



# **TEXAS**

## **Health and Human Services**

**Cecile E. Young, Executive Commissioner**  
**Hospital Services for Individuals Served by**  
**State Supported Living Centers and State Hospitals**

**Request for Proposals**  
**RFP No. HHS0009775**

**Date of Release: April 6, 2021**  
**Responses Due: May 6, 2021 by 10:30 a.m. Central Time**

**NIGP Class/Item Codes:**

**All items generally provided by Hospitals under**  
**948-00 Health Related Services/All Items**  
**948-46 Hospital Services, Inpatient and Outpatient**  
**952-62 Mental Health Services: Vocational, Residential, Etc. and**  
**990-37 Emergency Medical Services, including Emergency Ambulance Services.**

**TABLE OF CONTENTS**

Article I. Executive Summary, Definitions, and Authority ..... 4

- 1.1 Executive Summary..... 4
- 1.2 Definitions ..... 4
- 1.3 Authority..... 5

Article II. Scope Of Work..... 5

- 2.1 Description of Services/Scope of Work/Specifications ..... 5
- 2.2 Performance Measures ..... 6
  - 2.2.1 Goals ..... 6
  - 2.2.2 Required Outputs:..... 6
  - 2.2.3 Measurable Outcomes: ..... 6

Article III. Contractor Eligibility and Minimum Qualifications..... 6

- 3.1 Eligibility Requirements..... 6

Article IV. Contract Administrative Matters ..... 7

- 4.1 Contract Award and Execution ..... 7
- 4.2 Contract Term..... 7
- 4.3 Billing for State Hospitals ..... 8
- 4.4 Billing for SSLCs ..... 8
  - 4.4.1 Inpatient Hospital Services ..... 8
  - 4.4.2 Outpatient Medical Services..... 8
- 4.5 Privacy, Security, and Breach Notification ..... 9
- 4.6 No Guarantee of Volume, Usage or Compensation ..... 12
- 4.7 Governmental Entities ..... 12

Article V. Procurement and Administrative Requirements ..... 13

- 5.1 Schedule of Events ..... 13
- 5.2 Changes, Amendment, or Modification to Solicitation..... 13
- 5.3 Irregularities ..... 14
- 5.4 Informalities ..... 14
- 5.5 Inquiries..... 14
  - 5.5.1 Sole Point of Contact..... 14
  - 5.5.2 Prohibited Communication..... 14
  - 5.5.3 Exceptions to the Sole Point of Contact ..... 15
  - 5.5.4 Questions ..... 15
  - 5.5.5 Clarification..... 15

5.5.6	Responses .....	15
5.5.7	Vendor Conference.....	16
5.6	Solicitation Response Composition and Delivery .....	16
5.6.1	Generally .....	16
5.6.2	Exceptions .....	17
5.6.3	Assumptions .....	18
5.6.4	Alterations, Modifications, and Withdrawals.....	18
Article VI.	Solicitation Response Evaluation and Award Process .....	18
6.1	Evaluation Criteria.....	18
6.1.1	Conformance with State Law .....	18
6.1.2	Specific Criteria.....	18
6.1.3	Other Information .....	19
6.2	Initial Compliance Screening .....	19
6.3	Questions or Requests for Clarification By HHSC .....	19
Article VII.	Required Respondent Information .....	19
7.1	Respondent Information and Documentation.....	19
7.2	Major Subcontractor Information.....	19
7.3	Litigation and Contract History.....	20
7.4	Conflicts .....	20
7.5	Hub Subcontracting Plan .....	20
Article VIII.	General Terms and Conditions .....	21
8.1	General Conditions.....	21
8.1.1	Amendment .....	21
8.1.2	Offer Period .....	21
8.1.3	Costs Incurred.....	21
8.1.4	Contract Responsibility .....	22
8.1.5	Public Information Act - Respondent Requirements Regarding Disclosure... ..	22
8.1.6	Respondent Waiver – Intellectual Property.....	24
8.2	Insurance.....	24
8.2.1	Required Coverage .....	24
8.2.2	Alternative Insurability .....	24
8.3	Protest .....	24
Article IX.	Submission Checklist .....	25

## ARTICLE I. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY

### 1.1 EXECUTIVE SUMMARY

The Health and Human Services Commission (HHSC) seeks proposals from eligible hospitals to establish multiple contracts for hospital and related services to ensure that the ongoing healthcare needs of individuals served by HHSC's State Supported Living Centers (SSLCs) and State Hospitals are met in an effective and efficient manner. SSLCs and State Hospitals, collectively, are the "State Operated Facilities."

