



TEXAS

Health and Human Services

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

OPEN ENROLLMENT (OE)

for

Home and Community Based Services – Adult Mental Health Provider Agency

OE No. HHS0010736

**NIGP Class/Item No(s):
952/62**

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SECTION 1. SCHEDULE OF EVENTS

<u>Enrollment Period Opens (Posted to HHS OE Opportunities webpage)</u>	<u>09/01/2021</u>
<u>Current Home and Community-Based Services - Adult Mental Health (HCBS- AMH) contractor applicant must apply on or before this date or may be subject to client transfers.</u>	<u>12/31/2021</u>
<u>Enrollment Period Closes (Final date for RECEIPT of Applications)</u>	<u>08/31/2023</u>
<u>Anticipated Contract Start Date</u>	<u>Any Contract awarded to an Applicant will be effective on the signature date of the latter of the Parties to sign the agreement.</u>

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.

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 Application is received before the submission period closes. HHSC is not responsible for lost, misdirected or late applications.

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.

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Applications may be withdrawn from consideration or amended at any time prior to the "Enrollment Period Closes" date by emailing a request to the Point of Contact, Section 4.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.

SECTION 2. OVERVIEW

2.1. INTRODUCTION

The Texas Health and Human Services Commission (HHSC) is an agency within the Texas Health and Human Services (HHS) system.

HHSC is seeking Applications to establish Contract(s) for the provision of Home and Community-Based Services - Adult Mental Health (HCBS-AMH) for adults with a diagnosis of serious mental illness and have a history of at least one of the following additional criteria:

1. Long-term psychiatric hospitalization(s);
2. Frequent arrests and psychiatric crisis; and
3. Frequent emergency department (ED) visits and psychiatric crisis.

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

2.2. LEGAL AUTHORITY

HHSC is authorized to enter into contracts through Texas Health and Safety Code Chapter §1001.072 as transferred under Texas Government Code §531.0201 and Texas Government Code Chapter 531, to the extent applicable. The HCBS-AMH program is administered under Social Security Act §1915(i).

2.3. 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 Open Enrollment. Additionally, all contracts resulting from this Open Enrollment are subject to appropriations, the availability of funds, and termination.

SECTION 3. DEFINITIONS AND ACRONYMS

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

TERM	DEFINITION
Addendum	A written clarification or revision to this Open Enrollment. All Addenda will be posted to the HHS Open Enrollment Opportunities web page.
Application	All information and materials submitted by an Applicant in response to this Open Enrollment.
Applicant	Any person or entity that submits an Application in response to this Open Enrollment.
Contract	Any Contract(s) awarded resulting from this Open Enrollment.
Contractor (Provider)	Each Applicant, if any, awarded a Contract as a result of this Open Enrollment. May also be referred to as Provider. Unless the context clearly indicates otherwise, all terms and conditions of this Open Enrollment and resulting Contract that refer to Applicant apply with equal force to Contractor (Provider).
Deliverables	Goods or services contracted for delivery or performance.
Fee-for-Service	Payment mechanism for services that are reimbursed on an agreed rate per unit of service. Rates are available at https://rad.hhs.texas.gov/long-term-services-supports .

TERM	DEFINITION
Home and Community-Based Services - Adult Mental Health (HCBS-AMH)	A program providing home and community-based services to adults with serious mental illness, which includes an array of services matched to each person's needs. The goal is to help the person live and experience successful tenure in their chosen community and support long-term recovery from mental illness. A program description and definitions can be found in the HCBS-AMH Provider Manual, available at https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health .
HHS Agency	The Health and Human Services Commission (HHSC) and the Texas Department of Health and Human Services (DSHS) may be identified separately as a 'HHS Agency' or collectively as the 'HHS Agencies' in this Open Enrollment or any resulting Contract(s)
HHS Open Enrollment Opportunities	The HHS web page where Open Enrollments are posted: https://apps.hhs.texas.gov/pcs/openenrollment.cfm
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.
Open Enrollment (OE)	This document, including all exhibits, attachments and addenda, as applicable, posted on the HHS Open Enrollment Opportunities webpage.
Statement of Work	The description of services and deliverables in this Open Enrollment that the Contractor (Provider) is required to provide under the Contract.

SECTION 4. GENERAL INFORMATION

4.1. SOLE POINT OF CONTACT

All questions, requests for clarification, or other communication about this OE shall be made in writing to the HHSC sole point of contact listed below. This restriction does not preclude discussions between Applicant and agency personnel for the purposes of conducting business unrelated to this OE.

Attempts to ask questions by phone or in person are prohibited.

Mental Health (MH) Contracts
Email: MHContracts@hhsc.state.tx.us

To be considered for contract award, applications must be submitted to this address. See Section 14 for submission requirements. Do not contact other HHS Agency personnel regarding this OE. Failure to comply with these requirements may result in disqualification of this or other subsequent enrollment applications.

4.2. CHANGES, MODIFICATIONS AND CANCELLATION

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

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

4.2.1. ADVERTISEMENT OF CHANGES, MODIFICATIONS OR CANCELLATION

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

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 OE Opportunities webpage.

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

4.3. OFFER PERIOD

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

An Applicant may extend the time for which its Application will be honored and include the extended period in the Application.

4.4. COSTS INCURRED

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.

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.

