



# TEXAS

## Health and Human Services

*Cecile E. Young, Executive Commissioner*

*Request for Applications (RFA)*

*Grant for*

*Home Health Agencies - COVID-19 in Healthcare Relief*

*RFA No. HHS0011339*

**DEADLINE FOR SUBMISSION OF APPLICATIONS**

*August 19, 2022 by 10:30 a.m. Central Time*

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## Article I. Executive Summary, Definitions, and Statutory Authority

### 1.1 EXECUTIVE SUMMARY

The Health and Human Services Commission (HHSC or System Agency) is accepting Applications for the Home Health Agencies - COVID-19 in Healthcare Relief RFA.

The purpose of this Request for Applications (RFA) is to distribute funding for Critical Staffing Needs to Home Health Agencies in Texas that have been affected by the COVID-19 pandemic.

Applicants should reference **Article II, Scope of Project**, for further detailed information regarding the purpose, background, eligibility criteria, eligible activities and other requirements of this funding.

Grant Name:	Home Health Agencies - COVID-19 in Healthcare Relief
RFA No.:	HHS0011339
Deadline for Submission of Applications:	August 19, 2022 by 10:30 a.m. Central Time
Deadline for Submitting Questions or Requests for Clarifications:	July 29, 2022 by 5:00 p.m. Central Time
Estimated Total Available Funding:	\$54,932,075
Maximum Total Number of Awards:	3,124
Minimum Award Amount:	\$230 per active Home Health Services Client in the Applicant's Unduplicated Client Census
Maximum Award Amount:	\$2,500 per active Home Health Services Client in the Applicant's in Unduplicated Client Census, not to exceed \$999,999 per HHA
Anticipated Project Start Date:	November 1, 2022
Length of Project Period:	9 months
Eligible Applicants:	See <b>Section 2.3, Eligible Applicants</b> .

To be considered for screening, evaluation and award, Applicants must provide and submit all required information and documentation as set forth in **Article VIII, Application Organization and Submission Requirements** by the Deadline for Submission of Applications established in **Section 7.1, Schedule of Events**, or subsequent Addenda. See **Section 9.2, Initial Compliance Screening of Applications**, for further details.

## 1.2 DEFINITIONS AND ACRONYMS

Unless a different definition is specified, or the context clearly indicates otherwise, the definitions and acronyms given to a term below apply whenever the term appears in this RFA. All other terms have their ordinary and common meaning.

HHS has determined entities receiving funds under this RFA are Beneficiaries, not subrecipients. The RFA and all Notices of Award resulting from this solicitation are subject to the Uniform Terms and Conditions, which are attached as **Exhibit B, HHS Uniform Terms and Conditions – Grant (v. 3.1)** and incorporated into and considered part of the RFA and any resulting Notices of Award for all purposes. All references in **Exhibit B, HHS Uniform Terms and Conditions – Grant (v. 3.1)** to “Grantee” shall mean “Beneficiary” or “Contractor,” and all references to “Grant Agreement” shall mean “Funding Agreement”.

Refer to all exhibits to this RFA for additional definitions.

“Addendum” means a written clarification or revision to this RFA, including exhibits, forms, and attachments, as issued and posted by HHSC to the HHS Grants RFA website.

“Administrative/Operation Staff” means Staff whose position’s primary function is to provide administrative and operational support (i.e., director, administrator, assistant director, assistant administrator, clerical and secretarial Staff, professional Staff, other administrative Staff, licensed Staff, attendant supervisors, cooks and kitchen Staff, maintenance and grounds keeping Staff, activity director, etc.).

“American Rescue Plan Act of 2021” means the American Rescue Plan Act of 2021, a \$1.9 trillion coronavirus rescue package designed to facilitate the United States’ recovery from the devastating economic and health effects of the COVID-19 pandemic.

“Applicant” means any person or legal entity that submits an Application in response to this RFA. The term includes the individual submitting the Application who is authorized to sign the Application on behalf of the Applicant and to bind the Applicant under any Funding Agreement that may result from the submission of the Application. May also be referred to in this RFA or its exhibits as “Respondent”.

“Application” means all documents the Applicant submits in response to this RFA, including all required forms and exhibits. May also be referred to in this RFA as “Solicitation Response”.

“Beneficiary” means the Party receiving funds under any Funding Agreement awarded under this RFA.

“Branch Office” means a facility or site in the geographical area served by a Home Health Agency (HHA) where Home Health Services are delivered or active Client records are maintained. This does not include inactive records that are stored at an unlicensed site.

“Cash On Hand” means the amount of money that the Applicant’s business has immediately available.

“Certified Home Health Services” means Home Health Services that are provided by a certified agency, which is a Home and Community Support Services Agency (HCSSA), or portion of the HCSSA, that provides a Home Health Service and is certified by an official

of the United States Department of Health and Human Services as in compliance with conditions of participation in Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

“[CFR](#)” means the Code of Federal Regulations which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

“[Change of Ownership](#)” or “[CHOW](#)” means an event that results in a change to the federal taxpayer identification number of the license holder of an agency. The substitution of a personal representative for a deceased license holder is not a Change of Ownership.

“[Client](#)” means an individual who is receiving Home Health Services in the residence, an independent living environment, or another appropriate location provided by a Home Health Agency (HHA). This term includes each member of the primary Client’s family if the member is receiving ongoing services. This term does not include the spouse, significant other, or other family member living with the Client who receives a one-time service (for example, vaccination) if the spouse, significant other, or other family member receives the service in connection with the care of a Client.

“[Coronavirus State and Local Fiscal Recovery Funds](#)” means the Coronavirus State and Local Fiscal Recovery Funds, a part of the American Rescue Plan, intended to deliver \$350 billion to State, local, and tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.

“[Critical Staffing Needs](#)” means an agency’s requirements to maintain the minimum number of Staff (employees and contractors) to provide services in accordance with a plan of care, care plan or individualized service plan while ensuring Client health and safety.

“[Direct Care Staff](#)” means care provided by Home Health Agency (HHA) personnel (i.e., attendants, RNs, LVNs, therapists, etc.) to directly carry out the individual plan of care.

“[Funding Agreement](#)” means the agreement entered into by the System Agency and the Beneficiary as a result of this RFA, as set out in the Notice of Award.