HHSC operates 13 SSLCs that provide campus-based, 24-hour residential, comprehensive behavioral treatment services and direct health care services and support to people with intellectual and developmental disabilities. SSLCs are located in Abilene, Austin, Brenham, Corpus Christi, Denton, El Paso, Lubbock, Lufkin, Mexia, Richmond, Rio Grande, San Angelo and San Antonio. SSLCs provide their respective residents with, among other things, physician services, nursing services and dental services.

HHSC operates 10 state hospitals for people with mental health issues. State Hospitals provide in-patient psychiatric care for adults, adolescents and children. State Hospitals are located in Austin, Big Spring, El Paso, Kerrville, North Texas, Rio Grande, Rusk, San Antonio, Terrell, and Waco.

Additional information regarding the State Operated Facilities may be accessed at the following Texas Health and Human Services (HHS) websites:

<https://hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs>

<https://hhs.texas.gov/services/mental-health-substance-use/state-hospitals>

Information regarding HHSC and its programs may be accessed at <https://hhs.texas.gov/>.

**To be considered for award, Respondents must complete Attachment A, Hospital Response Form, execute Exhibit A, HHS Solicitation Affirmations v 1.7, and provide all other required information and documentation as set forth in Section 7.1 and Article IX of this RFP.**

### 1.2 DEFINITIONS

As used in this Solicitation, unless the context clearly indicates otherwise, the words stated in this **Section 1.2, Definitions** have the meanings provided. Additional definitions that apply to this Solicitation are stated in **Exhibit B- HHSC Uniform Terms and Conditions - Vendor V 3.1.**

"Addendum" means a written clarification or revision to this Solicitation issued by HHSC.

“CMS” means the Center for Medicare & Medicaid Services. CMS is a federal agency within the United States Department of Health and Human Services (DHHS) that, among other things, administers the Medicare program and works in partnership with state governments to administer Medicaid.

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

“HSCS” means the Health & Specialty Care System, the division of HHSC that oversees the operations of each State Operated Facility.

“HUB subcontracting plan” or “HSP” means written documentation regarding the use of sub-contractors, which is required to be submitted with all responses to state agency Contracts with an expected value of \$100,000 or more where subcontracting opportunities have been determined by the state agency to be probable. The HUB subcontracting plan subsequently becomes a provision of the awarded Contract and shall be monitored for compliance by the State Agency during the term of the Contract.

“Respondent” means the entity responding to this Solicitation.

### **1.3 AUTHORITY**

HHSC is soliciting the services listed in this Solicitation under the authority of Section 2155.144(b-1)(2) of the Texas Government Code.

## **ARTICLE II. SCOPE OF WORK**

### **2.1 DESCRIPTION OF SERVICES/SCOPE OF WORK/SPECIFICATIONS**

- 2.1.1 Contracts awarded as a result of this Solicitation will be for hospital services provided to individuals served by a State Operated Facility. Such services include the provision of general, acute, ancillary and emergency medical services.
- 2.1.2 All awarded Contractors that are general hospitals must provide inpatient or outpatient hospital services, or both.
- 2.1.3 Contracted services may include 24-hour emergency room services and 24-hour “on-call” physician services in the areas of internal medicine, surgery, anesthesiology, obstetrics/gynecology, orthopedics, cardiovascular, gastroenterology, hematology, laboratory, neurology, oncology, pathology, pulmonary, phlebotomy, radiology, dental x-rays, urology, and any other service deemed necessary by HHSC.
- 2.1.4 Contractor will complete and file in a timely manner any reports, records, or documentation required by HHSC in a format specified by HHSC. These reports, records, or documentation will include, but are not limited to, medical record documentation, applicable test results, progress reports, discharge summaries and

pertinent information regarding course of care, response and recommendations for follow-up.

2.1.5 Referrals for required services provided by a contracted hospital will be made by a State Operated Facility's physician or the physician's designee.

## **2.2 PERFORMANCE MEASURES**

Each State Operated Facility will monitor their respective Contractors' performance with all Contract requirements, including the following goals, outputs, and measurable outcomes:

### **2.2.1 Goals**

The goal of the Contract is the provision of general, acute, ancillary and emergency medical services for the clients of a State Operated Facility.

### **2.2.2 Required Outputs:**

- (A) Provide all information, disclosures, and reports as stated in **Section 2.1.4, Description of Services/Scope of Work/Specifications** of this RFP; and
- (B) Quality medical services and treatment are to be provided for the clients of a State Operated Facility.