4.5. OE QUESTIONS OR CLARIFICATIONS

4.5.1. QUESTIONS AND REQUESTS FOR CLARIFICATION

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

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 Section 4.5.3, below), that the OE needs to be amended or clarified, either an addendum will be posted on the OE Opportunities webpage or the OE will be canceled. The action to be taken will be determined at the sole discretion of HHSC. Furthermore, if the OE will be canceled, HHSC will determine, in its sole discretion, if a new OE will be posted.

4.5.2. QUESTION AND CLARIFICATION FORMAT

1. Questions and requests for clarification must include the following information:
 - a. the OE Number
 - b. the question or request for clarification, providing the following information:
 - i. OE language, topic, section heading
 - ii. Section, Paragraph and Page number(s) or Exhibit/Attachment
2. The requestor must provide the following contact information:
 - a. Company Name
 - b. Company Representative Name
 - c. Phone Number
 - d. E-Mail address

4.5.3. AMBIGUITY, CONFLICT, DISCREPANCY

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

Each Applicant submits its Application at its own risk.

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

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

SECTION 5. HUB SUBCONTRACTING PLAN (HSP) REQUIREMENTS

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](#) and [Title 34, Part 1, Chapter 20, Subchapter D, Division 1 of the Texas Administrative Code](#).

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/>.

HHS has determined subcontracting opportunities are not probable under this OE; therefore, a **HSP is not required to be submitted with the Application.**

SECTION 6. CONTRACT TERM

6.1. TERM OF CONTRACT

HHSC may award one or more Contracts under this OE.

Any Contract issued under this OE will be effective on the signature date of the latter of the Parties to sign the agreement. HHSC may renew Contracts without re-enrollment provided that no Contract issued under this OE renews beyond five (5) years after the Contract effective date.

6.2. EXTENSION OPTION

HHSC, at its sole option and subject to availability of funding, may extend the Contract beyond the five year term noted above for up to one year 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.

SECTION 7. MINIMUM QUALIFICATIONS

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 and Providers awarded Contracts under this OE.

7.1 REQUIRED EXPERIENCE

To be considered for Contract award under this OE, an Applicant shall:

- a. Have a minimum three (3) years' relevant experience performing services outlined in this OE (i.e., providing services to individuals with serious mental illness as an organizational entity); or
- b. Currently provide services outlined in this OE under contract with HHSC and have two (2) years' relevant experience performing the services as outlined in this OE (i.e., providing services to individuals with serious mental illness as an organizational entity).

7.2 LICENSURE AND ACCREDITATION

Applicant is responsible for ensuring all Applicant staff and subcontractors, if any, assigned to provide services that require licensure under a Contract resulting from this OE, hold a current, valid, and applicable Texas license and/or certification in good standing. Examples include:

- a. a licensed clinical social worker;
- b. a psychologist;
- c. an advanced practice registered nurse recognized by the Texas Board of Nursing as a clinical nurse specialist in psychiatry/mental health or nurse practitioner in psychiatry/mental health; or
- d. a licensed marriage and family therapist.

Applicant must provide a copy of each license and/or certification valid at the time of Application. Additionally, HHSC will request copies of each license and/or certification before issuing a Contract under this OE, or before authorizing services under a Contract resulting from this OE.

7.3 ADDITIONAL MINIMUM QUALIFICATIONS FOR CONTRACTOR AND CONTRACTOR PERSONNEL

- a. Applicants must have a Texas address. HHSC will accept a PO box address during the application phase. However, Applicant must have a physical address(es) before HHSC's site review and contract award. Applicant's physical address(es) must be zoned or otherwise approved to conduct business and be compliant with property agreements. HHSC does not require Applicant to use rented commercial office space for its physical address(es). Instead, Applicant may use a private or semi-private, reliable, and regularly available room(s), reasonably thought to protect individual participants' confidentiality.
- B.** Applicants must be established as an appropriate legal entity under Texas statutes and must have authority to do business in Texas.

SECTION 8. STATEMENT OF WORK

8.1. PROJECT OVERVIEW

The HCBS-AMH program is designed to increase available support services for adults with serious mental illness who have a history of long-term psychiatric hospitalization, frequent arrests, or frequent hospital emergency room use.

HCBS-AMH uses a person-centered recovery planning approach to provide services designed to enable individuals diagnosed with serious mental illness to live independently in the community. Dimensions of personal recovery include better managing one's physical and mental well-being, attaining stable and safe housing, engaging in meaningful daily life activities to achieve personal goals, forging and cultivating relationships with others in the community, developing a positive sense of identity, and regaining belief in one's self. HCBS-AMH services are not time-limited, but available to the individual for as long as they need them.

8.2. HHSC RESPONSIBILITIES

- a. HHSC will provide support for its database or data system, including at a minimum the following assistance:
 - i. Problem tracking and problem resolution;
 - ii. Provision of telephone numbers for Contractors to access expert assistance with resolving problems related to the HHSC-provided database or data system; and
 - iii. Initial training in the HHSC-provided database or data system, as well as subsequent ongoing end-user training.
- b. HHSC will comply with all HHSC responsibilities or provisions included in the HCBS-AMH Provider Manual, available at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>.
- c. In its sole discretion, HHSC may limit or deny access to its database or data system at any time. If HHSC limits or denies access to the database or data system, HHSC must approve alternative data submission arrangements.
- d. In its sole discretion, HHSC may instruct a Contractor to remove any employee or subcontractor from association with work authorized in a

- contract resulting from this OE if the work of that employee or subcontractor does not comply with the contract terms or if the conduct of that employee or subcontractor becomes detrimental to the work.
- e. HHSC will compensate Applicants receiving contracts under this OE using a fee-for-service payment method, based on established rates, by service type, posted at <https://rad.hhs.texas.gov/long-term-services-supports>.

