

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

**OPEN ENROLLMENT (OE)**

**for**

**Independent Review Organization Services**

**Medicaid and CHIP Services**

**Managed Care Contracts and Oversight**

**OE No. HHS0014047**

**NIGP Class/Item No:**

**948/07**

Table of Contents

[**SECTION 1.** **SCHEDULE OF EVENTS** 4](#_Toc146184255)

[**SECTION 2.** **OVERVIEW** 4](#_Toc146184256)

[**2.1.** **Introduction** 4](#_Toc146184257)

[**2.2.** **Legal Authority** 5](#_Toc146184258)

[**2.3.** **No Guarantee of Volume, Usage or Compensation** 5](#_Toc146184259)

[**SECTION 3.** **DEFINITIONS AND ACRONYMS** 5](#_Toc146184260)

[**SECTION 4.** **GENERAL INFORMATION** 11](#_Toc146184261)

[**4.1.** **Sole Point of Contact** 11](#_Toc146184262)

[**4.2.** **Changes, Modifications and Cancellation** 12](#_Toc146184263)

[**4.3.** **Delivery of Notices** 12](#_Toc146184264)

[**4.4.** **Offer Period** 13](#_Toc146184265)

[**4.5.** **Costs Incurred** 13](#_Toc146184266)

[**4.6.** **OE Questions or Clarifications** 13](#_Toc146184267)

[**SECTION 5.** **Historically underutilized businesses** 14](#_Toc146184268)

[**SECTION 6.** **CONTRACT TERM** 14](#_Toc146184269)

[**6.1.** **Term of Contract** 14](#_Toc146184270)

[**6.2.** **Extension Option** 15](#_Toc146184271)

[**6.3.** **Contract Elements** 15](#_Toc146184272)

[**SECTION 7.** **MINIMUM QUALIFICATIONS** 15](#_Toc146184273)

[**SECTION 8.** **STATEMENT OF WORK** 17](#_Toc146184274)

[**8.1.** **Project Overview** 17](#_Toc146184275)

[**8.2.** **HHSC Responsibilities** 17](#_Toc146184276)

[**8.3.** **Contractor Responsibilities** 17](#_Toc146184277)

[**8.4.** **Statement of Services to be Provided** 19](#_Toc146184278)

[**8.5.** **Performance Criteria** 20](#_Toc146184279)

[**8.6.** **Contractor Personnel Performance** 20](#_Toc146184280)

[**8.7.** **Notice of Criminal Activity** 21](#_Toc146184281)

[**8.8.** **Notice of Insolvency or Indebtedness** 22](#_Toc146184282)

[**8.9.** **Invoice Requirements and Payment** 22](#_Toc146184283)

[**8.10.** **Data Use Agreement (DUA)** 23](#_Toc146184284)

[**8.11.** **Terms and Conditions** 23](#_Toc146184285)

[**8.12.** **Standards of Conduct for Vendors** 23](#_Toc146184286)

[**SECTION 9.** **HHSC CONTRACT ADMINISTRATION** 24](#_Toc146184287)

[**SECTION 10.** **CONFIDENTIAL OR PROPRIETARY INFORMATION** 24](#_Toc146184288)

[**10.1.** **Public Information Act** 24](#_Toc146184289)

[**10.2.** **Applicant Waiver – Intellectual Property** 26](#_Toc146184290)

[**SECTION 11.** **BINDING OFFER** 27](#_Toc146184291)

[**SECTION 12.** **required application documents** 27](#_Toc146184292)

[**SECTION 13.** **Application SUBMISSION requirements** 29](#_Toc146184293)

[**13.1.** **E-Mail Submission** 29](#_Toc146184294)

[**13.2.** **Receipt of Application** 30](#_Toc146184295)

[**13.3.** **Unresponsive Applications** 31](#_Toc146184296)

[**13.4.** **Corrections to Application** 32](#_Toc146184297)

[**13.5.** **Review and Validation of Applications** 32](#_Toc146184298)

[**13.6.** **Additional Information** 32](#_Toc146184299)

[**13.7.** **Protest Procedures** 32](#_Toc146184300)

[**SECTION 14.** **SCREENING OF APPLICATIONS** 32](#_Toc146184301)

[**SECTION 15.** **AWARD PROCESS** 35](#_Toc146184302)

[**15.1.** **Contract Award and Execution** 35](#_Toc146184303)

[**15.2.** **Compliance for Participation in State Contracts** 35](#_Toc146184304)

[**15.2.1.** **Required Pre-Award Verifications** 35](#_Toc146184305)

[**15.2.2.** **Additional Required Pre-Award Verifications** 36](#_Toc146184306)

[**15.3.** **Award To Governmental Entities** 37](#_Toc146184307)

[**SECTION 16.** **disclosure of interested parties** 37](#_Toc146184308)

1. **SCHEDULE OF EVENTS**

|  |  |
| --- | --- |
| **Enrollment Period Opens**  **(Posted to HHS OE Opportunities webpage)** | **November 1, 2023** |
| **Enrollment Period Closes**  **(Final date for RECEIPT of Applications)** | **October 31, 2026** |
| **Anticipated Contract Start Date** | **The effective date of a Contract, if any, awarded to an Applicant will be determined at the sole discretion of HHSC.** |

* 1. Applications must be received by HHSC 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 complete Application is received before the submission period closes. HHSC is not responsible for lost, misdirected or late applications.
  2. The dates in the Schedule of Events are tentative. HHSC reserves the right to modify these dates at any time by posting an Addendum to the HHS Open Enrollment Opportunities webpage.
  3. By submitting an Application, the Applicant represents and warrants that any individual submitting the Application and any related documents on behalf of the Applicant is authorized to do so and to bind the Applicant under any resulting contract.
  4. Withdrawal of Application: Applications may be withdrawn from consideration or amended at any time prior to the “Enrollment Period Closes” date by emailing a request to the sole Point of Contact, Section 4. The e-mail subject line should contain the OE number and title as indicated on the cover page.The Applicant is solely responsible for ensuring requests are received timely by HHSC. HHSC is not responsible for lost, misdirected or late emails.
  5. If HHSC chooses to close the OE period, HHSC will provide 30-days advance notice via Addendum posted to this solicitation on the HHS Open Enrollment Opportunities webpage. Any applications received after the OE closure date will not be processed.