### **2.2.3 Measurable Outcomes:**

All services under an awarded Contract shall be provided at a quality level and in a manner consistent with industry standards, customs and practices, including accreditation and certification requirements under which a Contractor operates. Medical Services shall meet the needs of the clients and/or patients of a State Operated Facility. In accordance with all federal and state rules and regulations, a hospital's failure to provide required and necessary services shall be subject to sanctions and remedies as provided by law.

## **ARTICLE III. CONTRACTOR ELIGIBILITY AND MINIMUM QUALIFICATIONS**

### **3.1 Eligibility Requirements**

A Respondent is not considered eligible unless Respondent meets the criteria listed below:

- A. Respondent must be accredited by a CMS approved accreditation program (e.g. The Joint Commission) and remain in good standing throughout the Contract term.
- B. Respondent must be licensed by the State of Texas as either a general hospital or a special hospital and must remain in good standing during the Contract term.

- C. Respondent must be legally authorized to do business in the State of Texas and determined to be "Active" by the Texas Comptroller of Public Accounts and must remain authorized to do business during the Contract term. A Respondent can check its status at <https://mycpa.cpa.state.tx.us/coa/search.do>
- D. Respondent must conduct the activities and provide the services described in the Solicitation.
- E. Respondent must have a Texas address. A post office box may be used when the Response Form is submitted, but Respondent must conduct business at a physical location in Texas prior to the date that the Contract is awarded.
- F. Respondent must not be debarred, suspended or otherwise excluded or ineligible for participation in Federal or State assistance programs.
- G. Respondent is not considered eligible to contract with HHSC if Respondent's name is found on any of the following lists:
  - (1) The System for Award Management (SAM)- <https://www.sam.gov/SAM/>
  - (2) The Office of Inspector General (OIG) List of Excluded Individuals/Entities Search– State – <https://exclusions.oig.hhs.gov/>; and
  - (3) Texas Comptroller of Public Accounts (CPA) Debarment List located at <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>.

## **ARTICLE IV. CONTRACT ADMINISTRATIVE MATTERS**

### **4.1 CONTRACT AWARD AND EXECUTION**

HHSC intends to award multiple Contracts as a result of the Solicitation. Any award is contingent upon approval of the Executive Commissioner or his or her designee.

### **4.2 CONTRACT TERM**

HHSC anticipates that the initial term of any Contract resulting from this Solicitation shall be for a period of three years, beginning on the date of Contract award (Initial Term). At the sole option of HHSC, a Contract may be renewed up to two, additional one-year, terms. Renewal is contingent upon the availability of funds and the satisfactory performance of the Contractor during the prior Contract period.

Following the base term and any allowable extensions, System Agency may extend any resulting Contract for not more than one additional option period to address immediate operational or service delivery needs. If the resulting Contract does not include a defined option period, the extension is limited to one year. Services initiated during the term of a resulting Contract may survive the termination or expiration of the Contract and may continue to ensure an individual receives required medical attention.

### **4.3 BILLING FOR STATE HOSPITALS**

4.3.1 Billing for Individuals referred to as Contractor by a State Hospital. HHSC will pay Contractor for charges determined and invoiced for which HHSC is liable as payor of last resort.

4.3.2 Except for limited circumstances as directed by a State Hospital, Contractor shall not request reimbursement on Medicaid/Medicare/other 3<sup>rd</sup> party payers, Contractor shall bill HHSC in accordance with the Texas Medicaid Fee for Service Schedule (Schedule) <http://public.tmhp.com/FeeSchedules/StaticFeeSchedule/FeeSchedules.aspx>.

### **4.4 BILLING FOR SSLCs**

Billing for Individuals referred to Contractor by a SSLC will be as follows:

#### **4.4.1 Inpatient Hospital Services**

(1) Contractor must bill Medicaid for as long as at least one day that an Individual's eligibility remains for current spell of illness. A payment made for a correct invoice shall be payment in full for such invoice.

(2) An Individual with both Medicare and SSI: Contractor must bill Medicare and deductibles should be covered by Medicaid. Payments made for a correct invoice shall be payment in full for such invoice.

(3) Individuals with Medicare and Medicaid: Contractor cannot bill HHSC for any copayments and deductibles as such items are recoverable in Contractor's Medicare cost reports.

(4) Contractor must take all steps necessary to get paid by Medicare, Medicaid, and third-party payors for services provided to the Individuals served by a SSLC. Such steps may include making notifications or getting prior authorization.

(5) If no other third-party payors exist, then Contractor may bill HHSC in accordance with Medicaid rates.