8.3. CONTRACTOR (PROVIDER) RESPONSIBILITIES

- a. Prior to receiving referrals for the provision of HCBS-AMH services, Applicant must be enrolled in Medicaid as a Home and Community Based Services – Adult Mental Health provider; and
- b. Applicant’s staff members, including the executive director or chief executive officer, must not serve as voting members on Applicant’s governing board. By signing the Exhibit A – Solicitation Affirmations, Applicant attests that no staff member, including the executive director or chief executive officer, serve as voting members on Applicant’s governing board.

8.4. STATEMENT OF SERVICES TO BE PROVIDED

8.4.1. ADMINISTRATIVE REQUIREMENTS

1. Prior to submission of an application under this OE, Applicant shall establish policies and procedures that align with requirements included in the HCBS-AMH Provider Manual, available at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>. Applicant’s agency-specific policies and procedures shall include a table of contents and sequential page numbering. Policy and procedure topics must include, but are not limited to:
 - a. Participant records (e.g., intake, assessment, service notes), including:
 - i. Confidentiality and record retention; and
 - ii. Documenting service provision/coordination of care, including routine and emergency appointment availability.
 - b. Quality management, including oversight and improvement activities that identify responsible staff/positions, how oversight and improvement will occur, and how Applicant will document oversight/improvement activities.

- c. Staffing, including paid staff, volunteers, and interns, and subcontractor personnel record keeping, including:
 - i. Verifying and documenting credentials;
 - ii. Conducting and documenting background checks and registry clearances described in Article 8.9 of this OE;
 - iii. Conducting and documenting Nurse Aid Registry and Employee Misconduct Registry checks;
 - iv. Providing and documenting required agency and HCBS-AMH training;
 - v. Supervising, evaluating, and documenting staff and subcontractor performance; and
 - vi. Recruitment and retention strategies supporting continuity of care.
- d. Participant satisfaction gathered through surveys or individual interviews.
- e. Infectious disease, including conducting a baseline tuberculosis screening for all employees at time of hire, and annually thereafter. Annual screening may consist of active symptom screening, Purified Protein Derivative (PPD) testing, or Interferon-Gamma Release Assay (IGRA) based testing.
- f. Utilization management.
- g. Housing and placement, including the following:
 - i. Expansion of community resources;
 - ii. Monitoring and tracking placement;
 - iii. Compliance with court orders, as applicable;
 - iv. Compliance with Landlord and Tenant Laws from Texas Property Code Annotated sections 91.001 to 92.355; and
 - v. Compliance with Code of Federal Regulations (CFR) Title 42, § 441.710 (CMS), 1915(i) State Plan Amendment (SPA) settings requirements, settings requirements for provider owned and operated settings, HHSC Form 3044 Settings Checklist, and any additional program requirements for settings.
- h. Conflict of interest management.
 - i. HHSC notification procedures, including the following:
 - i. Notification any time a required service become unavailable;
 - ii. Notification regarding participant housing/placement movements;

- iii. Notification of participant transfers to other HCBS-AMH providers;
 - iv. Notification of participant discharge from the HCBS-AMH program;
 - v. Critical incident reporting; and
 - vi. Abuse, neglect, and exploitation reporting.
 - j. Medicaid Fair Hearings.
 - k. Billing, including Medicaid verification during the billing period.
 - l. Personnel and participant safety, including behavior management, restraint, suicide precaution/prevention, and Title 25, Texas Administrative Code (TAC), Chapter 415, §§ 415.259 - 415.273.
 - m. Participant rights and grievances.
 - n. No rejection policy.
 - o. Medication safety, including, but not limited to:
 - i. Processes to ensure all personnel who have access or handle medications have appropriate qualifications;
 - ii. Compliance with Title 22, TAC, Chapter 225 when delegating nursing tasks to unlicensed caregivers; and
 - iii. Processes that ensure self-administration of medications follow Title 22, TAC, Chapter 225.
2. Prior to submission of an application under this OE, Applicant shall complete the following activities for all HCBS-AMH employees and subcontractors:
 - a. Credentialing including verification of licensure/certification, qualifications, and training requirements; and
 - b. Background checks and registry clearances as described in Article 8.9 of this OE.
 3. Prior to submission of an application under this OE, Applicant must establish an e-mail extension that is exclusively associated with the Applicant's organization and have capacity to assign employees and subcontractors a unique e-mail address for use. Applicant's e-mail extension shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant encrypted transmission of confidential information.
 4. Prior to submission of an application under this OE, HHSC recommends Applicants seek guidance regarding participation in the HCBS-AMH program and technical assistance with preparation and submission of an HCBS-AMH OE application from

The University of Texas Health Science Center- San Antonio (UTHSCSA). For more details on the specific assistance available, email Dr. Matt Brown at brownma@uthscsa.edu. Dr. Brown is a subject matter expert on this OE and can provide comprehensive assistance at no cost to Applicant.

