Phone Number

- E-mail Address

Insurance – Reference Section #9

Applicant must provide proof of insurance or a statement of its intent to obtain and maintain for the term of the Contract (and any renewal periods or additional extensions) the minimum insurance coverage specified or, as applicable, any bonds required. Applicant should also describe other insurance coverage maintained in the ordinary course of business and provide proof of same in its Application.

DSHS may designate a deadline for submission of proof of required insurance. Failure to timely submit acceptable proof may result in DSHS's revocation of the award.

Alternative Insurability:

Provide proposed alternative methods of insuring the Contract, if awarded, and a detailed explanation regarding Applicant's inability to obtain the required insurance and/or bonds.

Public Information Act Copy of Application, if applicable**SECTION 13. APPLICATION SUBMISSION REQUIREMENTS**

The Application must be submitted in accordance with this section and Section 12.

The complete Application must be submitted to:

Contract Management Section (CMS)
Email: Jennifer.Boggs@dshs.texas.gov

Each Applicant is solely responsible for ensuring its Application is submitted in accordance with all OE requirements and ensuring timely receipt by DSHS.

In no event will DSHS be responsible or liable for any delay or error in Application submission or delivery.

The Application must be submitted by e-mail.

13.1. E-MAIL SUBMISSION

Each Applicant is solely responsible for ensuring its Application is submitted in accordance with all OE requirements, including, but not limited to, the Section 13, Required Application Documents and ensuring timely e-mail receipt by DSHS.

The Application, including all documentation outlined in Section 13, must be sent in its entirety in one or more e-mails.

In no event will DSHS be responsible or liable for any delay or error in delivery. Applications must be RECEIVED by DSHS before the OE period closes as identified in Schedule of Events, Section 1, or subsequent Addenda.

The e-mail subject line should contain the OE number, title as indicated on the cover page and number of e-mails if more than one (e.g., E-mail 1 of #, etc.). The Applicant is solely responsible for ensuring that Applicant's complete electronic Application is sent to, and actually RECEIVED by DSHS at the proper destination server before the Application submission deadline.

The Application documentation must not be encrypted so as to prevent DSHS from opening the documents.

IMPORTANT NOTE: DSHS recommends a 10MB limit on each attachment. This may require Applicants to send multiple e-mails to DSHS at e-mail address to ensure all documentation contained in an Application is received.

All documents should be submitted in Microsoft office® formats (Word® and Excel®, as applicable) or in a form that may be read by Microsoft office® software. Any documents with signatures shall be submitted as an Adobe® portable document format (pdf) file. DSHS is not responsible for documents that cannot be read or converted. Unreadable applications may be, in DSHS'S sole discretion, rejected as nonresponsive.

Please be aware Internet Service Providers may limit file sizes on outgoing emails; therefore, it is recommended Applications not contain graphics, pictures, letterheads, etc., which consume a lot of space. These typically include *.tif/*.tiff, *.gif, & *.bmp file extensions, but may use others, as well. DSHS's firewall virus protection runs at all times, so during times of new active virus alerts, incoming traffic may be delayed while virus software scans emails with attachments. DSHS takes no responsibility for e-mailed Applications that are captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any DSHS anti-virus or other security software.

Applicants may email the Sole Point of Contact identified in Section 4.1 to request confirmation of receipt.

13.2. RECEIPT OF APPLICATION

All Applications become the property of DSHS upon receipt and will not be returned to Applicants.

DSHS will not be held responsible for any Application that is mishandled by the Applicant, any Applicant's delivery or mail service or for Applications sent by e-

mail that are captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any DSHS anti-virus or other security software.

Applications received after the OE Period closes will not be considered.

SECTION 14. SCREENING OF APPLICATIONS

Neither issuance of this OE nor retention of Applications constitutes a commitment on the part of DSHS to award a Contract. DSHS maintains the right to reject any or all Applications and to cancel this OE if DSHS, in its sole discretion, considers it to be in the best interests of DSHS to do so.

Submission and retention of Applications by System Agency confers no legal rights upon any Applicant.

DSHS reserves the right to select qualified Applicants to this OE with or without discussion of the Applications with Applicants. It is understood by Applicant that all Applications, contracts, and related documents are subject to the Texas Public Information Act.