#### **4.4.2 Outpatient Medical Services**

(1) Individuals with Medicare: Contractor must submit claims to Medicare by taking assignment.

(2) Other Individuals: If no other third-party payors exist, then Contractor may bill HHSC in accordance with the rates stated in the Schedule.

(3) Contractor must attempt to collect any payments due from third-party payors, including Medicare and Medicaid, before it submits an invoice to HHSC for payment.

(4) Contractor must take all steps necessary to get paid by Medicare, Medicaid, or third-party payors for services provided to the Individuals served by SSLC. Such steps may include making notifications or getting prior authorization

## **4.5 PRIVACY, SECURITY, AND BREACH NOTIFICATION**

**4.5.1** “HHSC Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to the Contractor electronically, or through any other means that consists of, or includes, any or all of the following:

- (a) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (b) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (c) Federal Tax Information;
- (d) Personal Identifiable Information;
- (e) Social Security Administration Data, including, without limitation, Medicaid information;
- (f) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

**4.5.2** Any HHSC Confidential Information received by the Contractor under this Agreement may be disclosed only in accordance with applicable law. By signing this agreement, the Contractor certifies that the Contractor is, and intends to remain for the term of this agreement, in compliance with all applicable state and federal laws and regulations with respect to privacy, security, and breach notification, including without limitation the following:

- (a) The relevant portions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. Chapter 7, Subchapter XI, Part C;
- (b) 42 CFR Part 2 and 45 CFR Parts 160 and 164;
- (c) The relevant portions of The Social Security Act, 42 U.S.C. Chapter 7;
- (d) The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a;
- (e) Internal Revenue Code, Title 26 of the United States Code including IRS Publication 1075;
- (f) OMB Memorandum 17-12;
- (g) Texas Business and Commerce Code Chapter 521;
- (h) Texas Health and Safety Code, Section 81.006 and Chapters 181 and 611;
- (i) Texas Human Resources Code § 12.003;
- (j) Texas Government Code, Chapter 552, as applicable;

- (k) Title 3 of the Texas Occupations Code, as applicable;
- (l) Constitutional and Common Law Privacy; and
- (m) Any other applicable law controlling the release of information created or obtained in the course of providing the services described in this Agreement.

The Contractor further certifies that the Contractor will comply with all amendments, regulations, and guidance relating to those laws, to the extent applicable.

**4.5.3** All of the Contractor's authorized users, workforce and subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources.

**4.5.4** Contractor will ensure that any subcontractor of Contractor who has access to HHSC Confidential Information will sign a HIPAA-compliant Business Associate Agreement with Contractor, and Contractor will submit a copy of that Business Associate Agreement to HHSC upon request.

**4.5.5 Contractor's Incident Notice, Reporting and Mitigation**

The Contractor's obligation begins at discovery of any unauthorized disclosure of Confidential Information or any privacy or security incident that may compromise Confidential Information (collectively "Incident") and continues until all effects of the Incident are resolved to HHSC's satisfaction, hereafter referred to as the "Incident Response Period".

**4.5.6 Notification to HHSC.**

- (a) The Contractor must notify HHSC within the timeframes set forth in **Section 4.5.6(c)**.
- (b) The Contractor must require that its Subcontractors and Contractors take the necessary steps to assure that the Contractor can comply with all of the following Incident notice requirements.
- (c) Incident Notice:

1. Initial Notice.

Within 24 hours of discovery, or in a timeframe otherwise approved by HHSC in writing, the Contractor must preliminarily report on the occurrence of an Incident to the HHSC Privacy and Security Officers via email at: [privacy@hhs.texas.gov](mailto:privacy@hhs.texas.gov) This initial notice must, at a minimum, contain (1) all information reasonably available to Contractor about the Incident, (2) confirmation that the Contractor has met any applicable federal Breach notification requirements and (3) a single point of contact for the Contractor for HHSC communications both during and outside of business hours during the Incident Response Period.

## 2. Formal Notice.

No later than three Business Days after discovery of an Incident, or when the Contractor should have reasonably discovered the Incident, the Contractor must provide written formal notification to HHSC using the Potential Privacy/Security Incident Form which is available on the HHSC website. The formal notification must include all available information about the Incident, and the Contractor investigation of the Incident.