5. Under a contract resulting from this OE, Applicant shall assign one or more staff the responsibility for tracking HHSC policy updates using HHSC's identified platform and disseminating these updates within Applicant's organization.
6. Under a contract resulting from this OE, Applicant shall submit deliverables within the timeframe(s), and in the format(s) required by HHSC. Additionally, Applicant shall respond to HHSC's ad hoc requests within five (5) business days of the request.
7. Under a contract resulting from this OE, Applicant shall have the ability to use a database or data system identified and provided by HHSC by adhering to the following requirements. Applicant shall:
 - a. Have appropriate Internet access and an adequate number of computers of sufficient capability to use the HHSC-provided database or data system. to report data to HHSC;
 - b. Monitor its network and include troubleshooting or assistance with Wide Area Networks (WANs), Local Area Networks (LANs), router switches, network hubs or other equipment and Internet Service Provider (ISP);
 - c. Maintain responsibility for local end-user procedures and is responsible for data back-up, restore, and contingency planning functions for all local data;
 - d. Maintain internal controls, security, and oversight for the approval and electronic transfer of information regarding payments and reporting requirements;
 - e. Notify System Agency immediately if a security violation is detected, or if there is reason to suspect that the security or integrity of the database or data system has been or may be compromised in any way;
 - f. Develop and maintain internal controls, security, and oversight for the approval and electronic transfer of confidential data into a database or data system;
 - g. Submit data that is true, accurate, and complete at the time of submission;

- h. Designate a Security Administrator and a back-up Security Administrator. The Security Administrator is required to implement and maintain a system for management of user accounts/user roles to ensure that all user accounts are current; and
- i. Complete a Security Administrator Attestation & Authorized Users List, confirming Contractor has reviewed the names of agency employees who have access to database systems that may be used in conducting business with System Agency, and Grantee has removed access to users who are no longer authorized to access secure data.

8.4.2. SERVICE DELIVERY REQUIREMENTS

1. Under a contract resulting from this OE, Applicant shall deploy an HCBS-AMH program that complies with provisions included HCBS-AMH Provider Manual and Billing Guidelines, which is available at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>.
2. Under a contract resulting from this OE, Applicant shall provide services in accordance with applicable federal or state laws and rules, which include, but are not limited to:
 - a. Code of Federal Regulations (CFR), Title 42, Parts 440, 441, 455 and 456;
 - b. CFR, Title 45, Parts 46, 80, 84, 90 and 91; and
 - c. Texas Human Resources Code, Section 48.253;
 - d. Title 25, Texas Administrative Code (TAC) Chapter 414;
 - e. Title 25, TAC, Chapter 448, Subchapter G;
 - f. Applicable subchapters of Title 1, TAC, Chapter 355; and
 - g. Title 26, TAC, Chapter 307.
3. Under a contract resulting from this OE, Applicant shall provide for all services outlined below. At minimum, Applicant shall directly provide at least one (1) of the first six (6) services listed below (i.e., letters a through f), and may indirectly (i.e., via subcontract) provide for the remaining services:
 - a. Supported Home Living;
 - b. Assisted Living;
 - c. Supervised Living;
 - d. Community Psychiatric Supports and Treatment;
 - e. HCBS-AMH Psychosocial Rehabilitation;

- f. Nursing;
 - g. Adaptive Aids;
 - h. Host Home/Companion Care;
 - i. Employment Assistance;
 - j. Home Delivered Meals;
 - k. Minor Home Modifications;
 - l. Peer Support;
 - m. Respite Care;
 - n. Substance Use Disorder Treatment;
 - o. Transition Assistance Services;
 - p. Transportation; and
 - q. Flexible Funds.
4. Under a contract resulting from this OE, Applicant shall provide allowable services to individuals prior to discharge from state mental health hospital, where approved by HHSC on individual recovery plans, unless provision of services is not permitted by the hospital. Service provided in state mental health hospitals shall be provided in-person, unless conditions require use of telehealth or other electronic information resource and telecommunications technologies to provide long-distance services.
 5. Under a contract resulting from this OE, Applicant shall provide services authorized within individual recovery plans no later than five (5) calendar days after HHSC's authorization.
 6. Under a contract resulting from this OE, Applicant shall maintain appropriate documentation of all HCBS-AMH services in a format prescribed by HHSC.

8.5. PERFORMANCE CRITERIA

HHSC will look solely to the Contractor(s) for the performance of all contractual obligations resulting from an award based on this OE.

No Contractor will be relieved of its obligations for any nonperformance by its subcontractors. Contractor must ensure that its subcontractors abide by all requirements, terms, and conditions of a Contract resulting from this OE. Unless the context clearly indicates otherwise, every requirement and every prohibition set forth in this OE and any resulting contract that applies to an Applicant, also applies with equal force to its employees, agents, representatives, and subcontractors.