“[HHS](#)” includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS).

“[HHSC](#)” means the Health and Human Services Commission.

“[Home and Community Support Services Agency](#)” or “[HCSSA](#)” means a licensed entity to which Chapter 142, Health and Safety Code, applies. This includes all categories of service.

“[Home and Community Support Services Agency License Number](#)” or “[HCSSA License Number](#)” means a HCSSA’s HHSC-issued license number.

“[Home Health Agency](#)” or “[HHA](#)” means a licensed public or provider agency that is licensed under Chapter 142, Health and Safety Code, to provide Home Health Services, and is licensed by HHSC under one or more of the following categories: licensed and Certified Home Health Services, licensed and Certified Home Health Services with home dialysis designation, licensed Home Health Services, or licensed Home Health Services with home dialysis designation.

[“Home Health Service”](#) means the provision of one or more of the following health services delivered by a HHA as required by an individual in a residence or independent living environment: nursing, including blood pressure monitoring and diabetes treatment; physical, occupational, speech, or respiratory therapy; medical social service; intravenous therapy; dialysis; service provided by unlicensed personnel under the delegation or supervision of a licensed health professional; the furnishing of medical equipment and supplies, excluding drugs and medicines; or nutritional counseling. This does not include services provided by a HCSSA under a personal assistance services licensure designation or under a hospice licensure designation.

[“Notice of Award”](#) means the binding document sent by the System Agency to each successful Applicant that includes the amount of the award and the terms and conditions of the award. The Notice of Award is also referred to as the Funding Agreement.

[“Parent Agency”](#) means a HHA’s principal place of business, which is the location where an agency develops and maintains administrative controls and provides supervision of Branch Offices.

[“Payee”](#) means an individual or entity that will receive payment from the System Agency.

[“Paycheck Protection Program Loan”](#) or [“PPP Loan”](#) mean the paycheck protection program administered by the U.S. Small Business Administration as established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136).

[“Potential Payers”](#) means an individual or entity that will submit payment for services rendered to the Applicant.

[“Project”](#) means the specific work and activities that are supported by the funds provided under the Funding Agreement as a result of this RFA.

[“Project Period”](#) is the initial period of time set forth in the Funding Agreement during which Beneficiaries may perform approved Project-funded activities to be eligible for payment. Unless otherwise specified, the Project Period begins on the Funding Agreement effective date and ends on the Funding Agreement termination or expiration date, and represents the base Project Period.

[“Provider Relief Fund”](#) or [“PRF”](#) means the Provider Relief Fund as established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136).

[“RFA”](#) means this Request for Applications, including all parts, exhibits, forms, attachments and Addenda posted on the HHS Grants RFA website. May also be referred to herein as [“Solicitation”](#).

[“Senate Bill 809”](#) or [“SB 809”](#) means the enrolled version of Senate Bill 809, 87<sup>th</sup> Legislature, Regular session.

[“Staff”](#) means an employee of a HHA or a contracted Staff working with Clients of a HHA.

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

[“System Agency”](#) means HHSC, DSHS, or both, that will be a party to any Funding Agreement resulting from the RFA.

“[Texas Identification Number](#)” or “[TIN](#)” means an 11-digit number that identifies a State Payee. It is based on the identification number the Payee initially provides to the paying State agency.

“[Texas Unified Licensure Information Portal](#)” or “[TULIP](#)” means the online system for submitting long-term care license applications. Providers conduct all of their licensure activities in TULIP, including, but not limited to: submitting initial applications, renewal applications, and change-of-ownership notices; making electronic payments; submitting client death reports; accessing the status of licensure applications; and sending and receiving notifications and updates to HHSC related to the licensure process.

“[TxGMS](#)” means the Texas Grant Management Standards published by the Texas Comptroller of Public Accounts.

“[Unduplicated Client Census](#)” means the number of Clients receiving Home Health Services from the HHA at the time of Application, with Clients who experience multiple spells of illnesses, multiple discharges and admissions, or who receive services from multiple categories of service within the Project Period counted only once.

### 1.3 STATUTORY AUTHORITY

The System Agency is requesting Applications under Senate Bill 8, 87th Legislature, 3rd Called Session, 2021. Federal funding for this Project is authorized under the American Rescue Plan Act of 2021 (Pub. L. No. A117-2), as amended and codified in 42 U.S.C. Section 802. All awards are subject to the availability of appropriated federal funds and any modifications or additional requirements that may be imposed by law. Federal funding awarded to the System Agency is through the program listed below:

Federal Grant Program:	Coronavirus State and Local Fiscal Recovery Funds program
Federal Awarding Agency:	U.S. Department of Treasury
Assistance Listing Number and Program Title:	21.027 Coronavirus State and Local Fiscal Recovery Funds

### 1.4 STANDARDS

Awards made as a result of this RFA are subject to all policies, terms, and conditions set forth in or included with this RFA as well as applicable statutes, requirements, and guidelines including, but not limited to applicable provisions of the Texas Grant Management Standards (TxGMS) and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

## Article II. Scope of Project

### 2.1 PURPOSE

This funding opportunity invites Applications requesting funding for Home Health Agencies - COVID-19 in Healthcare Relief. The purpose of this RFA is to distribute

funding awards for Critical Staffing Needs in Texas Home Health Agencies that have been affected by the COVID-19 pandemic.

## **2.2 PROGRAM BACKGROUND**

Since the first case of COVID-19 was discovered in the United States in January 2020, the pandemic has caused severe, intertwined public health and economic crises. In March 2021, as these crises continued, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds to provide State, local, and tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

Senate Bill 8, 87th Texas Legislature, 3rd Called Session, 2021, appropriated funding to HHSC to administer one-time funding awards for Critical Staffing Needs in Texas Home Health Agencies resulting from frontline health care workers affected by COVID-19. These funds are appropriated to HHSC from money received by this State from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. A117-2) and deposited to the credit of the Coronavirus Relief Fund No. A325.

## **2.3 ELIGIBLE APPLICANTS**

In order to apply to this RFA, the Applicant must meet all eligibility criteria below:

1. Be a HHA that is actively licensed in the State of Texas at the time of Application;
2. Be a HHA that received its initial license in the State of Texas prior to November 9, 2021; and
3. Be a HHA with an active Unduplicated Client Census for Home Health Services that is greater than zero at the time of Application.