### **4.5.7 Contractor Investigation, Response and Mitigation.**

The Contractor must fully investigate and mitigate, to the extent practicable and as soon as possible or as indicated below, any Incident. At a minimum, the Contractor will:

- (a) Immediately commence a full and complete investigation;
- (b) Cooperate fully with HHSC in its response to the Incident;
- (c) Complete or participate in an initial risk assessment;
- (d) Provide a final risk assessment;
- (e) Submit proposed corrective actions to HHSC for review and approval;
- (f) Commit necessary and appropriate staff and resources to expeditiously respond;
- (g) Report to HHSC as required by HHSC and all applicable federal and state laws for Incident response purposes and for purposes of HHSC's compliance with report and notification requirements, to the satisfaction of HHSC;
- (h) Fully cooperate with HHSC to respond to inquiries and/or proceedings by federal and state authorities about the Incident;
- (i) Fully cooperate with HHSC's efforts to seek appropriate injunctive relief or to otherwise prevent or curtail such Incidents;
- (j) Recover, or assure destruction of, any Confidential Information impermissibly disclosed during or as a result of the Incident; and
- (k) Provide HHSC with a final report on the Incident explaining the Incident's resolution.

### **4.5.8 Breach Notification to Individuals and Reporting to Authorities.**

(a) In addition to the notices required in this Section, the Contractor must comply with all applicable legal and regulatory requirements in the time, manner and content of any notification to individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required in 45 C.F.R. §§164.400-414 and Texas Business and Commerce Code, Chapter 521.053(b) or as specified by HHSC following an incident.

(b) The Contractor must assure that the time, manner and content of any Breach notification required by this Section meets all federal and state regulatory requirements. Breach notice letters must be in the Contractor name and on the Contractor's letterhead and must contain contact information to obtain additional information, including the name and title of the Contractor representative, an email address and a toll-free telephone number.

(c) The Contractor must provide HHSC with copies of all distributed communications related to the Breach notification at the same time the Contractor distributes the communications.

The Contractor must demonstrate to the satisfaction of HHSC that any Breach notification required by applicable law was timely made. If there are delays outside of the Contractor's control, the Contractor must provide written documentation to HHSC of the reasons for the delay.

#### **4.6 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION**

HHSC does not guarantee any volume, usage, or compensation to be paid to any Contractor under any awarded Contract, if any, resulting from this Solicitation. Additionally, any awarded Contract is subject to appropriations, the availability of funds, and termination.

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

#### **4.7 GOVERNMENTAL ENTITIES**

Selected Respondent(s) shall be bound to specific terms and conditions found in **Exhibit B, HHSC Uniform Terms and Conditions - Vendor V 3.1** and **Exhibit C, HHSC Additional Contract Provisions V 1.0**. However, to the extent a Respondent is a governmental entity, responding to this Solicitation in its capacity as a governmental entity, certain terms and conditions may not be applicable. Furthermore, to the extent permitted by law, if a Solicitation response is received from a governmental entity, HHSC reserves the right to enter into an Interagency or Inter-local agreement with the governmental entity in lieu of awarding a Contract as a result of this Solicitation.

## ARTICLE V. PROCUREMENT AND ADMINISTRATIVE REQUIREMENTS

### 5.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Release Date	April 6, 2021
Vendor Conference & HUB Webinar	April 13, 2021 at 10:00 AM Central Time
Deadline for Submitting Questions	April 14, 2021 by 3:00 PM Central Time
Deadline for Courtesy Review of HSP (optional)	April 23 2021 by 5:00 PM Central Time
Tentative Date to Post Answers to Questions on ESBD	April 23, 2021
Deadline for submission of Solicitation Responses [NOTE: Responses must be RECEIVED by HHSC by the deadline.]	May 6, 2021 by 10:30 AM Central Time
Tentative Evaluation Period	June 2021
Anticipated Notice of Award	August 2021
Anticipated Contract Start Date	September 2021

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

### 5.2 CHANGES, AMENDMENT, OR MODIFICATION TO SOLICITATION

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

### 5.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Sole Point of Contact listed in **Section 5.5.1, Sole Point of Contact** as soon as possible so corrective Addenda may be furnished to prospective Respondents.

### 5.4 INFORMALITIES

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

### 5.5 INQUIRIES

#### 5.5.1 Sole Point of Contact

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

Name: Monique Allen, Complex Contract Specialist IV, CTCD, CTCM

Email: [monique.allen@hhs.texas.gov](mailto:monique.allen@hhs.texas.gov)

Name: Sarita Paton, Complex Contract Specialist IV, CTCD, CTCM

Email: [Sarita.paton@hhs.texas.gov](mailto:Sarita.paton@hhs.texas.gov)

See also, **Section 5.5.3, Exceptions to the Sole Point of Contact** below.