1. **OVERVIEW**
   1. **Introduction**
      1. The Texas Health and Human Services Commission (HHSC) is an agency within the Texas Health and Human Services (HHS) system.
      2. HHSC is seeking Applications to establish Contract(s) for one or more Independent Review Organizations (IROs) to conduct external medical reviews (EMRs) for:
         1. Texas Medicaid managed care organization (MCO) or dental maintenance organization (DMO) benefit denials or reductions that are appealed by Medicaid members or their authorized representatives and subsequently are requested for review by a contracted IRO; and
         2. Eligibility decisions made by HHSC for a Medicaid program in which eligibility is based on a Medicaid applicant or recipient’s medical or functional need.
      3. Initially, a contracted IRO will be responsible for reviewing eligibility decisions related to the denial of medical necessity for the Medically Dependent Children Program (MDCP) and STAR+PLUS Home and Community Based Services (HCBS). Eventually, other HHSC programs may be included in the EMR process.
      4. To be considered for award, Applicants must submit a comprehensive and complete Application which meets all the requirements of this OE and includes all requested documentation.
   2. **Legal Authority**

HHSC is authorized to enter into this Contract pursuant to Texas Government Code section 531.024164. HHSC is posting this Open Enrollment pursuant to 1 TAC § 391.103(a) and 1 TAC § 391.601.

* 1. **No Guarantee of Volume, Usage or Compensation**

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

1. **DEFINITIONS AND ACRONYMS**

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

|  |  |
| --- | --- |
| Term | Definition |
| **1915(c) Waiver** | A program that provides community-based services to assist Medicaid beneficiaries to live in the community and avoid institutionalization. |
| **Acute Care** | Preventive care, primary care, and other medical care provided under the direction of a physician for a condition having a relatively short duration. |
| **Addendum** | A written clarification or revision to this Open Enrollment. All Addenda will be posted to the HHS Open Enrollment Opportunities web page. |
| **Appeal** | The formal process by which a Medicaid Member or his or her representative requests a review of the MCO’s denial, reduction, or limited authorization of a Member or Provider requested services, previously authorized service, including the type or level of service, requirements for Medical Necessity, appropriateness, setting, or effectiveness of a covered benefit by the MCO. |
| **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. |
| **Behavioral Health** | Mental, emotional, or Substance Use Disorders, or a combination thereof. |
| **Business Day or business day** | Any day except a Saturday, Sunday, or legal holiday listed in Texas Government Code § 662.021. |
| **Calendar Day or calendar day** | The 24-hour period that begins at midnight and ends 24 hours later at 11:59:59 p.m. To calculate a deadline to respond to a contract requirement, the day of the event that triggers the period is excluded. Saturdays, Sundays, and all holidays are considered Calendar Days. |
| **Conflict of Interest** | A conflict of interest is a set of facts or circumstances in which either a Contractor or anyone acting on its behalf in connection with this Open Enrollment has past, present, or currently personal, professional, or financial interests or obligations that, in HHSC’s sole determination, would actually or apparently conflict or interfere with the Contractor’s contractual obligations to HHSC. A conflict of interest would include circumstances in which a party’s personal, professional, or financial interests or obligations may directly or indirectly:  • make it difficult or impossible to fulfill its contractual obligations to HHSC in a manner that is consistent with the best interests of the State of Texas;  • impair, diminish, or interfere with that party’s ability to render impartial or objective assistance or advice to HHSC; and/or  • provide the party with an unfair competitive advantage in this HHSC Open Enrollment. |
| **Contract** | Any Contract(s) awarded resulting from this Open Enrollment. |
| **Contractor** | Each Applicant, if any, awarded a Contract as a result of this Open Enrollment. 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. |
| **Corrective Action Plan** | The detailed written plan that may be required by HHSC to correct or resolve a deficiency or event causing the assessment of a remedy or damage against IRO. |
| **Debarment** | An exclusion from contracting or subcontracting with state agencies on the basis of cause set forth in Title 34, Texas Administrative Code, § 20.585. |
| **Deliverables** | Goods or services contracted for delivery or performance. |
| **Dental Services** | Dental services include, preventive, diagnostic, and therapeutic services. Dental services must comply with the THSteps dental policy and procedures and American Academy of Pediatric Dentistry (AAPD) recommendations. |
| **Dental Maintenance Organization (DMO)** | A network of dental contractors contracted with HHSC to provide, arrange for, and coordinate medically necessary covered dental services and benefit limitation for the Texas Medicaid Dental services. |
| **Expedited External Medical Review (Expedited EMR)** | An external medical review conducted on an expedited basis and is appropriate under this Contract when the Member, Member’s authorized representative, or Member’s legally authorized representative can demonstrate that taking the time for a Standard EMR request could jeopardize the Member’s life, physical or mental health, or ability to attain, maintain, or regain maximum function. |
| **External Medical Review (EMR)** | An independent review of the Adverse Benefit Determination based on Functional Necessity or Medical Necessity, and review of the relevant information. An EMR is conducted by a third-party organization, known as an Independent Review Organization (IRO), contracted by HHSC. |
| **Health and Human Services Commission or HHSC** | The administrative agency within the executive  department of Texas state government established  under Chapter 531, Texas Government Code, or its  designee, including, but not limited to, the HHS  Agencies. |
| **HHSC Intake Team** | The HHSC team that assigns EMRs to an IRO and monitors for timely completion. |