8.5.1. SPECIFIC PERFORMANCE STANDARDS

Applicant shall comply with all obligations and duties under a Contract resulting from this OE, which includes the following performance standards:

1. Under a contract resulting from this OE, Applicant shall submit deliverables or other information required by HHSC electronically to mhcontracts@hhsc.state.tx.us with a copy to Applicant's assigned contract manager. If Applicant must submit deliverables or other information required by HHSC via mail or fax, Applicant shall use the following information:
 - a. PO Box Address: Health and Human Services Commission, Mental Health Contracts Management Unit (Mail Code 2058) P.O. Box 13247, Austin, TX 78711-3247;
 - b. Physical Address: Health and Human Services Commission, Mental Health Contracts Management Unit (Mail Code 2058), 909 West 45th Street, Bldg. 552, Austin, TX 78751; or
 - c. Fax: (512) 206-5307.
2. Under a contract resulting from this OE, Applicant shall submit, on a quarterly basis, contact information for all HCBS-AMH service subcontractors, and service(s) provided during the prior quarter. The quarterly reporting periods align with the state fiscal year (i.e., September 1st through August 31st) and are as follows:
 - a. Quarter 1: September 1st through November 30th, report due December 20th;
 - b. Quarter 2: December 1st through February 28th, report due March 20th;
 - c. Quarter 3: March 1st through May 31st, report due June 20th;
 - d. Quarter 4: June 1st through August 31st, report due September 20th.
3. Under a contract resulting from this OE, Applicant shall report to HHSC, within one (1) business day, if a required HCBS-AMH service becomes unavailable. Applicant shall report using a Form 3040, Review Findings and Plan of Improvement (POI) Template located at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>. Form 3040

shall address the organizational, clinical or compliance problem(s), corrective action(s), person(s) responsible, and a timeframe(s) for correction.

4. Under a contract resulting from this OE, Applicant shall submit, on a quarterly basis, each final investigative report of Abuse, Neglect and Exploitation involving an individual enrolled in the HCBS-AMH program during the prior quarter. The quarterly reporting periods align with the state fiscal year (i.e., September 1st through August 31st) and are as follows:
 - a. Quarter 1: September 1st through November 30th, report due December 20th;
 - b. Quarter 2: December 1st through February 28th, report due March 20th;
 - c. Quarter 3: March 1st through May 31st, report due June 20th;
 - d. Quarter 4: June 1st through August 31st, report due September 20th.
5. Under a contract resulting from this OE, Applicant shall submit, on an annual basis, an HCBS-AMH Annual Report using the template located at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>. The annual report is due no later September 30th following the end of the state fiscal year.
6. Under a contract resulting from this OE, Applicant shall report to HHSC, at minimum, ten (10) business day prior to making changes that affect administrative or service provision activities, which include, but are not limited to, changes in ownership or control, federal tax identification number or administrative or service delivery addresses.
7. Under a contract resulting from this OE, failure by Applicant to submit deliverables by the date identified by HHSC, or failure by Applicant to make all required services available, may result in HHSC:
 - a. Limiting, or placing conditions on the Applicant's continued performance under the contract;
 - b. Temporarily withhold payment(s); or
 - c. Terminating the contract.

8.6. CONTRACTOR PERSONNEL AND SUBCONTRACTOR PERFORMANCE

- a. Under a contract resulting from this OE, Applicant 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.
- b. Under a contract resulting from this OE, Applicant shall at all times employ sufficient personnel, or establish subcontracts, to carry out functions and services in the manner and time prescribed by the contract.
- c. Under a contract resulting from this OE, Applicant shall be responsible for the acts and omissions of Applicant's employees, agents (including, but not limited to, lobbyists) and subcontractors and shall enforce strict discipline among the Applicant's employees, agents (including, but not limited to, lobbyists) and subcontractors performing the services under the contract.
- d. HHSC, at its sole discretion, may request in writing the immediate removal of any Applicant personnel or subcontractor personnel from the services being provided under the contract. Upon such request, Applicant shall immediately remove the subject personnel and submit in writing to HHSC, within ten (10) calendar days of HHSC's request for removal, confirmation of the removal and assurance of continued, compliant contract performance.

8.7. NOTICE OF CRIMINAL ACTIVITY

At the time of submission, Applicant shall provide confirmation that Applicant, any person with ownership or controlling interest in Applicant, and Applicant's agents, employees, subcontractors and volunteers who will be providing the required services:

- a. have not engaged in any activity that does or could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; and
- b. have not been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program, or sex crime.

Prior to Contract award, if any, Applicant must notify the HHSC Sole Point of Contact within five (5) calendar days of the date Applicant learns of actions set forth in subsections (a) and (b) above.

Additionally, this is a continuing disclosure requirement, during the term of any Contract resulting from this OE, to immediately report, in writing, to the HHSC contract manager when Applicant learns of or has any reason to believe it or any person with ownership or controlling interest in Applicant, or any of Applicant's agents, employees, subcontractors or volunteers actions set forth in subsections (a) and (b) above.

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 participant services or have direct contact with participants, unless otherwise directed in writing by the HHSC contract manager.

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.

Key personnel (i.e., owners, and employees, subcontractors or volunteers having direct contact with clients) with misdemeanor offenses must receive prior approval by the HHS Agency before being allowed to work under a Contract resulting from this OE.

HHSC, at its sole discretion, may terminate any Contract resulting from this OE if Applicant, its agents, employees, subcontractors, or volunteers are arrested, indicted, or convicted of any criminal activity.

8.8. NOTICE OF INSOLVENCY OR INDEBTEDNESS

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 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.

8.9. BACKGROUND CHECKS FOR PERSONNEL

Applicant will conduct or obtain a fingerprint-based criminal background check, as well as Nurse Aid Registry, Employee Misconduct Registry, and Client Abuse and Neglect Reporting System clearances, on all Contractor personnel (e.g., permanent and temporary personnel and/or Subcontractor and Subcontractor personnel) assigned as key personnel to perform services under a contract resulting from this OE. Applicant responsible for all background check and registry clearance expenses.