#### 5.5.2 Prohibited Communication

On issuance of this Solicitation, except for the written inquiries described in **Sections 5.5.4, Questions and 5.5.5, Clarification** below, the System Agency, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). Attempts to ask questions by phone or in person will not be allowed or recognized as valid. Respondent shall rely only on written statements issued by or through the System Agency's designated staff as provided by this section. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

### 5.5.3 Exceptions to the Sole Point of Contact

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

### 5.5.4 Questions

The System Agency will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by email to the Sole Point of Contact listed in Section 5.5.1 above. Respondents' names will be removed from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

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

**Note: Questions or other written requests for clarification must be received by the Sole Point of Contact by the deadline set forth in Section 5.1, Schedule of Events. Please provide company name, address, phone number, fax number, e-mail address, and name of contact person when submitting questions.**

### 5.5.5 Clarification

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

### 5.5.6 Responses

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

### 5.5.7 Vendor Conference

The System Agency will conduct an optional pre-submittal vendor conference and HUB training on **April 13, 2021 at 10:00 AM Central Time** via Webinar. The vendor conference and HUB training is optional and highly recommended.

Please register for the webinar prior to April 12, 2021 at 5:00 PM Central Time at the following link:

<https://attendee.gotowebinar.com/register/3486283504343397392>

\* After registration, participants will receive another email with the actual link to the webinar.\*\*

## 5.6 SOLICITATION RESPONSE COMPOSITION AND DELIVERY

### 5.6.1 Generally

**Submission Option #1:** Respondent shall submit the following via email to [pcsbids@hhs.texas.gov](mailto:pcsbids@hhs.texas.gov):

1. One file named “Original Proposal” that contains Respondent’s entire proposal in searchable portable document format (PDF).
2. In accordance with **Section 8.1.5, Public Information Act - Respondent Requirements Regarding Disclosure**, one file named “Public Information Copy” that contains Respondent’s entire proposal in searchable PDF, if applicable.
3. In accordance with **Section 7.5, HUB Subcontracting Plan**, one file named “HUB Subcontracting Plan” that contains Respondent’s HUB Subcontracting Plan and all required supporting documentation.

The e-mail subject line should contain the RFP number and title as indicated on the cover page. Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration. Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Respondent should focus on the instructions and requirements of the Solicitation.

The System Agency, in its sole discretion, may reject any and all proposals or portions thereof.

Alternatively, Respondent can use Submission Option #2 below.

**Submission Option #2:** Respondent shall submit the following through the Online Bid Room utilizing the procedures in **Exhibit D, HHS Online Bid Room**:

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

2. In accordance with **Section 8.1.5, Public Information Act - Respondent Requirements Regarding Disclosure**, one file named "Public Information Copy" that contains Respondent's entire proposal in searchable PDF, if applicable.

3. In accordance with **Section 7.5, HUB Subcontracting Plan**, one file named "HUB Subcontracting Plan" that contains Respondent's HUB Subcontracting Plan.

Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration. Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Respondent should focus on the instructions and requirements of the Solicitation.

The System Agency, in its sole discretion, may reject any and all proposals or portions thereof.

### **5.6.2 Exceptions**

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

Respondents are highly encouraged, in lieu of including exceptions in their Solicitation Responses, to address all issues that might be advanced by way of exception by submitting such issues by written questions or clarifications pursuant to **Section 5.5.4, Questions and Section 5.5.5, Clarification**. Any exception included in a Solicitation Response may result in Respondent not being awarded a Contract. If Respondent includes exceptions in its Solicitation Response, Respondent is required to use the exceptions section of **Attachment A, Hospital Response Form** included in **Article IX. Submission Checklist** to this Solicitation and provide all information requested on the form (Solicitation Section Number, Solicitation Section Title, Language to which Exception is Taken, Proposed Language, and Statement as to whether or not, by indicating only "yes" or "no," Respondent still wants to be considered for a Contract award if the exception is denied). Any exception that does not provide all required information without qualification in the format set forth in **Attachment A, Hospital Response Form** may be rejected without consideration.

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

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

### **5.6.3 Assumptions**

Respondent must identify on the **Exhibit I, Assumptions Form** any business, economic, legal, programmatic, or practical assumptions that underlie Respondent's response to the Solicitation. The System Agency reserves the right to accept or reject any assumptions. All assumptions not expressly identified and incorporated into any Contract resulting from this RFP are deemed rejected by the System Agency.

### **5.6.4 Alterations, Modifications, and Withdrawals**

Prior to the Solicitation Response submission deadline, Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Sole Point of Contact identified in **Section 5.5.1, Sole Point of Contact**; or (2) modify its Solicitation Response by submitting a written amendment to the Sole Point of Contact identified in **Section 5.5.1, Sole Point of Contact**. The System Agency may request Solicitation Response modifications at any time.