| **HHS Open Enrollment Opportunities** | The HHS web page where Open Enrollments are posted: <https://apps.hhs.texas.gov/pcs/openenrollment.cfm> |
| **Home and Community Based Services (HCBS)** | The HHSC program that provides Home and Community Based Services to aged and disabled adults as cost-effective alternatives to institutional care in nursing homes. Members who qualify for HCBS STAR+PLUS Waiver are eligible to receive the HCBS component of the Texas Healthcare Transformation and Quality Improvement Program 1115 Waiver. |
| **HUB** | A Historically Underutilized Business, as defined by Chapter 2161, Texas Government Code. |
| **HUB Subcontracting Plan or HSP** | The Historically Underutilized Business Subcontracting Plan (HSP) required by Chapter 2161 of the Texas Government Code for contracts with an expected value of $100,000 or more and where subcontracting opportunities have been determined to be probable. |
| **Independent Review Organization (IRO)** | A third-party organization contracted by HHSC that conducts an External Medical Review (EMR) during Member appeal processes related to MCO medical necessity denial or reduction in services and HHSC eligibility denials based on a Medicaid recipient's medical and functional needs. |
| **Intermediate Care Facility for Individuals with an Intellectual Disability (ICF/IID)** | The Medicaid program serving individuals with intellectual disabilities or related conditions who receive care in intermediate care facilities other than a state supported living center. |
| **Medicaid Long Term Services and Supports** | Assistance with daily healthcare and living needs for individuals with a long-lasting illness or disability, including state plan services available to all Members such as personal care services, private duty nursing, Day Activity and Health Services (DAHS), Community First Choice (CFC) services, and STAR Kids MDCP services. |
| **Managed Care Organization (MCO)** | a managed care organization that is an insurer licensed or approved by TDI as an HMO, ANHC formed in compliance with Chapter 844 of the Texas Insurance Code, or an EPO with an Exclusive Provider Benefit Plan approved by TDI in accordance with 28 Tex. Admin. Code § 3.9201-3.9212. |
| **Medically Dependent Children Program (MDCP)** | A program that provides Home and Community-Based LTSS for individuals under the age of 21 with complex medical needs as a cost-effective alternative to living in a Nursing Facility. |
| **Member** | A person who:  (1) is entitled to benefits under Title XIX of the Social Security Act and Medicaid, is in a Medicaid eligibility category included in the STAR, STAR Health, STAR Kids or STAR+PLUS Program, and is enrolled in the MCO’s STAR, STAR Health, STAR Kids  or STAR+PLUS plan and in the Texas Medicaid Dental Contractor’s dental plan;  (2) is entitled to benefits under Title XIX of the Social Security Act and Medicaid, is in a Medicaid eligibility category included as a voluntary participant in the STAR, STAR Health, STAR Kids or STAR+PLUS Program, and is enrolled in the MCO’s STAR, STAR Health, STAR Kids or STAR+PLUS plan, and in the Texas Medicaid Dental Contractor’s dental plan. |
| **Nursing Facility or nursing home or skilled nursing facility** | An entity or institution that provides organized and structured nursing care and services and is subject to licensure under Texas Health and Safety Code, Chapter 242, as defined in  40 Tex. Admin. Code § 19.101 and 1 Tex. Admin. Code § 358.103. |
| **Open Enrollment (OE)** | This document, including all exhibits, attachments and addenda, as applicable, posted on the HHS Open Enrollment Opportunities webpage. |
| **Pharmacy** | A pharmacy-dispensed prescriptions meeting the standards provided for by 42 U.S.C. § 1396r-8, as applied to Medicaid managed care in accordance with 42 C.F.R. § 438.3(s). |
| **Private Duty Nursing** | *See* 42 C.F.R. § 440.80. |
| **Reviewer** | An appropriately credentialed and/or licensed individual performing IRO external medical reviews as outlined in this open enrollment. |
| **Standard External Medical Review** | An external medical review that is appropriate when the Member’s life, physical or mental health, or ability to attain, maintain, or regain maximum function is not jeopardized. |
| **STAR Program** | The State of Texas Access Reform (STAR) managed care program that operates under a federal waiver and primarily provides, arranges for, and coordinates preventive, primary, acute care, and pharmacy services for low-income families, children, and pregnant women. |
| **STAR Health Program** | The managed care program that operates under the Medicaid state plan and primarily serves:  (A) children and youth in DFPS conservatorship;  (B) young adults who voluntarily agree to continue in a foster care placement (if the state as conservator elects to place the child in managed care); and  (C) young adults who are eligible for Medicaid as a result of their former foster care status through the month of their 21st birthday. |
| **STAR Kids Program** | The managed care program for recipients under the age of 21 who receive SSI, SSI-related Medicaid, and/or 1915(c) waiver services. |
| **STAR+PLUS Program** | The State of Texas Medicaid managed care program in which HHSC contracts with MCOs to provide, arrange, and coordinate preventive, primary, acute and Long-term Services and Supports Covered Services to adult persons with disabilities and elderly persons aged 65 and over who qualify for Medicaid through the SSI program or the MAO program. Children birth through age 20 who qualify for Medicaid through the SSI program, may voluntarily participate in the STAR+PLUS program. |
| **Statement of Work** | The description of services and deliverables in this Open Enrollment that the Contractor is required to provide under the Contract. |
| **Substance Use Disorder** | The use of one or more drugs or substances, including alcohol, which significantly and negatively impacts one or more major areas of life functioning, and which meets the criteria described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) for Substance Use Disorders. |
| **Texas Medicaid Provider Procedures Manual (TMPPM)** | The policy and procedures manual published by or on behalf of HHSC that contains policies and procedures required of all health care providers who participate in the Texas Medicaid program. |
| **Therapy** | Physical therapy, speech therapy, or occupational therapy. |