## **2.4 ELIGIBLE SERVICE AREAS**

All service areas within the State of Texas are eligible.

## **2.5 ELIGIBLE ACTIVITIES**

This program may fund activities and costs as allowed by the laws, regulations, rules, and guidance governing fund use identified in the relevant sections of this RFA. Only activities authorized under this RFA are eligible for payment under any Funding Agreement awarded as a result of this RFA.

The primary focus of the RFA is to address economic harms to HHAs as a result of the COVID-19 pandemic.

This RFA will provide funding for staffing related needs. Beneficiaries are permitted to use their discretion on how to utilize the funds for staffing related needs, provided they utilize funds for one of the identified purposes below:

1. Staffing-related needs and the costs of Staff salaries and wages, including contracted Staff services;
2. One-time recruitment and retention bonuses for Staff;
3. Overtime costs; and

4. Travel-related costs of Staff directly related to provision of service to Clients.

## 2.6 PROGRAM REQUIREMENTS

All Beneficiaries funded under this RFA must agree to the following:

1. Beneficiary recognizes that the funds are a one-time payment and will use the funds accordingly;
2. Beneficiary will not use the funds for permanent increases to Staff salaries;
3. Beneficiary will compile and maintain records of how the funds are used in anticipation of the one-time reporting requirement described in **Section 2.7, Required Report**;
4. Beneficiary will fully expend all funds prior to the Project Period end date, and
5. If during the Project Period, Beneficiary intends to cease operations or to undergo a Change of Ownership, Beneficiary must return all funds to HHSC or:
  - a. Notify HHSC by sending an email to [providerfinancedept@hhs.texas.gov](mailto:providerfinancedept@hhs.texas.gov) at least 60 calendar days prior to the date Beneficiary ceases operations or undergoes a Change of Ownership;
  - b. Expend all funding prior to ceasing operations or undergoing a Change of Ownership; and
  - c. Comply with all terms of the Funding Agreement, including all reporting requirements, within 30 calendar days of ceasing operations or undergoing a Change of Ownership.

## 2.7 REQUIRED REPORT

The System Agency will monitor Beneficiary’s performance, including through review of the required report under any Funding Agreement awarded as a result of this RFA. Each Beneficiary awarded a Funding Agreement as a result of this RFA must submit the following report by the noted due date:

Report	Frequency	Date of Distribution	Due Date
Funding Utilization Report	One time	July 31, 2023	August 31, 2023 by 5:00 p.m. Central Time

Beneficiary must submit a Funding Utilization Report to HHSC. In the Funding Utilization Report, Beneficiary must enter requested information about Beneficiary’s use of the funds. The information requested may include:

1. A description of how the funds were used;
2. A description of any accomplishments achieved as a result of the funds; and
3. Information about how long the funds lasted before they were fully expended.

HHSC will establish a tool that Beneficiaries must use to report this information and will send an email with instructions for completing the Funding Utilization Report to the email address of the Beneficiary’s Contract Representative by July 31, 2023. The Funding

Utilization Report will be provided earlier to Beneficiaries who are required to submit the report early due to a Change of Ownership or a decision to cease operations.

Beneficiary must follow the emailed instructions to complete the Report, which may take the form of an electronic questionnaire. Beneficiary must electronically submit the completed Funding Utilization Report by the due date specified by HHSC.

If requested by System Agency, Beneficiary shall report on the progress towards completion of the Project and other relevant information as determined by System Agency during the Project Period.

Beneficiary shall provide the applicable report in the format specified by System Agency in an accurate, complete, and timely manner and shall maintain appropriate supporting backup documentation. Failure to comply with the submission deadline for the required report, or other requested information, may result in System Agency, in its sole discretion, recouping the awarded funds under the terms of the Funding Agreement.

### **Article III. Applicant Eligibility Requirements**

#### **3.1 LEGAL AUTHORITY TO APPLY**

By submitting an Application in response to this RFA, Applicant certifies that it has legal authority to apply for the Funding Agreement that is the subject of this RFA and is eligible to receive an award. Further, Applicant certifies it will continue to maintain any required legal authority and eligibility throughout the entire duration of the Project Period, if awarded.

Each Applicant should submit only one Application per HCSSA License Number in response to this RFA. A HCSSA license holder with multiple categories of Home Health Services on the license must submit only one Application to this RFA.

#### **3.2 APPLICATION SCREENING REQUIREMENTS**

In order to be considered an Applicant eligible for scoring, Applicant must meet the following minimum requirements:

Applicant must:

1. Be a HHA that is actively licensed in the State of Texas at the time of Application;
2. Be a HHA that received its initial license in the State of Texas prior to November 9, 2021;
3. Be a HHA with an active Unduplicated Client Census, at the time of Application, that is greater than zero. See **Exhibit C, Copy of Application**, Question #14;
4. Provide its TIN, which must be set up with the Texas Comptroller of Public Accounts, at the time of Application. See [COVID-19 in Healthcare Relief Grants website](#) for additional TIN guidance; and
5. Submit a complete Application through the approved submission method, as defined in **Section 8.3, Required Submission Method**, before the Deadline for Submission of Applications.