14.1. INITIAL SCREENING OF APPLICATIONS

An initial screening of Applications will be conducted by DSHS to determine which Applications are deemed to be responsive and qualified for further consideration for award. This screening includes a review to determine that each Applicant meets the minimum requirements, qualifications and each Application includes all required documentation.

DSHS reserves the right to:

- a. Ask questions or request clarification from any Applicant at any time during the OE and screening process; and
- b. Conduct studies and other investigations as necessary to evaluate any Application.

Informalities:

DSHS reserves the right to waive minor informalities in an Application. A "minor informality" is an omission or error that, in DSHS's determination if waived or modified when screening Applications, would not give an Applicant an unfair advantage over other Applicants or result in a material change in the Application or OE requirements.

DSHS, at its sole discretion, may give an Applicant the opportunity to submit missing information or make corrections. The missing information or corrections must be submitted to the Point of Contact e-mail address in Section 4.1 by the

deadline set by DSHS. Failure to respond before the deadline may result in DSHS' rejecting the Application and the Applicant not being considered for award.

Note: Any disqualifying factor set forth in this OE does not constitute an informality (e.g., Exhibit A, HHS Solicitation Affirmations which must be signed and submitted with the Application).

14.2. VERIFICATION OF PAST VENDOR PERFORMANCE

DSHS reserves the right to conduct studies and other investigations as necessary to evaluate any Application. By submitting an Application, the Applicant generally releases from liability and waives all claims against any party providing information about the Applicant at the request of DSHS.

Applicants may be rejected as a result of unsatisfactory past performance under any contract(s) as reflected in vendor performance reports, reference checks, or other sources.

An Applicant's past performance may be considered in the initial screening process and prior to making an award determination.

Reasons for which an Applicant may be denied a contract include but are not limited to:

- a.** Applicant has an unfavorable report or grade on the CPA Vendor Performance Tracking System (VPTS).
VPTS may be accessed at:
<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>
- OR,
- b.** Applicant is currently under a corrective action plan through DSHS, OR,
- c.** Applicant has had repeated, negative vendor performance reports for the same reason, OR,
- d.** Applicant has a record of repeated non-responsiveness to vendor performance issues, OR,
- e.** Applicant has contracts or purchase orders that have been cancelled in the previous 12 months for non-performance or sub-standard performance.
- f.** Applicant does not meet criteria in section 8.3.

In addition, DSHS may examine other sources of vendor performance which may include information provided by any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government.

The performance information may include, but is not limited to:

- Notices of termination,

- Cure notices,
- Assessments of liquidated damages,
- Litigation,
- Audit reports, and
- Non-renewals of contracts.

Further, DSHS, at its sole discretion, may initiate investigations or examinations of vendor performance based upon media reports. Any negative findings, as determined by DSHS in its sole discretion, may result in DSHS's removing the Applicant from further consideration for award.

SECTION 15. AWARD PROCESS

15.1. CONTRACT AWARD AND EXECUTION

DSHS, at its sole discretion, reserves the right to cancel this OE at any time or decline to award any contracts as a result of this OE.

DSHS intends to award one or more contracts as a result of this OE.

All awards are contingent upon approval of the HHSC Executive Commissioner or the HHSC Executive Commissioner's designee.

15.2. COMPLIANCE FOR PARTICIPATION IN STATE CONTRACTS

15.2.1. REQUIRED PRE-AWARD VERIFICATIONS

In addition to the initial screening process, the following verification checks are required to be conducted for each Applicant to determine compliance for participating in State contracts.

The Applicant's Legal Name and, if applicable, Assumed Business Name (D.B.A.) will be used to conduct these checks.

Applicants found to be barred, prohibited, or otherwise excluded from contract award will be disqualified from further consideration.

A. State of Texas Debarment

Must not be debarred from doing business with the State of Texas through the Comptroller of Public Accounts (CPA):

<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>

B. System of Award Management (SAM) Exclusions List - Federal

Must not be excluded from contract participation at the federal level. This verification is conducted through SAM, official website of the U.S. Government which may be accessed at this link:

<https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>

Note: If the link does not work, copy/paste the link into browser bar.

C. Divestment Statute Lists

Must not be listed on the Divestment Statute Lists provided by the CPA which may be accessed at:

<https://comptroller.texas.gov/purchasing/publications/divestment.php>

1. Companies that boycott Israel;
2. Scrutinized Companies with Ties to Sudan;
3. Scrutinized Companies with Ties to Iran;
4. Designated Foreign Terrorist Organizations; and
5. Scrutinized Companies with Ties to Foreign Terrorist Organizations.