1. **GENERAL INFORMATION**
   1. **Sole Point of Contact** 
      1. All questions, requests for clarification, or other communication about this OE shall be made in writing only to the HHSC sole point of contact listed below.
      2. Attempts to ask questions by phone or in person will not be allowed or recognized as valid.

Eileen White

Contract Manager

Email: [cmd\_managedcareorganizations@hhsc.state.tx.us](mailto:cmd_managedcareorganizations@hhsc.state.tx.us)

* + 1. **To be considered for contract award, applications must only be submitted to email address** [cmd\_managedcareorganizations@hhsc.state.tx.us](mailto:cmd_managedcareorganizations@hhsc.state.tx.us)**. See Section 13.1 for submission requirements.**
    2. **Do not contact other HHS Agency personnel regarding this OE.**
    3. **This restriction, as to only communicating in writing with the HHSC sole point of contact identified above, does not preclude discussions between Applicant and agency personnel for the purposes of conducting business unrelated to this OE.**
    4. **Failure of an Applicant or its representatives to comply with these requirements may result in disqualification of the submitted Application.**
  1. **Changes, Modifications and Cancellation**
     1. HHSC reserves the right to change, amend, modify, or cancel this OE at any time.
     2. All Applications, including those submitted after cancellation of the OE, become the property of HHSC upon receipt.
     3. If HHSC determines that the OE needs to be changed or modified, either an Addendum will be posted on the HHS Open Enrollment Opportunities webpage or the OE will be canceled. The action to be taken will be determined at the sole discretion of HHSC. Furthermore, if the OE will be canceled, HHSC will determine, in its sole discretion, if a new OE will be posted.
     4. No HHS Agency will be responsible or liable in any regard for the failure of any individual or entity to receive notification of any posting to the HHS Open Enrollment Opportunities webpage.
     5. It is the responsibility of each Applicant to monitor the HHS Open Enrollment Opportunities webpage for any Addenda or additional information regarding this OE. Failure to monitor the HHS Open Enrollment Opportunities webpage will in no way release or relieve any Applicant or Contractor of its obligations to fulfill the requirements as posted.
     6. All questions and comments regarding this OE should be sent to the HHSC point of contact identified in subsection 4.1. Questions must reference the appropriate page and section number. HHSC will post subsequent answers to questions to the HHS Open Enrollment Opportunities web page as appropriate. HHSC reserves the right to amend answers prior to the OE closing date. Applicants should notify HHS of any ambiguity, conflict, discrepancy, omission, or other error in the OE.
  2. **Delivery of Notices**
     1. Any notice required or permitted under this OE by one party to the other party must be in writing and correspond with the contact information noted in subsection 4.1 of this open enrollment. At all times, Applicant will maintain and monitor at least one active email address for the receipt of Application-related communications from HHSC. It is the Applicant’s responsibility to monitor this email address for Application-related information. Contractor will notify HHSC within 30 days prior to a change in Contractor’s email address.
  3. **Offer Period**
     1. 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 under all terms and conditions of this OE for at least 240 days from the date applications are due, as stated in Exhibit A, HHS Solicitation Affirmations, unless withdrawn by the Applicant before the Enrollment Period closes.
     2. An Applicant may extend the time for which its Application will be honored and include the extended period in the Application.
  4. **Costs Incurred**
     1. HHSC 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.
     2. Applicants understand that issuance of this OE or retention of Applications in no way constitutes a commitment by HHSC 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.
  5. **OE Questions or Clarifications**
     1. Written questions and requests for clarification regarding this OE are permitted if submitted by e-mail to the Sole Point of Contact, subsection 4.1.
     2. Responses to questions and requests for clarification will not be posted. However, if HHSC 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 subsection 4.6.3, 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 HHSC. Furthermore, if the OE will be canceled, HHSC will determine, in its sole discretion, if a new OE will be posted.
     3. Questions and requests for clarification must include the following information:

1. the OE Number
2. the question or request for clarification, providing the following information:
3. OE language, topic, section heading
4. Section, Paragraph and Page number(s) or Exhibit/Attachment
   * 1. The requestor must provide the following contact information:
5. Company Name
6. Company Representative Name
7. Phone Number
8. E-Mail address
   * 1. Applicants must notify the Sole Point of Contact, subsection 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.
     2. Each Applicant submits its Application at its own risk.
     3. If an Applicant fails to properly and timely notify the Sole Point of Contact, subsection 4.1, of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the OE, the Applicant, whether awarded a contract or not:
9. shall have waived any claim of error or ambiguity in the OE and any resulting contract,
10. shall not contest the interpretation by HHSC of such provision(s), and
11. 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.

1. **Historically underutilized businesses**
   1. It is the policy of HHS to promote and encourage contracting and subcontracting opportunities for State of Texas-certified Historically Underutilized Businesses (HUBs) in all contracts in compliance with [Chapter 2161 of the Texas Government Code](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2161.htm) and [Title 34, Part 1, Chapter 20, Subchapter D, Division 1 of the Texas Administrative Code](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=34&pt=1&ch=20&sch=D&div=1&rl=Y).
   2. Applicants who may be eligible are encouraged to become HUB certified and may access more information including the State of Texas HUB Application at the CPA website at: <https://comptroller.texas.gov/purchasing/vendor/hub/>.
   3. HHS has determined subcontracting opportunities are not probable under this OE; therefore, a **HSP is** **not required** **to be submitted with the Application**.

1. **CONTRACT TERM**
   1. **Term of Contract**
      1. HHSC may award one or more Contracts under this OE.
      2. Any Contract resulting from this OE willbe effective on the signature date of the latter of the Parties to sign the agreement and will expire on April 30, 2027, unless terminated earlier pursuant to the terms and conditions of the Contract.
      3. HHSC may terminate a contract in accordance with the provisions of HHSC’s Uniform Terms and Conditions. The IRO is responsible for providing any assistance reasonably necessary to close out the contract.
   2. **Extension Option**
      1. HHSC, at its sole option and subject to availability of funding, may extend the Contract beyond the initial term for up to three one-year terms as necessary to ensure continuity of service, to process a new OE to award new contract(s), for purposes of transition, or as otherwise determined to serve the best interest of the State of Texas.
   3. **Contract Elements**
      1. At a minimum, the following documents will be incorporated into the Contract: this Notice of Open Enrollment, including all attachments and exhibits; any modifications, Addendum or amendments issued in conjunction with this Notice of Open Enrollment; HHSC's Uniform Terms and Conditions (UTCs) (see Exhibits); the Data Use Agreement for Contractors who access agency confidential information and who are not exempt (https://hhs.texas.gov/doing-business-hhs/business-contracting-opportunities); and the successful Applicant’s application.
2. **MINIMUM QUALIFICATIONS**
   1. To be eligible to apply for a Contract and receive an award, Applicant(s), must be eligible, qualified, and meet all requirements of this OE. Applicant requirements apply with equal force to Contractors awarded contracts under this OE.
   2. To be considered for a contract award, an Applicant must demonstrate that:
3. Applicant is currently certified as an IRO by the Texas Department of Insurance;
4. Applicant has a medical director who is a physician licensed to practice medicine in the state of Texas to oversee the EMR process;
5. Applicant will disclose financial relationship or ownership interest in a Texas Managed Care Organization (MCO) or Dental Maintenance Organization (DMO). IROs will not be assigned to review cases for MCOs or DMOs with which they have a financial relationship or interest or any other Conflict of Interest. The IRO shall not assign a review to a provider with a contractual relationship for goods or services with the MCO or DMO subject to the review in any line of business, including but not limited to Medicaid. The current list of MCO and DMOs are listed below:

|  |
| --- |
| Amerigroup Insurance Co. |
| Amerigroup Texas, Inc. |
| Banker's Reserve Life Ins. Co. (d/b/a Superior HealthPlan Network) |
| Community First Health Plans, Inc. |
| Community Health Choice Texas, Inc. |
| Cook Children's Health Plan |
| DentaQuest USA Insurance Company, Inc. |
| Driscoll Children's Health Plan |
| El Paso First Health Plans, Inc. (dba, El Paso Health) |
| Health Care Service Corp. (dba Blue Cross Blue Shield) |
| MCNA Insurance Company |
| Molina Healthcare of Texas, Inc. |
| Parkland Community Health Plan, Inc. |
| Scott & White Health Plan |
| Seton Health Plan, Inc. (dba, Dell Children’s Health Plan) |
| SHA, LLC (dba, FIRSTCARE) |
| Superior Health Plan, Inc. |
| Texas Children's Health Plan, Inc. |
| United Healthcare Community Plan |
| United Healthcare Insurance Company, Inc. |
| DentaQuest USA Insurance Company, Inc. (dba, UnitedHealthcare Dental) |