6. Complete all signatures and attestations required at the time of Application:
  - a. Applicant understands that as a Licensed HHA, Applicant's compliance with Senate Bill 809 reporting requirements will be confirmed by HHSC staff. Applicants who are in compliance with these reporting requirements by the 15th calendar day after the Funding Announcement Posting Date, will have one point added to their total score for the Scoring Criteria (See RFA **Section 9.4, Scoring Criteria**).
  - b. Applicant understands the Applicant's requested funding amount will be compared to the Unduplicated Client Census of Home Health Services Clients that is provided in the Application, and the award amount may be adjusted based on the Minimum Award Amount and Maximum Award Amount allowed for each active Home Health Services Client in the Applicant's Unduplicated Client Census (See RFA **Section 1.1, Executive Summary**).
  - c. Applicant understands the Applicant's requested funding amount may be adjusted based on the selection factors outlined in the RFA (See **Section 10.1, Final Selection**).
  - d. Applicant represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against the Applicant or any of its principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFA or any Funding Agreement resulting from this RFA within the five calendar years immediately preceding the submission of this Application that would or could impair Applicant's performance under any Funding Agreement resulting from this RFA, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a Funding Agreement.
  - e. If Applicant is unable to make the preceding representation and warranty, then Applicant must submit a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Applicant's performance under a Funding Agreement awarded as a result of this RFA, relate to the contracted or similar goods or services, or otherwise be relevant to HHSC's consideration of entering into a Funding Agreement. Applicant must submit the disclosure to the following email address: [PCSHHS0011339@hhs.texas.gov](mailto:PCSHHS0011339@hhs.texas.gov).
  - f. Applicant acknowledges this is a continuing disclosure requirement. In addition, Applicant represents and warrants that, if it receives an award under this RFA, Applicant shall notify HHSC in writing within five business days of any changes to the representations or warranties in this clause and understands that failure to so timely update HHSC shall constitute breach of contract and may result in immediate contract termination.
  - g. Applicant certifies that it and its principals are not suspended or debarred from doing business with the State or federal government as listed on the State of Texas

Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management maintained by the General Services Administration.

- h. Applicant agrees to the Solicitation and Contract Affirmations, provided as **Exhibit A, HHS Solicitation and Contract Affirmations**, and available at [HHS Grants RFA Website](#).
- i. Applicant agrees to the Uniform Terms and Conditions, provided as **Exhibit B, HHS Uniform Terms and Conditions – Grant (v. 3.1)**, and available at [HHS Grants RFA Website](#).
- j. By submitting an Application, Applicant attests that the Applicant understands and agrees to all amendments and Addenda posted to the RFA. Applicant represents and warrants that the individual submitting this Application and the documents made part of this Application is authorized to sign such documents on behalf of the Applicant and to bind the Applicant under any Funding Agreement that may result from the submission of this Application.

#### **Article IV. Project Period**

##### **4.1 PROJECT PERIOD**

The Project Period is anticipated to be **November 1, 2022** through **July 31, 2023**.

This is a one-time award. There will not be any extensions or renewals allowed. Approved Projects may not exceed a nine-month Project Period.

##### **4.2 PROJECT CLOSEOUT**

System Agency will programmatically and financially close the award and end the Funding Agreement when System Agency determines Beneficiary has completed all applicable actions and work in accordance with Funding Agreement requirements. The Beneficiary must submit the Funding Utilization Report, as defined in **Section 2.7, Required Report**. The Project closeout date is 31 calendar days after the Project Period end date, unless otherwise noted in the original or amended Funding Agreement. Funds not obligated by Beneficiary by the end of the Funding Agreement term and not expended by the Project closeout date will revert to System Agency, see **Section 4.3, Recoupment**.

##### **4.3 RECOUPMENT**

HHSC may recoup up to the full amount of the awarded funds in the event of the following:

1. The Beneficiary does not spend all of the awarded funds by the Project Period end date;
2. HHSC determines that Beneficiary did not appropriately utilize the funds in accordance with the terms of this RFA;
3. The Beneficiary does not submit a completed Funding Utilization Report by the specified deadline; or
4. The Beneficiary commits fraud or made material misrepresentations in its Application.

If the System Agency must recoup the funding for any of the reasons listed above the System Agency will provide notification explaining why and how much of the funding the System Agency will be recouping. The notification will be sent to the email address the Beneficiary provided to the System Agency at the time of Application.

## **Article V. Funding and Payment Information**

### **5.1 FUNDING SOURCE AND AVAILABLE FUNDING**

The total amount of Federal funding available for the HHA - COVID-19 in Healthcare Relief program is **\$54,932,075** for the entire Project Period. It is the System Agency's intention to make multiple awards to Applicants that successfully meet the requirements to receive funding and demonstrate need.

Applicants are strongly cautioned to only apply for the amount of funding they can responsibly expend during the Project Period to avoid lapsed funding at the end of the Project Period. Successful Applications may not be funded to the full extent of Applicant's requested amount.

Spending or costs incurred prior to the effective date of the Funding Agreement will not be allowed.

### **5.2 NO GUARANTEE OF PAYMENT AMOUNTS**

There is no guarantee of total payment to be paid to any Beneficiary under any Funding Agreement resulting from this RFA. Beneficiaries should not expect to receive additional or continued funding under future RFA opportunities and should maintain sustainability plans in case of discontinued funding. Any additional funding or future funding may require submission of a new Application through a subsequent RFA.

Receipt of an Application in response to this RFA does not create any obligation on the part of HHSC, and does not guarantee that the Applicant will receive an award. If Beneficiary is subject to a vendor hold or warrant hold, payment of any award may be withheld by HHSC or the Texas Comptroller of Public Accounts.

### **5.3 PAYMENT METHOD**

Upon execution of a Funding Agreement resulting from this RFA, the System Agency will disperse to Beneficiaries a one-time advance payment equal to 100 percent of the funding awarded.

Each Applicant must provide its TIN to HHSC at the time it submits its Application. No Applicant can receive an award without having a TIN set up at HHSC. See [COVID-19 in Healthcare Relief Grants website](#) for additional TIN guidance.

If direct deposit is not set-up with HHSC prior to award, or if the Beneficiary is on vendor hold, a paper check will be issued to the physical address of the HHA Parent Agency, as designated in TULIP.

## Article VI. Application Exhibits for Submission

### 6.1 PROJECT COSTS

Applicants must ensure that Project costs are reasonable, allowable, and allocable. Reasonable costs are those that, in nature and amount, do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. A cost is allocable to a particular cost objective if the cost is chargeable or assignable to such cost objective in accordance with relative benefits received. See 2 CFR Part 200.403 or TxGMS Cost Principles, Basic Considerations (pgs. 32-33), for additional information related to factors affecting allowability of costs.

If selected for an award under this RFA, only System Agency-approved costs, as outlined in **Section 2.5, Eligible Activities** may be considered eligible for payment.