The fingerprint-based background check and clearances must be completed prior to any Applicant personnel arriving on state property, if applicable, and/or beginning the required services.

Supporting documentation for the fingerprint-based background check and clearances is subject to review upon request by HHSC. Failure to produce the requested documentation, as with any violation of a contract resulting from this OE, may constitute grounds for termination of the Contract for cause.

8.10. REPORTING CRITERIA

8.11. INVOICE REQUIREMENTS AND PAYMENT

8.11.1. INVOICE REQUIREMENTS

- a. Under a contract resulting from this OE, Applicant shall electronically submit to HHSC an invoice for the previous month no later than the 15th of the following month using an automated system chosen by HHSC, or the HHSC Form 4116, which is incorporated by reference and can be downloaded at <https://hhs.texas.gov/laws-regulations/forms/4000-4999/form-4116-authorization-expenditures>.
- b. Unless directed to use an automated system chosen by HHSC, under a contract resulting from this OE, Applicant shall electronically submit all invoices with required or requested supporting documentation to the Claims Processing Unit at HHSC_AP@hsc.state.tx.us with a copy to [hcbs-](#)

amh.services@hhsc.state.tx.us, mhcontracts@hhsc.state.tx.us, and the assigned contract manager. Required or requested documentation includes:

- i. Form 4116, which at minimum identifies:
 1. Name, address, and telephone number of Contractor;
 2. HHSC Contract Number;
 3. HHSC Program ID;
 4. Dates services were delivered;
 5. Type of Entity; and
 6. Total invoice amount.
- ii. HCBS-AMH Encounter Invoice, which is incorporated by reference, and can be found at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/home-community-based-services-adult-mental-health>.
- iii. Any additional supporting documentation which is required by this Contract or as requested by HHSC.
- c. Unless directed to use an automated system chosen by HHSC, under a contract resulting from this OE, Applicant shall include the following details in the subject line of the electronic invoice submission:
 - i. Applicant Name;
 - ii. Contract Number;
 - iii. Program ID;
 - iv. Month and Year of Service; and
 - v. Total Invoice Amount.
- d. Alternative submission arrangements, including use of an automated system chosen by HHSC, shall be approved by the assigned contract manager.
- e. No payment will be made without submission of detailed, accurate invoices submitted as outlined.

8.11.2. PAYMENT

HHSC will compensate Applicants receiving contracts under this OE using a fee-for-service payment method, based on established rates, by service type, posted at <https://rad.hhs.texas.gov/long-term-services-supports>.

Applicants receiving contracts under this OE shall accept HHSC's established rates as payment in full and shall make no additional

charge to the HCBS-AMH participant, any member of the HCBS-AMH participant's family or any other source, including a third-party payor, except as allowed by federal and state laws, rules, regulations and the Medicaid State Plan.

8.12. DATA USE AGREEMENT (DUA)

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 E. The Applicant must complete, sign, and return with its Application Exhibit E, Attachment 2, Texas HHS System - Data Use Agreement – Attachment 2, Security and Privacy Initial Inquiry (SPI).

8.13. TERMS AND CONDITIONS

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

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.

8.14. STANDARDS OF CONDUCT FOR VENDORS

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.

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).

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

Standards of conduct of any contractor, respondent or vendor may be reviewed and/or audited by the State Auditor and HHSC. Additionally, pursuant to 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.

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.

SECTION 9. HHSC CONTRACT ADMINISTRATION

HHSC will designate a contract manager and provide contact information within the contract resulting from this OE.

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.

SECTION 10. INSURANCE REQUIREMENTS

10.1. INSURANCE COVERAGE

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

Applicant shall submit current certificates of insurance or other proof acceptable to HHSC at the time of notification of a potential award and such proof must be received by HHSC prior to execution of any contract resulting from this OE

HHSC may designate a deadline for submission of proof of required insurance. Failure to timely submit acceptable proof may result in HHSC's award revocation or contract termination.

Applicants receiving contracts under this OE shall maintain the required insurance, during the initial term and any renewal or extension period exercised and shall also be responsible for ensuring its subcontractors follow all applicable insurance and bond requirements.

SPECIFIC INSURANCE REQUIREMENTS

For the full term of and contract as a result of this OE, including the original term and all periods of renewal and all additional extensions, Applicant and its subcontractors, if any, shall obtain and maintain all insurance coverage as set forth below. Applicant is responsible for ensuring its subcontractors' compliance with all requirements.

Commercial General Liability

Occurrence Based:

Bodily Injury and Property Damage

Each occurrence Limit: \$1,000,000

Aggregate Limit: \$3,000,000

Medical Expense Each Person: \$5,000

Personal Injury and Advertising Liability: \$1,000,000

Products / Completed Operations Aggregate Limit: \$2,000,000

Damage to Premises Rented to HHSC or Affiliated Entity: \$50,000

Umbrella/Excess Liability:

Per Occurrence: \$1,000,000

SECTION 11. CONFIDENTIAL OR PROPRIETARY INFORMATION

11.1. PUBLIC INFORMATION ACT

Applicant Requirements Regarding Disclosure

Applications 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 HHSC to post certain contracts and Applications on HHSC's website and to provide such information to the Legislative Budget Board for posting on its website.

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

a. Mark Original Application:

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

b. Certify in Original Application - Solicitation Affirmations

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

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

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

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

If Applicant submits 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 Applicant if Applicant fails to fully comply with the requirements set forth in this section, or (2) to offer Applicant additional time to comply.