* 1. **Required Experience**

* + 1. Applicant must provide:

1. A description of the Applicant’s experience performing external medical reviews in Texas or in other states, including information on:
   * 1. Populations and types of cases reviewed, including but not limited to
        1. Acute Care
        2. Long term Services and Supports, including but not limited to durable medical equipment, Personal Care Services and protective supervision.
        3. Pharmacy
        4. Behavioral Health
        5. Therapy
        6. Private Duty Nursing
        7. Dental benefits
        8. Nursing facility programs, and
        9. Other 1915(c) Waiver programs.
     2. Applicant and all personnel assigned to provide services under the Contract must have all permits, licenses, and certifications required by applicable Texas law.
     3. Assigned personnel, who may include department directors or equivalent positions, providing services that, by law, require a professional license or certification, must hold a current, valid, and applicable Texas license and/or certification in good standing.
     4. Contractor is responsible for ensuring all Contractor staff and subcontractors, if any, hold current, valid, and applicable Texas licenses and/or certifications in good standing.
     5. Each Contractor is required to maintain all required permits, licenses, and certifications for the business during the term of the Contract. The Contractor and Contractor’s personnel and subcontractors, if any, must also maintain their individual required permits, licenses, and certifications during the term of the Contract. Contractor shall provide updated licenses and/or certifications at HHSC’s request.
2. **STATEMENT OF WORK**
   1. **Project Overview**
      1. HHSC is required to offer independent reviews of benefit reductions or denials and certain eligibility denials due to medical necessity.
   2. **HHSC Responsibilities**
      1. HHSC will assign EMR reviews on an alternating basis and in the order of awarded contracts. If an awarded IRO has a Conflict of Interest with the Member’s MCO/DMO, the assignment will go to the next available IRO. As new applicants are awarded contracts, the new awardee will be added to the end of the list of contracts and will be assigned in that sequence order.
   3. **Contractor Responsibilities**
      1. The IRO must meet timeliness standards, complete regular reviews, and communicate the decision as specified by HHSC within 10 calendar days from the date of the assignment. Expedited reviews, as determined by HHSC, must be completed no later than the next Business Day from the date of the assignment.
      2. The IRO must review assignments and identify Conflicts of Interest not identified by HHSC and return to HHSC for reassignment to another IRO.
      3. The IRO must accurately complete clinical reviews and determine if the services are medically necessary in accordance with Texas Medicaid guidelines, this OE, managed care contracts, and the Texas Medicaid Provider Procedures Manual (TMPPM), as directed by HHSC. HHSC reserves the right to audit IRO files and evaluate the accuracy of IRO determinations.
      4. The IRO must submit a monthly report detailing all contract-related activities in a format specified by HHSC no later than the 10th calendar day of the month.
      5. Upon written request of the provider associated with the denied services of the Member requesting the EMR, the IRO must provide written notice of the EMR decision to the requesting provider, following HIPAA standards outlined in Exhibit C of this Open Enrollment.
      6. The IRO must have Reviewers available for cases that represent the full range of expertise needed to accept and process appeals for (1) service reductions or denials that may be covered or sought to be covered by Texas Medicaid, and (2) eligibility benefits for medical and functional necessity determinations. Reviewers may be an IRO employee or IRO contractor.
      7. Each Reviewer must be licensed, certified, or credentialed, as applicable, by the State of Texas licensing, certifying, or credentialing body for their respective specialty or area of practice that would generally provide the type of treatment that is the subject of the assigned review.
      8. Reviewers must immediately disclose to the IRO any action taken by a licensing, certification or credentialing body, health care facility or health plan to condition, suspend or revoke the Reviewer’s license, certification, or credentials. When such notification is received, the IRO must immediately exclude that Reviewer from all Texas EMRs.
      9. The IRO must meet or exceed the objectives set forth in this OE and resulting contract. All areas of responsibility and all requirements listed in this OE and resulting contract will be subject to a performance evaluation at any time at the discretion of HHSC. If the IRO falls below the performance standard for meeting timeliness or other standards, HHSC may exclude the IRO from alternating assignments until such time as the IRO has successfully completed a corrective action plan, as determined by HHSC, which may require, among other things, IRO increasing its staffing to handle caseloads. If an assignment must be reassigned due to non-compliance by the IRO, the EMR will be reassigned. IRO will not be paid for EMRs reassigned to another IRO.
      10. IRO Reviewers and supervisors must successfully complete HHSC training modules and attest to training completion prior to contract implementation. IRO Reviewers and supervisors must complete required training within 30 days of hire or subcontract execution. External Medical Reviews must not be conducted by the IRO or its Reviewers unless the IRO and its Reviewers and supervisors have completed the HHSC training.
      11. The IRO must submit to HHSC a complete list of Reviewers that will be assigned EMRs within 30 days of the contract execution date. IRO must provide an updated list of Reviewers on a quarterly basis on the 15th of the month following the end of the preceding state fiscal quarter in a format specified by HHSC.
      12. If the IRO determines the MCO or DMO submitted incomplete documentation, or instructed as such by HHSC, the IRO may overturn the MCO or DMO service denial, or service reduction, that is adverse to the Member. The IRO should not delay a decision based on lack of complete documentation from the MCO or DMO.
      13. The IRO must ensure that a physician Reviewer makes the final IRO decision to overturn an MCO adverse benefit determination if the IRO internal decision recommendation was made by an IRO non-physician Reviewer.
      14. The IRO must notify HHSC in writing within five Business Days of any change in key personnel, such as, including but not limited to, designated points of contact, the IRO’s chief executive officer or equivalent, medical director, or director of operations or equivalent.
   4. **Statement of Services to be Provided**
      1. The IRO must perform EMRs for appealed cases resulting from a managed care benefit reduction or denial. This includes, but is not limited to, acute care, Medicaid Long Term Services and Supports, Home and Community Based Services, Intermediate Care Facility for Individuals with an Intellectual Disability, pharmacy, behavioral health, therapy, private duty nursing and dental benefits.
      2. The IRO must review assignments and determine if there is a Conflict of Interest. If a Conflict of Interest is identified on a request for a Standard EMR, the assignment must be returned to HHSC for reassignment to another IRO no later than the next Business Day. If a Conflict of Interest is identified on a request for an Expedited EMR, the assignment must be returned to HHSC for reassignment to another IRO as soon as possible but no later than three hours from when the Expedited EMR was received by the IRO.