## **ARTICLE VI. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS**

### **6.1 EVALUATION CRITERIA**

#### **6.1.1 Conformance with State Law**

Solicitation Responses shall be evaluated in accordance with Title 10, Subtitle D of the Texas Government Code, and specifically Texas Government Code § 2155.144(c)-(d) and 15 Texas Administrative Code Chapter 391, Subchapter B. HHSC shall not be obliged to accept the lowest price Solicitation Response but shall make an award to Respondent(s) that provide the best value to the State of Texas.

#### **6.1.2 Specific Criteria**

Solicitation Responses shall be consistently evaluated and scored in accordance with the following criteria:

- (1) Respondent's experience and history providing hospital services to the type of individuals served by State Operated Facilities. (30%)
- (2) Proposed approach for providing the required services to the individuals served by State Operated Facilities. (25%)
- (3) Relevant qualifications and experience providing hospital services for similar public organizations. (30%)
- (4) Ability to comply with Federal and State Billing Requirements. (15%)

### **6.1.3 Other Information**

HHSC may contact references provided in response to this RFP, contact Respondent's clients, or solicit information from any available source, including the Comptroller's Vendor Performance Tracking System **(required)**.

## **6.2 INITIAL COMPLIANCE SCREENING**

HHSC PCS will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses and the failure to include all required forms and information, or both, may be subject to rejection without further evaluation.

## **6.3 QUESTIONS OR REQUESTS FOR CLARIFICATION BY HHSC**

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

## **ARTICLE VII. REQUIRED RESPONDENT INFORMATION**

### **7.1 RESPONDENT INFORMATION AND DOCUMENTATION**

A. Respondent must submit the following documents, completed and signed by the deadline for submission of solicitation in **Section 5.1, Schedule of Events**:

1. **Attachment A, Hospital Response Form**
2. **Exhibit A, HHS Solicitation Affirmations v 1.7**
3. **Exhibit H, Section 1 HUB Subcontracting Plan & Quick Checklist**
4. **Exhibit I, Assumptions Form** (if applicable)
5. Acknowledgement of Receipt of Addenda (if any)

B. If Respondent is awarded a Contract, Contractor must also complete and sign the following documents prior to contract execution:

1. **Exhibit E, Assurances Non-Construction Programs;**
2. **Exhibit F, Certification Regarding Lobbying;** and
3. **Exhibit G, Federal Funding Accountability & Transparency Act (FFATA) Certification**

### **7.2 MAJOR SUBCONTRACTOR INFORMATION**

Respondent must identify any major subcontractors whom Respondent intends to utilize in performing 15% or more of any Contract. Respondent must indicate whether or not Respondent holds any financial interest in any major subcontractor. It may be required as a condition of award that an authorized officer or agent of each proposed major subcontractor sign a statement to the effect that the subcontractor has read, and will agree

to abide by, Respondent's obligations under any Contract awarded pursuant to this Solicitation.

### **7.3 LITIGATION AND CONTRACT HISTORY**

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

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

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

### **7.4 CONFLICTS**

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

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

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

### **7.5 HUB SUBCONTRACTING PLAN**

Submit one (1) electronic copy of the HUB Subcontracting Plan (HSP), in accordance with the RFP, labeled: HUB Subcontracting Plan (HSP), and include all supporting

documentation in accordance with **Exhibit H, HUB Subcontracting Plan** and the HSP. Send this documentation via email or to the Online Bid Room.

A courtesy review of Respondent's HSP is available to assist Respondents in providing a complete and responsive HSP and determine whether any deficiencies exist. To request a courtesy review, submit the completed HSP and all supporting documentation in PDF to the HUB coordinator no later than the date specified in **Section 5.1, Schedule of Events**.

E-Mail for Courtesy Review: [Ann.Tillman@hhs.texas.gov](mailto:Ann.Tillman@hhs.texas.gov)

Subject Line: **HSP Courtesy Review, RFP No. HHS0009775, HSP Due Date April 23, 2021**

This courtesy review may only identify possible deficiencies. The final compliance determination will be made on the HSP submitted with the Solicitation Response.