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

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

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. Applicant is advised to consult with its 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 Applicant.

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>

11.2. APPLICANT WAIVER – INTELLECTUAL PROPERTY

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.

SECTION 12. BINDING OFFER

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.**

SECTION 13. REQUIRED APPLICATION DOCUMENTS

All documentation listed must be returned to constitute 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. Exhibit A – Solicitation Affirmations

Must be completed and signed.

Important Note: HHSC will disqualify all Applications received without the signed Exhibit A.

2. OE Addenda, if applicable

Must be signed.

<p>3. <u>Exhibit C – Assurances Non-Construction Programs</u> <u>Completed and signed</u></p>
<p>4. <u>Exhibit D – Certification Regarding Lobbying</u> <u>Completed and signed</u></p>
<p>5. <u>Exhibit E – Attachment 2 (Security and Privacy Initial Inquiry Form)</u> <u>Completed and signed</u></p>
<p>6. <u>Exhibit F – Contact Person Information Form</u></p>
<p>7. <u>Minimum Qualifications – Reference Section 7</u></p> <p><u>Required Experience - Reference Section 7.1</u> <u>Provide documentation of demonstrated experience to confirm the Applicant meets the minimum requirements.</u></p> <p><u>Licensure or Accreditation - Reference Section 7.2</u> <u>Provide copies of current, valid, and applicable Texas licenses and/or certifications for Applicant staff and subcontractors, if any, assigned to provide services that require licensure under a Contract resulting from this OE.</u></p> <p><u>Additional Minimum Qualifications - Reference Section 7.1</u> <u>Provide documentation of qualifications to confirm the Applicant meets the minimum requirements. This applies to the Applicant’s business, Subcontractor(s) and both Applicant’s and Subcontractor’s personnel.</u></p>
<p>8. <u>Exhibit G – HCBS-AMH Service Plan</u></p>
<p>9. <u>Organizational Chart</u> <u>Applicant must provide an organizational chart for the key staff members responsible for the performance of the services requested under this OE.</u></p>
<p>10. <u>Company Information</u></p> <ul style="list-style-type: none"> • <u>Applicant Business Structure or Company Type:</u> <u>Provide the entity type (e.g., Private, Non-Profit, State Agency, Local Government, etc.). If Corporation, provide State of Incorporation and filing number.</u> • <u>Articles of Incorporation and Bylaws</u> • <u>Organizational Overview, Philosophy, or Mission Statement</u> • <u>Policies and Procedures</u> • <u>Job Descriptions</u> • <u>Organization Brochure or Biographical Information</u>

- **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:

1. Name
2. Address
3. Phone Number
4. State agency for which previously worked
5. Dates of employment for each identified state agency

Applicant must also provide any additional information requested by HHS regarding identified individuals.

11. 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:

- a. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
- b. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program, or sex crime.

12. 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.

13. Exhibit H – Service Areas and Locations

Select applicable service regions, provide a list of each service location within the regions.

14. Subcontractor Information

Provide a list of all subcontractors which must include at a minimum:

- a. Business Structure (Type of entity)
- b. DBA name, if applicable with associated Texas County(s)
- c. Addresses – Physical and Mailing, if different
- d. Contact Information – Phone and e-mail
- e. Texas Historically Underutilized Business (HUB) – If applicable, provide copy of Certificate

15. Insurance – Reference Section 10

Applicant must provide proof of insurance or a statement of its intent to obtain and maintain for the term of the Contract (and any renewal periods

or additional extensions) the minimum insurance coverage specified or, as applicable, any bonds required. Applicant should also describe other insurance coverage maintained in the ordinary course of business and provide proof of same in its Application.

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

16. Public Information Act Copy of Application, if applicable

SECTION 14. APPLICATION SUBMISSION REQUIREMENTS

The Application must be submitted in accordance with this section and Section 13.

The complete Application must be submitted to the email address listed below on or before the enrollment period close date listed in Section 1, Schedule of Events: Health and Human Services Commission, Mental Health Contract Management Unit
Email: mhcontracts@hhsc.state.tx.us

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

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

The Application must be submitted by e-mail in a in searchable (i.e., no handwriting or scanned documents) portable document format (PDF). Modification of any document, attachment, or exhibit may, in HHSC's sole discretion, result in rejection of the Application.

14.1. E-MAIL SUBMISSION

Each Applicant is solely responsible for ensuring its Application is submitted in accordance with all OE requirements, including, but not limited to, the Appendix A, Checklist for Submission and ensuring timely e-mail receipt by HHSC.

The Application, including all documentation outlined in Appendix A, Checklist for Submission, must be sent in its entirety in one or more e-mails.

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.

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.). 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.

IMPORTANT NOTE: HHSC recommends a 10MB limit on each attachment. This may require Applicant to send multiple e-mails to HHSC at mhcontracts@hhsc.state.tx.us to ensure all documentation contained in an Application is received.

All documents should be submitted using a searchable Adobe® portable document format (pdf) files. HHSC is not responsible for documents that cannot be read or converted. Unreadable applications may be, in HHSC sole discretion, rejected as nonresponsive.

Please be aware Internet Service Providers may limit file sizes on outgoing emails; therefore, it is recommended Applications not contain graphics, pictures, letterheads, etc., which consume a lot of space. These typically include *.tif/*.tiff, *.gif, & *.bmp file extensions, but may use others, as well. HHSC 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.