      3. The IRO must perform these reviews and render a decision within 10 Calendar Days from the date the request is received from the HHSC Intake Team. If a case is determined to be appropriate for an Expedited EMR by HHSC, the IRO must render a decision within one Business Day from the date of assignment.
      4. The IRO must use an HHSC-approved decision letter template when providing the Member with a decision. Decision letters must include the option for members to request the IRO decision be sent to the Member in a different language.
      5. The decision letter must be sent by U.S. first class mail. At the Member’s request the decision letter must also be sent via secure email. For the purpose of providing the IRO decision letter via secure email, the EMR cover page sent by HHSC to the IRO will include the member’s email address.
      6. IRO decision letters to the MCO, DMO and HHSC must be sent by secure email.
      7. The IRO must electronically submit the decision directly to HHSC via secure email by the EMR decision due date.
      8. For these reviews, the MCO or DMO will provide the IRO with the same information reviewed by the MCO or DMO to render the managed care adverse decision.
   5. **Performance Criteria**
      1. HHSC will look solely to the Contractor(s) for the performance of all contractual obligations resulting from an award based on this OE.
      2. No Contractor will be relieved of its obligations for any nonperformance by its subcontractors. Contractor must ensure that its subcontractors abide by all requirements, terms, and conditions of this 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.
   6. **Contractor Personnel Performance**
      1. Contractor shall not employ or contract with or permit the employment of unfit or unqualified persons or persons not skilled in the tasks assigned to them.
      2. The Contractor shall at all times employ sufficient personnel to carry out functions and services in the manner and time prescribed by the Contract.
      3. The Contractor shall be responsible for the acts and omissions of the Contractor’s employees, agents (including, but not limited to, lobbyists) and subcontractors and shall enforce strict discipline among the Contractor’s employees, agents (including, but not limited to, lobbyists) and subcontractors performing the services under the Contract.
      4. HHSC, at its sole discretion, may request in writing the immediate removal of any Contractor personnel or subcontractor personnel from the services being provided under the Contract. Upon such request, Contractor shall immediately remove the subject personnel and submit in writing to HHSC, within 10 calendar days of HHSC’s request for removal, confirmation of the removal and assurance of continued, compliant Contract performance.
   7. **Notice of Criminal Activity**
      1. At the time of submission, Applicants 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:
         1. 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
         2. 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.
      2. This is a continuing disclosure requirement. Prior to Contract award, if any, Applicants must notify the HHSC Sole Point of Contact, subsection 4.1, within five days of the date Applicant learns of actions set forth in subsections 8.7.1.1 and 8.7.1.2 above. Additionally, this is a continuing disclosure requirement for each Contractor, during the term of the Contract, to immediately report, in writing, to the HHSC contract manager when Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Contractor, or 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.
      3. 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 HHSC contract manager.
      4. 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 HHS Agency property, facilities, or documents.
      5. Key personnel with misdemeanor offenses must receive prior approval by the HHS Agency before being allowed to work under this contract.
      6. HHSC, 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.
   8. **Notice of Insolvency or Indebtedness** 
      1. At the time of submission, Applicants shall 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. This is a continuing disclosure requirement; prior to Contract award, if any, Applicants must notify the HHSC Sole Point of Contact, subsection 4.1, 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 HHSC contract manager, as applicable, within five days of the date Contractor learns of such financial circumstances after Contract award.
   9. **Invoice Requirements and Payment**
      1. For reviews completed as described in subsection 8.4, the IRO will be compensated by HHSC.
      2. The IRO will request payment by submitting a complete and accurate invoice in the format specified by HHSC in the same email as the IRO decision letter to the HHSC EMR Intake Team at: [EMR\_Intake\_Team@hhsc.state.tx.us](mailto:EMR_Intake_Team@hhsc.state.tx.us). IRO Invoices and EMR decision letters should be sent via electronic mail to HHSC EMR Intake Team at: [EMR\_Intake\_Team@hhsc.state.tx.us](mailto:EMR_Intake_Team@hhsc.state.tx.us)..
      3. The invoice shall include, at a minimum:
3. The IRO’s name, mailing address, e-mail address and telephone number;
4. the name and telephone number of a person designated by the IRO to answer questions regarding the invoice;
5. the state agency’s purchase order number, if applicable;
6. the contract number or reference number, if applicable;
7. the IRO’s Texas Identification Number (TIN) issued by the Texas Comptroller of Public Accounts;
8. a case number or other case identifier for each review for which payment is requested
9. Invoices must use purchase order and contract number for the date of service in the applicable state fiscal year. Other relevant information supporting and explaining the payment requested, such as reviewer name, date of service, due date, specialty, and MCO name.
   * 1. No payment will be made under this Contract without submission of detailed, accurate invoices submitted as outlined.
     2. Except as otherwise provided under this section, once the invoice is approved and processed, the IRO will be compensated at a rate of $600.00 per Standard or Expedited EMR completed in accordance with Contract requirements. The IRO may bill up to $300.00 if the Member withdraws a Standard EMR request within five Calendar Days from the date the IRO receives notice of the Standard EMR request, provided the IRO has not rendered a decision on the Standard EMR request. If a request is withdrawn after five Calendar Days, the IRO may bill up to $600.00 if the Member withdraws a Standard EMR request after five Calendar Days from the date the IRO receives notice of the Standard EMR request, provided the IRO has not rendered a decision on the Standard EMR request.
     3. If an expedited EMR request is withdrawn, the IRO may bill $600.00 for the withdrawn EMR request.
   1. **Data Use Agreement (DUA)**
      1. By submitting an Application and, if applicable, signing a contract resulting from this OE, Applicant agrees to the terms of the Data Use Agreement, Exhibit C. The Applicant must complete, sign, and return with its Application Exhibit C, Attachment 2, Data Use Agreement – Attachment 2, Security and Privacy Initial Inquiry (SPI).
   2. **Terms and Conditions**
      1. 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. Applicant shall not submit additional or different terms and conditions.
      2. Any term, condition, or other part of an Applicant’s submitted application that has been rejected by HHSC, that is not accepted in writing by HHSC, or that conflicts with applicable law, this OE, any resulting Contract, or applicable terms and conditions will not constitute part of the Contract.