## **ARTICLE VIII. GENERAL TERMS AND CONDITIONS**

### **8.1 GENERAL CONDITIONS**

#### **8.1.1 Amendment**

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

#### **8.1.2 Offer Period**

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

#### **8.1.3 Costs Incurred**

Respondents understand that issuance of this Solicitation in no way constitutes a commitment by HHSC to award a Contract or to pay any costs incurred by Respondent in the preparation of a response to this Solicitation. HHSC accepts no obligations for any costs incurred by Respondent prior to issuance of or entering into a formal agreement, Contract, or purchase order. Costs of developing Solicitation Responses, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by Respondent are entirely the responsibility of Respondent, and will not be reimbursed in any manner by the State of Texas. All Proposals shall be prepared simply and economically, providing a straightforward, concise delineation of Respondent's capabilities to satisfy the requirements of this Solicitation.

#### **8.1.4 Contract Responsibility**

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

#### **8.1.5 Public Information Act - Respondent Requirements Regarding Disclosure**

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

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

**a. Mark Original Proposal:**

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

**b. Certify in Original Proposal - Affirmations and Solicitation Acceptance (attached as Exhibit A to this Solicitation):**

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

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

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

1. The copy must be clearly marked as “Public Information Act Copy” on the front page in large, bold, capitalized letters (the size of, or equivalent to, 12-point Times New Roman font or larger);
2. Each portion Respondent claims is exempt from public disclosure must be redacted (blacked out); and

3. Respondent must identify, adjacent to each redaction, the claimed exemption from disclosure. Each identification provided as required in Subsection (c) of this section must be identical to those set forth in the Original Proposal as required in Subsection (a)(2), above. The only difference in required markings and information between the Original Proposal and the “Public Information Act Copy” of the proposal will be redactions - which can only be included in the “Public Information Act Copy.” There must be no redactions in the Original Proposal.

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

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

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

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

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

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

#### **8.1.6 Respondent Waiver – Intellectual Property**

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

### **8.2 INSURANCE**

#### **8.2.1 Required Coverage**

For the duration of any Contract resulting from this Solicitation, Respondent shall acquire insurance, bonds or both, with financially sound and reputable independent insurers, in the type and amount listed on **Exhibit K, Insurance Requirements**. Failure to maintain insurance coverage or acceptable alternative methods of insurance shall be deemed a breach of contract.

#### **8.2.2 Alternative Insurability**

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

### **8.3 PROTEST**

If Respondent wishes to file a protest they may do so in accordance with the rules published by HHSC in the Texas Administrative Code, Title 1, Part 15, Chapter 391, Subchapter D, Protests.

## **ARTICLE IX. SUBMISSION CHECKLIST**

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

### **Solicitation Response Package**

The Solicitation Package must include the Solicitation Response in one of the approved submission methods identified in **Section 5.6, Solicitation Response Composition and Delivery**.

1. \_\_\_ Proposal and Respondent Information (Attachment A – Hospital Response Form)
2. \_\_\_ Respondent Solicitation Affirmations (Section 7.1 and Exhibit A)
3. \_\_\_ HUB Subcontracting Plan & Quick Checklist (Section 7.5 and Exhibit H, Section 1)
4. \_\_\_ Assumptions, if applicable (Section 5.6.3 and Exhibit I)

### **Files to be provided**

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

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

\_\_\_ One file named “HSP” that contains Respondent’s HSP & Quick Checklist.

### **Post Award Package**

If Respondent is awarded a Contract, Contractor must also complete and sign the following documents prior to contract execution:

1. \_\_\_ Assurances Non-Construction Programs (Exhibit E)
2. \_\_\_ Disclosure of Lobbying Activities (Exhibit F)
3. \_\_\_ Federal Funding Accountability & Transparency Act (FFATA) Certification (Exhibit G)

## **LIST OF EXHIBITS AND ATTACHMENTS**

**ATTACHMENT A – HOSPITAL RESPONSE FORM**

**EXHIBIT A- HHS SOLICITATION AFFIRMATIONS v 1.7**

**EXHIBIT B- HHSC UNIFORM TERMS AND CONDITIONS - VENDOR V 3.1**

**EXHIBIT C- HHSC ADDITIONAL CONTRACT PROVISIONS v.1.0**

**EXHIBIT D- HHS ONLINE BID ROOM**

**EXHIBIT E- ASSURANCES NON-CONSTRUCTION PROGRAMS**

**EXHIBIT F- CERTIFICATION REGARDING LOBBYING**

**EXHIBIT G- FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT (FFATA)  
CERTIFICATION**

**EXHIBIT H- HUB SUBCONTRACTING PLAN**

**EXHIBIT I- ASSUMPTIONS FORM**

**EXHIBIT J- EVALUATION TOOL**

**EXHIBIT K-INSURANCE REQUIREMENTS**

Please note that some exhibits have a separate cover page from the body of the document. Please review both documents.