### 6.2 ADMINISTRATIVE APPLICANT INFORMATION

Applicant must provide the following information in the Application, **Exhibit C, Copy of Application**:

1. HHA Parent Agency Legal Name;
2. HHA Parent Agency Assumed Business Name, if applicable (d/b/a or “doing business as”);
3. HCSSA License Number (Six digit number between 000400 and 022000);
4. HCSSA License Holder Name;
5. HHA General Email Address;
6. Applicant’s Texas Identification Number (TIN) (Must start with a “1”, Must be 11 digits);
7. HHA Parent Agency Physical Address (Not a P.O. Box): *The address must be the United State Postal Service’s confirmed address, unless the Applicant has a separate mailing address. Applicant may verify its USPS confirmed address by checking this website: <https://tools.usps.com/zip-code-lookup.htm>*
  - a. Street Address;
  - b. City;
  - c. State; and
  - d. ZIP code.
8. HHA Parent Agency Mailing Address (if different than physical address):
  - a. Street Address;
  - b. City;
  - c. State; and
  - d. ZIP code.
9. HHA Legally Authorized Signatory:

- a. Name (First and Last);
  - b. Company;
  - c. Email Address;
  - d. Phone Number (Digits only, including area code); and
  - e. Title (e.g., CEO, Owner, etc.).
10. At the time of Application, is this HHA undergoing a Change of Ownership;
11. Is it anticipated this HHA will undergo a Change of Ownership during the Project Period;
12. If yes, what is the effective date of the Change of Ownership for this HHA;
13. Indicate the amount of funding this HHA is requesting from HHSC to address Critical Staffing Needs of frontline health care workers affected by COVID-19. Note: The requested funding amount may be adjusted as outlined in the RFA (See **Section 10.1, Final Selection**); and
14. Provide the HHA’s active Unduplicated Client Census of Home Health Services Clients under the license number provided above, as of the time of Application. *Each Client must be counted only once. Include Home Health Services Clients served by Branch Offices if the Branch Office is under the same license number. If there are no Branch Offices with Home Health Services Clients under this license number, then the Unduplicated Client Census should reflect the Parent Agency only.*
- a. Licensed and Certified Home Health Services.
  - b. Licensed and Certified Home Health Services with Dialysis.
  - c. Licensed Home Health Services.
  - d. Licensed Home Health Services with Dialysis.

**Article VII. RFA Administrative Information and Inquiries**

**7.1 SCHEDULE OF EVENTS**

<b>EVENT</b>	<b>DATE/TIME</b>
Funding Announcement Posting Date Posted to HHS Grants RFA and Texas eGrants websites	July 20, 2022
Applicant Conference Attendance is Optional	July 26, 2022 at 10:00 a.m. Central Time
Deadline for Submitting Questions or Requests for Clarification	July 29, 2022 by 5:00 p.m. Central Time

Tentative Date Answers to Questions or Requests for Clarification Posted	August 12, 2022
<b>Deadline for Submission of Applications</b> <b>NOTE: Applications must be <u>RECEIVED</u> by HHSC by this deadline if not changed by subsequent Addenda to be considered eligible.</b>	<b>August 19, 2022 by 10:30 a.m. Central Time</b>
Anticipated Notice of Award	October 2022
Anticipated Project Start Date	November 1, 2022

Applicants must ensure their Applications are received by HHSC in accordance with the Deadline for Submission of Applications (date and time) indicated in this Schedule of Events or as changed by subsequent Addenda posted to the [HHS Grants RFA website](#).

All dates are tentative and HHSC reserves the right to change these dates at any time. At the sole discretion of HHSC, events listed in the Schedule of Events are subject to scheduling changes and cancellation. Scheduling changes or cancellation determinations made prior to the Deadline for Submission of Applications will be published by posting an Addendum to the [HHS Grants RFA website](#). After the Deadline for Submission of Applications, if there are delays that significantly impact the anticipated award date, HHSC, at its sole discretion, may post updates regarding the anticipated award date to the [Procurement Forecast](#) on the [HHS Procurement Opportunities website](#). Each Applicant is responsible for checking the HHS Grants RFA website and Procurement Forecast for updates.

## 7.2 SOLE POINT OF CONTACT

All requests, questions or other communication about this RFA shall be made by email **only** to the Grants Technical Advisor designated as HHSC's Sole Point of Contact listed below:

**Name:** Kristen Thatcher, CTCD

**Title:** Grants Technical Advisor, HHSC Procurement and Contracting Services

**Email:** [PCSHHS0011339@hhs.texas.gov](mailto:PCSHHS0011339@hhs.texas.gov)

**Applicants must not use this e-mail address for submission of an Application. Follow the instructions for submission outlined in Article VIII, Application Organization and Submission Requirements.**

However, if expressly directed in writing by the Sole Point of Contact, Applicant may communicate with another designated HHS representative, e.g., during negotiations as part of the normal grant review process, if any.

**Prohibited Communications:** Applicants and their representatives shall not contact other HHS personnel regarding this RFA.

This restriction (on only communicating in writing by email with the Sole Point of Contact identified above) does not preclude discussions between Applicant and agency personnel for the purposes of conducting business unrelated to this RFA.

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

### **7.3 RFA QUESTIONS AND REQUESTS FOR CLARIFICATION**

Written questions and requests for clarification of this RFA are permitted if submitted by email to the Sole Point of Contact by the Deadline for Submitting Questions or Requests for Clarification established in **Section 7.1, Schedule of Events**, or as may be amended in Addenda, if any, posted to the HHS Grants RFA website.

Applicants' names will be removed from questions in any responses released. All questions and requests for clarification must include the following information. Submissions that do not include this information may not be accepted:

1. RFA number;
2. Section or paragraph number from this solicitation;
3. Page number of this solicitation;
4. Exhibit or other attachment including the section and paragraph numbers from the exhibit or other attachment, as applicable;
5. Page number of the exhibit, as applicable;
6. Language, topic, section heading being questioned; and
7. Question.

The following contact information must be included in the e-mail submitted with questions or requests for clarification:

1. Name of individual submitting question or request for clarification;
2. Organization name;
3. Phone number; and
4. Email address.