* 1. **Standards of Conduct for Vendors**
     1. Pursuant to 1 TAC 391.405(a), 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.
     2. 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, 1 TAC Chapter 391, Subchapter D).
     3. The standards of conduct, together with the responsibilities and restrictions incorporated herein, also apply to subcontractors of contractors, respondents, and vendors.
     4. Standards of conduct of any contractor, respondent or vendor may be reviewed and/or audited by the State Auditor and HHSC. Additionally, pursuant to 1 TAC 391.405(a), 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.
     5. Any vendor or contractor that violates a provision of 1 TAC 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.

1. **HHSC CONTRACT ADMINISTRATION**
   1. HHSC will designate a Contract Manager and provide the manager’s contact information to the Contractor.
   2. After award of any Contract resulting from this OE, all communications related to the Contract will be processed through the designated Contract Manager. Additional requirements apply to legal notices which must be provided to the HHS Chief Counsel as well as the Contract Manager.
2. **CONFIDENTIAL OR PROPRIETARY INFORMATION**
   1. **Public Information Act**
      1. Applications and contracts are subject to the Texas Public Information Act (PIA), Texas Government code [Chapter 552](http://www.statutes.legis.state.tx.us/DocViewer.aspx?K2DocKey=odbc%3a%2f%2fTCAS%2fASUPUBLIC.dbo.vwTCAS%2fGV%2fS%2fGV.552%40TCAS2&QueryText=552&HighlightType=1), 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.
      2. 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:
3. **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);
4. **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
5. **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.
      1. **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.**
      2. **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, HHSC, 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.**
      3. 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.
      4. 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.
      5. HHSC 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. HHSC assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Applicants.
      6. 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>

* 1. **Applicant Waiver – Intellectual Property**
     1. **Submission of any document to any HHS agency in response to this OE constitutes an irrevocable waiver, and agreement by the submitting party to fully indemnify the State of Texas, HHSC from any claim of infringement by HHSC regarding the intellectual property rights of the submitting party or any third party for any materials submitted to HHS by the submitting party.**

1. **BINDING OFFER** 
   1. All Applications should be responsive to the OE as issued or amended through written and posted Addenda, not with any assumption that HHSC 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.**
2. **required application documents**

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| **Documentation Required for Submission**  **All documentation listed must be 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.** |
| 1. **Form A – Enrollment Application**   Must be completed and signed |
| 1. **Form B – Vendor Information Form**   Must be completed and signed |
| 1. **Exhibit A – HHS Solicitation Affirmations**   Must be completed and signed.  **Important Note: Applications received without the signed Exhibit A will be disqualified.** |
| 1. **OE Addenda, if applicable**   Must be signed |
| 1. **Exhibit B – HHSC Uniform Terms and Conditions** |
| 1. **Exhibit C – Data Use Agreement (DUA)** **Data Use Agreement. The Applicant must complete, sign, and return with its Application Attachment 2, (Texas HHS System - Data Use Agreement – Attachment 2, Security and Privacy Initial Inquiry (SPI).** |
| 1. **Minimum Qualifications – Reference Section 7**   **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. |
| 1. **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. |
| 1. **Executive Summary**  * **Statement of Work – Section 8**   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  Corporation, provide State of Incorporation and filing number.     * **Court or Governmental Agency Proceedings, Investigations, or Other Actions**:   Information regarding past performance, including any compliance notices, corrective action plans, or contract remedies imposed on the Applicant for failure to comply with a contract.  Applicant shall provide information required pursuant to the HHS Solicitation Affirmations (Exhibit A), paragraph 36.   * **Former Employees of a Texas State Agency:**   Applicant must provide the following information regarding individuals that formerly worked for any Texas state agency and now work for Applicant or any of Applicant’s subcontractors:  Name  Address  Phone Number  State agency for which previously worked  Dates of employment for each identified state agency  Any additional information requested by HHS regarding identified individuals must be provided by Applicant. |
| 1. **Notice of Criminal Activity – Reference Section 8.7**   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:   1. 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 2. 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. |
| 1. **Notice of Insolvency or Indebtedness – Reference Section 8.8**   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. |
| 1. **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 |
| 1. **Subcontractor Information**   Provide a list of all subcontractors which must include at a minimum:   * Business Structure (Type of entity) * DBA name, if applicable with associated Texas County(s) * Addresses – Physical and Mailing, if different * Contact Information – Phone and e-mail |
| 1. **Public Information Act Copy of Application, if applicable** |

1. **Application SUBMISSION requirements**
2. The Application must be submitted in accordance with this section and Section 12.
3. The complete Application must be submitted to:

HHSC Managed Care Contracts and Oversight

Email:cmd\_managedcareorganizations@hhsc.state.tx.us

1. Each Applicant is solely responsible for ensuring its Application is submitted in

accordance with all OE requirements and ensuring timely receipt by HHSC.

1. **In no event will HHSC** **be responsible or liable for any delay or error in**

**submission or delivery.**

1. The Application must be submitted by e-mail.
   1. **E-Mail Submission**
      1. Each Applicant is solely responsible for ensuring its Application is submitted in accordance with all OE requirements, including, but not limited to Section 12, Required Application Documents, and ensuring timely e-mail receipt by HHSC.
      2. The Application, including all documentation outlined in Section 12, must be sent in its entirety in one or more e-mails.
      3. In no event will HHSC be responsible or liable for any delay or error in delivery. Applications must be RECEIVED by HHSC before the OE period closes as identified in Schedule of Events, Section 1, or subsequent Addenda.
      4. 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 HHSC at the proper destination server before the submission deadline.
      5. The Application documentation must not be encrypted so as to prevent HHSC from opening the documents.
      6. IMPORTANT NOTE: HHSC recommends a 10MB limit on each attachment. This may require Applicants to send multiple e-mails to HHSC at cmd\_managedcareorganizations@hhsc.state.tx.us to ensure all documentation contained in an Application is received.
         1. 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 and Adobe portable document format (pdf) file. HHSC is not responsible for documents that cannot be read or converted. Unreadable applications may be, in HHSC’s sole discretion, rejected as nonresponsive.
         2. 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. HHSC’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. HHSC takes no responsibility for e-mailed Applications that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by any HHSC anti-virus or other security software.
      7. Applicants may email the Sole Point of Contact, subsection 4.1 to request confirmation of receipt.
   2. **Receipt of Application**
      1. All Applications become the property of HHSC upon receipt and will not be returned to Applicants.
      2. HHSC 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 HHSC anti-virus or other security software.
      3. Applications received after the OE Period closes will not be considered.
   3. **Unresponsive Applications**
      1. Unless Applicant has taken action to withdraw the Application for this OE, an Application will be considered unresponsive and will not be considered further when any of the following conditions occurs:
         1. The Applicant fails to meet major open enrollment specifications, including if:
            1. The Applicant fails to submit the required Application, supporting documentation, or forms
            2. The Applicant does not pass the following vendor checks:
2. Vendor Texas Identification Number (TIN) (URL link not available to non-governmental entities).
3. Vendor/Payee Hold Status (URL link not available to non-governmental entities).
4. Franchise Tax Status (vendor must be listed as “Active” – indicating vendor has a right to transact business in the state of Texas). If exempt, the Texas Comptroller’s office should provide vendor with a “no nexus” letter. Provide no nexus letter with your bid application.
   * 1. https://mycpa.cpa.state.tx.us/coa/search.do?userType=public
5. Secretary of State- Legal Status (URL link not available to non-governmental entities).
6. Debarred Vendor List (vendor must not be listed on this list):
   * 1. https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php
7. System for Award Management (SAM):
   * 1. https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf
8. CPA Divestment Statute Lists. https://comptroller.texas.gov/purchasing/publications/divestment.php
9. Office of Inspector General List of Excluded Individuals/Entities (LEIE) – Federal Exclusions: https://exclusions.oig.hhs.gov/
10. Vendor Hold with the State of Texas (no URL link available to non-governmental entities).
11. Texas OIG List of Excluded Individuals and Entities (LEIE) – State Exclusions. <https://exclusions.oig.hhs.gov/>
    * + 1. The application is not signed.
        2. The Applicant’s response is not clearly legible; typewritten is preferred.
        3. The Application is not received by the closing of the open enrollment period provided in Section 1 of this open enrollment.
    1. **Corrections to Application**
       1. Applicants may amend their Application at any time prior to an unresponsive decision or Contract award decision, by submitting a written amendment to the HHSC Point of Contact, as designated in subsection 4.1. HHSC may request modifications to the Application at any time.
    2. **Review and Validation of Applications**
       1. The Applicant must provide full, accurate, and complete information as required by this open enrollment. Applications must contain original signatures on all forms requiring signatures.