Applicants may email the Point of Contact, Section 4.1 to request confirmation of receipt.

14.2. RECEIPT OF APPLICATION

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

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.

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

SECTION 15. 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 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.

15.1. INITIAL SCREENING OF APPLICATIONS

HHSC will conduct an initial screening of Applications to determine which Applications are deemed responsive and potentially qualified for award consideration. This screening includes a review to determine that Applicant meets the minimum requirements, qualifications and the Application includes all required documentation.

In addition to the initial screening, HHSC reserves the right to:

- a. Ask questions or request clarification from Applicant at any time during the OE screening and evaluation process, and
- b. Conduct studies, investigations, or on-site and desk reviews as necessary to evaluate any Applicant and 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 the Application, would not give

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 Applicant the opportunity to submit missing information or make corrections. Applicant shall submit missing information or corrections 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 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, Solicitation Affirmations, which must be signed and submitted with the Application).

15.2. PAST VENDOR PERFORMANCE AND READINESS REVIEW

HHSC reserves the right to conduct studies, investigations, or on-site and desk reviews as necessary to evaluate any Applicant or 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.

HHSC may reject Applications based on unsatisfactory past performance under any contract(s) as reflected in vendor performance reports, reference checks, or other sources. Applicant's past performance may be considered in the initial screening process and prior to making an award determination.

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

- a. Applicant has an unfavorable report or grade on the CPA Vendor Performance Tracking System (VPTS). VPTS may be accessed at: <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>;
- b. Applicant is currently under a corrective action plan through HHSC, or has been under repeated corrective action plans through HHSC;
- c. Applicant has repeated, negative vendor performance reports for the same reason;
- d. Applicant has a record of repeated non-responsiveness to vendor performance issues;

- e. Applicant has contracts or purchase orders that have been cancelled in the previous 12 months for non-performance or sub-standard performance;
- f. Applicant has failed, after three attempts, to submit a satisfactory Application (i.e., Applicant and its Application passes all screening and evaluation components and is determined by HHSC sufficient to consider for award);
- g. Applicant submits an Application under this OE within one (1) year (i.e., 365 calendar days) of a rejected application under this OE;
- h. An Applicant employee, officer, or agent attempts to influence the outcome of HHSC's review through contact with any HHSC staff member outside of the Point of Contact listed in Section 4.1; or
- i. Applicant submits an Application that plagiarizes completely, or in part, work from another organization.

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

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

Further, 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.

If HHSC rejects an Application, HHSC, at its sole discretion, may determine:

- a. Applicant is ineligible for reapplication; or
- b. Applicant may reapply under this OE after waiting one (1) year (i.e., 365 calendar days) from the date of HHSC's rejection letter.

SECTION 16. AWARD PROCESS

16.1. CONTRACT AWARD AND EXECUTION

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.

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

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

16.2. COMPLIANCE FOR PARTICIPATION IN STATE CONTRACTS

16.2.1. REQUIRED PRE-AWARD VERIFICATIONS

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

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

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

A. State of Texas Debarment

Must not be debarred from doing business with the State of Texas through the Comptroller of Public Accounts (CPA):
<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>.

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

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

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

C. 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.

D. HHS Office of Inspector General

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

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

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

<https://exclusions.oig.hhs.gov/>

F. Applicant Settings Check

Locations used to house HCBS-AMH program participants must meet State Plan Amendment (SPA) 1915(i) Settings Requirements and any additional settings requirements as detailed on HHS Form 3044. Settings requirements apply to all homes owned, leased, rented or that Applicant has a property interest in, and that are used for Supervised Living or Assisted Living Services. Applicant can find relevant documents here:

<https://www.hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/behavioral-health-provider/hcbs-amh/hcbs-amh-medicaid-state-plan.pdf>

<https://www.hhs.texas.gov/laws-regulations/forms/3000-3999/form-3044-home-community-based-services-adult-mental-health-hcbs-amh-settings-checklist>

G. Applicant's Subcontract Requirements

All subcontracts must be in written form and made available to HHSC upon request. All services provided by a person who is not employed by Applicant must provide such services under a subcontract with Applicant.

16.2.2. ADDITIONAL REQUIRED PRE-AWARD VERIFICATIONS

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

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

A. Texas Franchise Tax Status

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

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

B. Texas Warrant Hold Status

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

C. Texas Secretary of State

Must be registered, if required by law, with the Texas Secretary of State as a public or private entity eligible to do business in Texas: <https://direct.sos.state.tx.us/acct/acct-login.asp>

16.3. AWARD TO GOVERNMENTAL ENTITIES

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

SECTION 17. DISCLOSURE OF INTERESTED PARTIES

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 a contract that requires an action or vote by the governing body of the agency before the contract may be signed. One of the requirements of Section 2252.908 is that a business entity (defined as "any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation") must submit a Form 1295, Certificate of Interested Parties, to the state agency at the time the business entity submits the signed contract to the agency.

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

Information regarding the on-line process for completing Form 1295 is available at:

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

For further information reference:

- a. 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>

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

If the potential awardee does not timely submit a completed, certified and signed TEC Form 1295 to HHSC with the signed Contract, HHSC is prohibited by law from executing a contract, even if the potential awardee is otherwise eligible for award. Each qualified Applicant will be subject to this procedure.