**Questions or other written requests for clarification must be received by the Sole Point of Contact by the Deadline for Submitting Questions or Requests for Clarification set forth in this Section 7.1, Schedule of Events, or as may be amended in Addenda, if any, posted to the HHS Grants RFA website.**

**HHSC may review and, at its sole discretion, may respond to questions or other written requests received after the Deadline for Submitting Questions or Requests for Clarification.**

### **7.4 AMBIGUITY, CONFLICT, DISCREPANCY, CLARIFICATIONS**

Applicants must notify the Sole Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the RFA in the manner and by the

Deadline for Submitting Questions or Requests for Clarification. Each Applicant submits its Application at its own risk.

If Applicant fails to properly and timely notify the Sole Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specification, omission or other error in the RFA, Applicant, whether awarded a Funding Agreement or not:

1. Shall have waived any claim of error or ambiguity in the RFA and any resulting Funding Agreement;
2. Shall not contest the interpretation by the HHSC of such provision(s); and
3. Shall not be entitled to additional payment, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

## **7.5 RESPONSES TO QUESTIONS OR REQUEST FOR CLARIFICATIONS**

Responses to questions or other written requests for clarification will be consolidated and HHSC will post responses in one or more Addenda on the [HHS Grants RFA](#) website. Responses will not be provided individually to requestors.

HHSC reserves the right to amend answers previously posted at any time prior to the Deadline for Submission of Applications. Amended answers will be posted on the [HHS Grants RFA](#) website in a separate, new Addendum or Addenda. It is Applicant's responsibility to check the [HHS Grants RFA](#) website.

## **7.6 CHANGES, AMENDMENT OR MODIFICATION TO RFA**

HHSC reserves the right to change, amend, modify or cancel this RFA. All changes, amendments and modifications or cancellation will be posted by Addendum on the HHS Grants RFA website.

It is the responsibility of each Applicant to periodically check the HHS Grants RFA website for any additional information regarding this RFA. Failure to check the posting website will in no way release any Applicant or awarded Beneficiary from the requirements of posted Addenda or additional information. 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 websites or for the failure of any Applicant or awarded Beneficiary to stay informed of all postings to these websites. If the Applicant fails to monitor these websites for any changes or modifications to this RFA, such failure will not relieve the Applicant of its obligation to fulfill the requirements as posted.

## **7.7 EXCEPTIONS AND ASSUMPTIONS**

No exceptions or assumptions are allowed for this RFA.

## **7.8 APPLICANT CONFERENCE**

HHSC will conduct an Applicant conference on the date and time set out in **Section 7.1, Schedule of Events** to review the key elements of this RFA. Attendance is optional and not required; however, is strongly encouraged.

After the scheduled Applicant conference occurs, the presentation from the Applicant conference will be posted to the HHS Grants website as an Addendum to this RFA.

People with disabilities who wish to attend the meeting and require auxiliary aids or services should contact the Sole Point of Contact identified in **Section 7.2, Sole Point of Contact**, at least 72 hours before the meeting in order to have reasonable accommodations made by HHSC.

**WEBINAR INFORMATION:**

The conference will be held through GoToWebinar. Potential Applicants may register for the Applicant conference through the hyperlink below:

<https://attendee.gotowebinar.com/register/4469072085828209166>.

**Webinar Instructions:**

1. Enter Webinar ID: **193-397-587**.
2. Enter Attendee’s business email.
3. To register, the participants must have the following information ready:
  - a. First and last name of each attendee/registrant;
  - b. Email address for the attendee/registrant;
  - c. Applicant’s legal name; and
  - d. Job title of attendee/registrant.

**Article VIII. Application Organization and Submission Requirements**

**8.1 APPLICATION RECEIPT**

Applications must be received by HHSC by the Deadline for Submission of Applications specified in **Section 7.1, Schedule of Events**, or subsequent Addenda. HHSC will date and time stamp all Applications upon receipt. Applications received after the Deadline for Submission of Applications will be ruled ineligible. Applicants should allow for adequate time for submission before the posted Deadline for Submission of Applications.

No HHS agency will be held responsible for any Application that is mishandled prior to receipt by HHSC. It is the Applicant’s responsibility to ensure its Application is received by HHSC before the Deadline for Submission of Applications. No HHS agency will be responsible for any technical issues that result in late delivery, non-receipt of an Application, inappropriately identified documents, or other submission issue that may lead to disqualification.

**Note: All Applications become the property of HHSC after submission and receipt and will not be returned to Applicant.**

Applicants understand and acknowledge that issuance of this RFA or retention of Applications received in response to this RFA in no way constitutes a commitment to award Funding Agreement(s) as a result of this RFA.

## 8.2 APPLICATION SUBMISSION

By submitting an Application in response to this solicitation, Applicant represents and warrants that the individual submitting the Application and any related documents on behalf of the Applicant is authorized to do so and to binds the Applicant under any Funding Agreement that may result from the submission of an Application.

## 8.3 REQUIRED SUBMISSION METHOD

Applicants must submit their completed Application by the Deadline for Submission of Applications provided in the **Section 7.1, Schedule of Events**, or subsequent Addenda, using the approved method identified below. Applications submitted by any other method (e.g., facsimile, email, mail) will not be considered and will be disqualified.

**SurveyMonkey Application:** Applicant shall access and complete the Application by clicking on the hyperlink below:

<https://www.surveymonkey.com/r/HHACVID19>

A copy of the Application is provided as **Exhibit C, Copy of Application**. HHSC encourages Applicants to review the content of the Application in **Exhibit C, Copy of Application** prior to completing the Application.

Applicant must ensure information submitted in the Application is accurate and correct. By completing and submitting an Application through the approved method identified above, Applicant attests it understands and agrees to all amendments and Addenda posted to this RFA.

## 8.4 COSTS INCURRED FOR APPLICATION

All costs and expenses incurred in preparing and submitting an Application in response to this RFA and participating in the RFA selection process are entirely the responsibility of the Applicant. System Agency will not reimburse Applicants for costs incurred related to an Application.

## 8.5 APPLICATION COMPONENTS

Application will include the following components:

1. Applicant administrative information;
2. Scoring criteria;
3. Attestations: By submitting an Application, I attest that I understand and agree to all amendments and Addenda posted to the RFA, including the following:
  - a. RFA;
  - b. **Exhibit A, HHS Solicitation and Contract Affirmations**;
  - c. **Exhibit B, HHS Uniform Terms and Conditions – Grant (v. 3.1)**; and
  - d. All Addenda, if applicable.