* 1. **Additional Information**
     1. By submitting an Application, the Applicant grants HHSC the right to obtain information from any lawful source regarding the Applicant’s, its directory’s, officers’, and employees’:

1. Past business history, practices, and conduct;
2. Ability to supply the goods and service; and
3. Ability to comply with Contract requirements.
   * 1. 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 screening or the validation of information on Applications or supporting documentation.
   1. **Protest Procedures**
      1. The protest procedure for an Applicant, who is not awarded a Contract to protest an award or tentative award made by any HHSC is allowed for competitive Procurements. This Procurement is non-competitive and cannot be protested as provided in Texas Administrative Code (TAC) Rule §391.303.
4. **SCREENING OF APPLICATIONS**

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

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

HHSC 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.

HHSC will not consider joint or collaborative responses that require it to contract with more than one Applicant in a single contract.

* 1. **Initial Screening of Applications**
     1. An initial screening of Applications will be conducted by HHSC 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. Applications that do not include all required forms and sections are subject to rejection without further review.
     2. HHSC reserves the right to:

1. Ask questions or request clarification from any Applicant at any time during the OE and screening process, and
2. Conduct studies and other investigations as necessary to evaluate any Application.

**Informalities:**

HHSC reserves the right to waive minor informalities in an Application. A "minor informality" is an omission or error that, in HHSC’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.

HHSC, 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 HHSC. Failure to respond before the deadline may result in HHSC’s 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, and Exhibit #, which must be signed and submitted with the Application).

* 1. **Verification of Past Vendor Performance**
     1. HHSC 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 HHSC.
     2. 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.
     3. An Applicant’s past performance may be considered in the initial screening process and prior to making an award determination.
     4. Reasons for which an Applicant may be denied a contract include but are not limited to:

1. 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,

1. Applicant is currently under a corrective action plan through HHSC, OR,
2. Applicant has had repeated, negative vendor performance reports for the same reason, OR,
3. Applicant has a record of repeated non-responsiveness to vendor performance issues, OR,
4. Applicant has contracts or purchase orders that have been cancelled in the previous 12 months for non-performance or sub-standard performance.
   * 1. In addition, HHSC 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.
     2. The performance information may include, but is not limited to:
5. Notices of termination,
6. Cure notices,
7. Assessments of liquidated damages,
8. Litigation,
9. Audit reports, and
10. Non-renewals of contracts.
    * 1. Further, HHSC at its sole discretion, may initiate investigations or examinations of vendor performance based upon media reports. Any negative findings, as determined by HHSC in its sole discretion,may result in HHSC removing the Applicant from further consideration for award.
11. **AWARD PROCESS**
    1. **Contract Award and Execution**
       1. HHSC, 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.
       2. HHSC intends to award one or more contracts as a result of this OE.
       3. All awards are contingent upon approval of the HHSC Executive Commissioner or the HHSC Executive Commissioner’s designee.

* 1. **Compliance for Participation in State Contracts**
     1. **Required Pre-Award Verifications**
        1. 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.
        2. The Applicant’s Legal Name and, if applicable, Assumed Business Name (D.B.A.) will be used to conduct these checks.
        3. Applicants found to be barred, prohibited, or otherwise excluded from contract award will be disqualified from further consideration.

1. **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>

1. **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.

1. **Divestment Statute Lists**

Must not be listed on the Divestment Statute Lists provided by 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.
6. **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>

1. **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/>

* + 1. **Additional Required Pre-Award Verifications**
       1. After the checks performed in Section 15.2.1, 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.
       2. The results of the checks below will be used to further consider an Applicant for award and may result in disqualification.

1. **Texas Franchise Tax Status**
2. 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, HHSC will process a search of the Applicant through the CPA Franchise Tax system to verify the Applicant is in good standing.
3. 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.
4. **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](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#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, 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.

1. **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>

* 1. **Award To Governmental Entities**
     1. 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, HHSC reserves the right to enter into an interagency or interlocal agreement with the governmental entity.

1. **disclosure of interested parties**
   1. Subject to certain specified exceptions, Section 2252.908 of the Tex. Gov’t Code Ann., 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.
   2. Applicant represents and warrants that, if selected for award of a contract as a result of this OE, Applicant will submit to HHSC 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).
   3. 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>
   4. For further information:

Reference Section 2252.908 of the Texas Government Code which can be accessed at: <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.908>

* 1. Title 1, Chapter 46, Disclosure of Interested Parties of the Texas Administrative Code 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>
  2. If the potential awardee does not timely submit a completed, certified and signed TEC Form 1295 to HHSC. HHSC is prohibited by law from executing a contract, even if the potential awardee is otherwise eligible for award.