D. HHS Office of Inspector General

Must not be listed on the HHS Office of Inspector General Texas Exclusions List for people or businesses excluded from participating as provider: <https://oig.hhsc.texas.gov/exclusions>

E. U.S. Department of Health and Human Services

Must not be listed on the U.S. Department of Health and Human Services Office of Inspector General's List of Excluded Individuals/Entities (LEIE), excluded participation as provider, unless a valid waiver is currently in effect: <https://exclusions.oig.hhs.gov/>

15.3. ADDITIONAL REQUIRED PRE-AWARD VERIFICATIONS

After the checks performed in Section 16.2.1, the following verifications will be conducted for each Applicant. The verifications will be based on the legal name and, if applicable, the Assumed Business Name (D.B.A.), and/or the Secretary of State (SOS) charter number, the Federal ID or Texas Payee ID numbers, or the CPA Franchise Tax number provided, as applicable, on Exhibit A, HHS Solicitation Affirmations.

The results of the checks below will be used to further consider an Applicant for award and may result in disqualification.

A. Texas Franchise Tax Status

The Texas franchise tax is a privilege tax imposed on each taxable entity formed or organized in Texas or doing business in Texas. Although not all entities are required to file or pay franchise taxes, DSHS will process a search of the Applicant through the CPA Franchise Tax system to verify the Applicant is in good standing.

Franchise tax checks may reveal as to applicable entities (1) debts or delinquencies owed to the state (implicating contracting limitations) and (2) forfeiture of the right to transact business in Texas.

B. Texas Warrant Hold Status

The check for warrant holds through the CPA is required to determine if an Applicant is on hold for any reason. [Texas Government Code Section 2252.903](#) requires agencies to verify the warrant hold status no earlier than the seventh day before and no later than the day of contract execution for transactions involving a written contract. In accordance with Section 3.3 of Exhibit B, Uniform Terms and Conditions – Vendor, or Exhibit C, Uniform Terms and Conditions – Governmental Entity, payments under any contract resulting from this OE will be applied directly toward eliminating the Applicant’s debt or delinquency regardless of when it arises.

C. Texas Secretary of State

Must be registered, if required by law, with the Texas Secretary of State as a public or private entity eligible to do business in Texas:

<https://direct.sos.state.tx.us/acct/acct-login.asp>

15.4. AWARD TO GOVERNMENTAL ENTITIES

If Applicant is a governmental entity, responding to this OE in its capacity as a governmental entity, certain terms and conditions may not be applicable including, but not limited to, any HSP requirement. Furthermore, to the extent permitted by law, if an Application is received from a governmental entity, DSHS reserves the right to enter into an interagency or interlocal agreement with the governmental entity.

SECTION 16. DISCLOSURE OF INTERESTED PARTIES

Subject to certain specified exceptions, *Tex. Gov’t Code* Section 2252.908, Disclosure of Interested Parties, applies to a contract of a state agency that has a value of at least \$1 million or that is for services that would require a person to register as a lobbyist under Chapter 305 or that requires an action or vote by the governing body of the agency before the contract may be signed. One of the requirements of Section 2252.908 is that a business entity (defined as “any entity recognized by law through which business is

conducted, including a sole proprietorship, partnership, or corporation”) must submit a Form 1295, Certificate of Interested Parties, to the state agency at the time the business entity submits the signed contract to the agency.

Applicant represents and warrants that, if selected for award of a contract as a result of this OE, Applicant will submit to DSHS, if applicable, a Certificate of Interested Parties at the time Applicant submits the signed contract. Form 1295 involves an electronic process through the Texas Ethics Commission (TEC).

Information regarding the on-line process for completing Form 1295 is available on the Texas Ethics Commission’s website:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

For further information:

Reference *Tex. Gov’t Code* Section 2252.908 which can be accessed at:

<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.908>

Tex. Admin. Code Title 1, Chapter 46, Disclosure of Interested Parties of the which can be accessed at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=2&ch=46&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=2&ch=46&rl=Y)

If the potential awardee does not timely submit a completed, certified and signed TEC Form 1295 to DSHS, DSHS is prohibited by law from executing a contract, even if the potential awardee is otherwise eligible for award.