## 8.6 APPLICATION WITHDRAWALS OR MODIFICATIONS

Prior to the Deadline for Submission of Applications set forth in **Section 7.1, Schedule of Events**, or subsequent Addenda, an Applicant may:

1. Withdraw its Application by submitting a written request to the Sole Point of Contact, that includes the following information:
  - a. HHA Parent Agency Legal Name;
  - b. HCSSA License Number (Six digits) (if applicable); or
2. Modify its Application by submitting an entirely new submission, complete in all respects, using the method of submission set forth in this RFA. The modification must be received by HHSC by the Deadline for Submission of Applications set forth in **Section 7.1, Schedule of Events**, or subsequent Addenda.

No modification request received after the Deadline for Submission of Applications, set forth in **Section 7.1, Schedule of Events**, or subsequent Addenda, will be considered. Additionally, in the event of multiple Applications received, the most timely received and/or modified Application will replace the Applicant's original and all prior submission(s) in its entirety and the original submission(s) will not be considered.

An Applicant may withdraw their Application up to fifteen calendar days after the Deadline for Submission of Applications set forth in **Section 7.1, Schedule of Events**, or subsequent Addenda, an Applicant may withdraw its Application by submitting a written request to the Sole Point of Contact that includes the following information:

- a. HHA Parent Agency Legal Name; and
- b. HHA License Number (Six digits) (if applicable).

## **Article IX. Application Screening and Evaluation**

### **9.1 OVERVIEW**

A three-step selection process will be used:

1. Application screening to determine whether the Applicant meets the minimum requirements of this RFA;
2. Scoring based upon specific criteria; and
3. Final selection based upon State priorities and other relevant factors, as outlined in **Section 10.1, Final Selection**.

### **9.2 INITIAL COMPLIANCE SCREENING OF APPLICATIONS**

All Applications received by the Deadline for Submission of Applications as outlined in **Section 7.1, Schedule of Events**, or subsequent Addenda, will be screened by HHSC to determine which Applications meet all the minimum requirements of this RFA and are deemed responsive and qualified for further consideration. See **Section 3.2, Application Screening Requirements**.

At the sole discretion of HHSC, Applications with errors, omissions, or compliance issues will be considered non-responsive and will not be considered. The remaining Applications will continue to the scoring stage and will be considered in the manner and form as which they are received. HHSC reserves the right to waive minor informalities in an Application.

A “minor informality” is an omission or error that, in the determination of HHSC if waived or modified, would not give an Applicant an unfair advantage over other Applicants or result in a material change in the Application or RFA requirements. **Note:** Any disqualifying factor set forth in this RFA does not constitute an informality.

**9.3 QUESTIONS OR REQUESTS FOR CLARIFICATION FOR APPLICATIONS**

System Agency reserves the right to ask questions or request clarification or revised documents for a submitted Application from any Applicant at any time prior to award. System Agency reserves the right to select qualified Applications received in response to this RFA without discussion of the Applications with Applicants.

**9.4 SCORING CRITERIA**

Applications will be scored in accordance with the following scoring criteria.

**Scoring Criteria:** Qualified Applications shall be scored based upon:

Scoring Criteria	Potential Applicant Response	Score for Each Potential Applicant Response
Did this HHA receive funds from the federal Provider Relief Fund (PRF)?	Yes	0
	No	1
At the time of Application, has this HHA fully expended all PRF funding received?	Yes	1
	No or N/A	0
Did this HHA receive funds from a Paycheck Protection Program (PPP) Loan?	Yes	0
	No	1
At the time of Application, has this HHA fully expended all PPP Loan funding received?	Yes	1
	No or N/A	0
At the time of Application, does this HHA have less than 90 calendar days of Cash On Hand?	Yes	2
	No	0
At the time of Application, has this HHA completed billing for all Potential Payers for	Yes	2

any services rendered to this HHA 30 calendar days prior?		
	No	0
Will this HHA be in compliance with all SB 809 reporting requirements by the 15th calendar day after the Funding Announcement Posting Date?	Yes	1
	No	0
Maximum Points Possible		7
Minimum Points to be Considered for Award		4

## 9.5 STATEMENT OF NEED CRITERIA

Applications may be scored in accordance with the following scoring criteria to determine appropriate allocation of funding based on need.

Statement of Need Criteria	Score for Response Selected by Applicant
Direct Care Staff Vacancy Rate <i>Applicant can only select one of the four options below:</i>	
At the time of Application, this HHA has less than 5% vacancy rate for Direct Care Staff positions.	0
At the time of Application, this HHA has between 5.1% and 10% vacancy rate for Direct Care Staff positions.	1
At the time of Application, this HHA has between 10.1% and 20% vacancy rate for Direct Care Staff positions.	2
At the time of Application, this HHA has more than 20.1% vacancy rate for Direct Care Staff positions.	3
Administrative/Operation Staff Vacancy Rate <i>Applicant can only select one of the three options below:</i>	
At the time of Application, this HHA has less than 10% vacancy rate for Administrative/Operation Staff positions.	0
At the time of Application, this HHA has between 10.1% and 20% vacancy rate for Administrative/Operation Staff positions.	1
At the time of Application, this HHA has more than 20.1% vacancy rate for Administrative/Operation Staff positions.	2

At the time of Application, did this HHA have to prioritize services available to Clients due to Critical Staffing Needs during the COVID-19 pandemic?	No =0 Yes =1
Maximum Points Possible	6

## 9.6 COMPLIANCE FOR PARTICIPATION IN STATE CONTRACTS

Prior to award of a Funding Agreement as a result of this RFA and in addition to the initial screening of Applications, all required verification checks will be conducted.

The information (e.g., legal name and, if applicable, assumed name (d/b/a), provided by Applicant will be used to conduct these checks. At System Agency’s sole discretion, Applicants found to be barred, prohibited, or otherwise excluded from award of a Funding Agreement may be disqualified from further consideration under this solicitation, pending satisfactory resolution of all compliance issues.

Checks include:

### 1. State of Texas Debarment

Applicant must not be debarred from doing business with the State of Texas (<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>).

### 2. U.S. Department of Health and Human Services

Applicant 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 from participation as a provider, unless a valid waiver is currently in effect: <https://exclusions.oig.hhs.gov/>.

HHSC reserves the right to conduct additional checks to determine eligibility to receive a Funding Agreement.

## Article X. Award of Funding Agreement Process

### 10.1 FINAL SELECTION

After initial screening for eligibility and Application completeness, and initial evaluation against the criteria listed in **Section 9.4, Evaluation Criteria** and **Section 9.5, Statement of Need Criteria**, the System Agency may apply other considerations such as program policy or other selection factors that are essential to the process of selecting Applications that individually or collectively achieve program objectives. In applying these factors, the System Agency may consult with internal and external subject matter experts. The funding methodology for issuing final Funding Agreements is described below.

Based on its responses to multiple choice questions in the Application, each Applicant will receive a Scoring Criteria score and a Statement of Need Criteria score.

#### 1. Scoring Criteria Score

- a. Scoring Criteria score lower than four = Not awarded.
- b. Scoring Criteria score greater than or equal to four = Eligible for award consideration.

## 2. Statement of Need Criteria Score

- a. Statement of Need Criteria scores will range from zero to six, with lower scores indicating lower need and higher scores indicating greater need.

Achieving a Scoring Criteria score of four or higher is a threshold requirement. The Scoring Criteria score will be used only to determine Applicant eligibility, and will not be used to determine priority for funding or to allocate funding.

If there is sufficient funding, each Applicant that scores four or higher on the Scoring Criteria will receive at least the Minimum Award Amount. If there is insufficient funding to provide each eligible Applicant with the Minimum Award Amount, then the Applicants with the lowest scores on the Statement of Need Criteria will not be awarded funding.

If there is sufficient funding to provide each eligible Applicant with more than the Minimum Award Amount, but not sufficient funding to provide each Applicant with its total requested amount, then the Applicants' scores on the Statement of Need Criteria will be used to allocate funding, with higher award amounts going to Applicants with higher scores.

If there is sufficient funding to provide each eligible Applicant with the full amount requested in its Application, then each Applicant will receive that amount. No Applicant will be awarded more than the amount requested in its Application, and no Applicant will be awarded more than the Maximum Award Amount.

The Minimum Award Amount is \$230 per active Home Health Services Client in the Applicant's Unduplicated Client Census at the time of Application. The Maximum Award Amount is \$2,500 per active Home Health Services Client in the Applicant's Unduplicated Client Census at the time of Application, not to exceed \$999,999 per HHA. An Applicant may request less than the Maximum Award Amount when it submits its Application.

The System Agency will make final funding decisions based on the scoring of Applications, including if Applicant is in compliance with SB 809 reporting requirements outlined on the [PFD website](#) (see Monthly SB809/Rider 143 COVID-19 Reporting), Applicant's HHA Unduplicated Client Census, Applicant's Statement of Need Criteria score, the funding methodology described above, availability of funding, and other relevant factors.

All funding recommendations will be considered for approval by the HHSC Chief Financial Officer, or their designee.

## **10.2 EXECUTION AND ANNOUNCEMENT OF FUNDING AGREEMENTS**

The System Agency intends to award multiple Funding Agreements as a result of this RFA. However, not all Applicants who are deemed eligible to receive funds are assured of receiving a Funding Agreement.

At any time and at its sole discretion, System Agency reserves the right to cancel this RFA, make partial award, or decline to award any Funding Agreement(s) as a result of this RFA.

The final funding amount and the provisions of the Funding Agreement will be determined at the sole discretion of System Agency.

System Agency will notify each Applicant that is selected to receive an award by sending a Notice of Award, also referred to as a Funding Agreement, to the Applicant via email. The Applicant will have two business days from the date the Notice of Award is sent to reject the award by sending an email to System Agency at [providerfinancedept@hhs.texas.gov](mailto:providerfinancedept@hhs.texas.gov). An Applicant will be deemed to have accepted the Notice of Award and all its terms when the Applicant draws down or otherwise obtains funds from the grant payment system. A sample Notice of Award is attached to this RFA as **Exhibit D, Sample Notice of Award**.

Upon execution of Funding Agreement(s) as a result of this RFA, HHSC will post a notification of all Funding Agreements awarded to the [HHS Grants RFA](#) website.

## **Article XI. General Terms and Conditions**

### **11.1 GRANT APPLICATION DISCLOSURE**

In an effort to maximize State resources and reduce duplication of effort, the System Agency, at its discretion, may require the Applicant to disclose information regarding the Application for or award of State, federal, and/or local grant funding to the Applicant within the past two years to provide funding for staffing needs due to COVID-19.

## **Article XII. Application Confidential or Proprietary Information**

### **12.1 TEXAS PUBLIC INFORMATION ACT – APPLICATION DISCLOSURE REQUIREMENTS**

Applications and resulting Funding Agreements 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 Funding Agreements and Applications on its public website and to provide such information to the Legislative Budget Board for posting on its public website.

By submitting an Application under this RFA, Applicant agrees that the 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 the System Agency's public website, and posted on the Legislative Budget Board's public website. Accordingly, Applicant should not submit information that is confidential, proprietary, trade secret, or privileged. In addition, 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 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 RFA, Applicant acknowledges that all information, documentation, and other materials submitted in its Application 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. Applicants are advised to consult with their legal counsel concerning disclosure issues resulting from this process and to take precautions to safeguard trade secrets and proprietary or otherwise confidential information. The System Agency assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Applicants.

For more information concerning the types of information that may be withheld under the PIA or questions about the PIA, 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>.

## **12.2 APPLICANT 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 AND HHS FROM ANY CLAIM OF INFRINGEMENT REGARDING THE INTELLECTUAL PROPERTY RIGHTS OF THE SUBMITTING PARTY OR ANY THIRD PARTY FOR ANY MATERIALS SUBMITTED TO HHS BY THE SUBMITTING PARTY.**

*The remainder of this page is left blank intentionally.*

**Article XIII. List of Exhibits Attached to RFA**

**Exhibits**

Exhibit A, HHS Solicitation and Contract Affirmations

Exhibit B, HHS Uniform Terms and Conditions – Grant (v. 3.1)

Exhibit C, Copy of Application

Exhibit D, Sample Notice of Award