



# Texas Department of Family and Protective Services

Commissioner  
*Jaime Masters*

## **Texas Department of Family and Protective Services Jaime Masters, Commissioner**

### **Request for Applications (RFA) For HB5 Foster Care Capacity RFA No. HHS0011874**

**Date of Release: May 6, 2022  
Responses Due: June 6, 2022, by 10:30 a.m. Central Time**

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

## **1.1 EXECUTIVE SUMMARY**

The State of Texas, by and through the Texas Health and Human Services Commission (HHSC) on behalf of the Texas Department of Family and Protective Services (DFPS) seeks Applications from qualified and licensed General Residential Operation (GRO) entities to develop and implement the HB5 Foster Care Capacity program.

The purpose of this Request for Application (RFA) is to disperse \$19 million in state funds allotted for providing targeted foster care capacity Grants. These Grants will be allotted in addition to the per child daily rate and the temporary supplemental payments, when applicable, also provided through House Bill 5 (HB5).

The Grants awarded as a result of this RFA will provide financial support to residential providers to assist with costs associated to addressing the existing foster care capacity shortage.

The Grants should focus on:

- a. Serving children with the highest level of complex behavioral and mental health needs;
- b. Expanding certain types of placements and creating new provider capacity; and
- c. Promoting long-term viability of child placements.

To be considered for award, Respondents must execute **Exhibit A, HHSC and DFPS Affirmations and Grant Opportunity Acceptance** of this Solicitation and provide all other required information and documentation as set forth in this Solicitation.

## **1.2 DEFINITIONS**

As used in this Solicitation, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

**“Addendum”** means a written clarification or revision to this Solicitation issued by DFPS.

**“Apparent Grant Recipient”** means an organization that has been selected to receive a grant award through response to this RFA but has not yet executed a grant agreement or contract.

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

**“Awarded Applicant”** means an organization that receives a Grant Award because of this RFA. Used interchangeably with the term **“Grant Recipient”**, **“Grantee”**.

“Business Day” is any day other than a Saturday, Sunday, or day in which Texas State offices are authorized or obligated by law or executive order to be closed.

“Community-Based Care (CBC)” is a new way to provide services than traditional foster care because it gives local communities the flexibility to draw on local strengths and resources and find innovative ways to meet the unique and individual needs of children and their families.

“DFPS” means the Texas Department of Family and Protective Services and its officers, employees, or authorized agents.

“Foster Care Needs Assessment” is a publicly available tool which provides data and summary information on the capacity needs of our residential foster care network to drive strategic efforts for network growth ([Foster Care Needs Assessment, November 2020 \(state.tx.us\)](#)).

“General Residential Operation (GRO)” means a 24-hour residential childcare operation that provides around-the-clock care for children 17 years or younger whose parents or guardians are temporarily or permanently unable to care for them as defined in Texas Human Resources Code, Subtitle D. Department of Family and Protective Service; Child Welfare and Protective Services; Sec. 42.002 and licensed as such under-Sec. 42.

“Grant” is an award from DFPS to an entity through this RFA. May also be referred to as “HB5 Foster Care Capacity Grant”.

“Grant Agreement” means the agreement entered into by DFPS and the Grantee as a result of this RFA, including the signature document and all attachments and amendments.

“Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code, or its designee.

“Heightened Monitoring (HM)” is an increase in oversight and tracking of operations that have demonstrated a pattern of contract or standard violations during at least 3 of the last 5 years compared to other operations of the same care type and similar size. Heightened Monitoring requires joint effort by DFPS and HHSC to provide oversight to residential operations that are regulated by HHSC and have an active contract with DFPS or a Single Source Continuum Contractor (SSCC) to provide care to children under the conservatorship of the state.

“Key Personnel” means a Respondent organization's Project Contact, Fiscal Contact, and Executive Director and/or any other key stakeholders in the Proposed Project.

“Project” means the work and activities for which grant funding is awarded and information is provided as part of the response to this Solicitation. During the open application period and before selection of grant recipients are made, the Project will be known as the “Proposed Project”.

“Respondent” 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 Respondent and to bind the Respondent under any Grant Agreement that may result from the submission of the Application. May also be referred to as “Applicant.”

“Solicitation” means this Request for Applications (RFA) including any exhibits and Addenda, if any.

“SSCC” means Single Source Continuum Contractor

“State” means the State of Texas and its instrumentalities, including HHSC, DFPS and any other state agency, its officers, employees, or authorized agents.

“Successful Respondent” means an organization that receives a grant award as a result of this RFA. May also be referred to as “Grantee,” “Awarded Applicant,” “Subrecipient,” or “Grant Recipient.”

“Target Population” means children without placement; children with a history of being without placement; children with common characteristics of children without placement; and children at risk of being without placement.

“TJJD” means Texas Juvenile Justice Department

### **1.3 AUTHORITY**

The Texas Department of Family and Protective Services (DFPS) is implementing the requirements of House Bill 5, 87<sup>th</sup> Legislature, 2d Called Session, 2021 (HB 5), sec. 11., amending the General Appropriations Act (GAA), Acts 2021, S.B. 1, 87<sup>th</sup> Leg., R.S. to provide targeted foster care capacity grants across the state to address the existing foster care capacity shortage.

## **ARTICLE II. SCOPE OF GRANT AWARD**

### **2.1 PROGRAM BACKGROUND**

DFPS works with communities to promote safe and healthy families and protect children and vulnerable adults from abuse, neglect, and exploitation. When children can't live safely at home, Child Protective Services (CPS) tries to find relatives and family friends who can provide stability when the children can't live with their parents. If no one can be found, the court can give temporary legal custody to CPS, who then places the children in foster care.

Texas Health and Human Services Commission (HHSC) with the assistance of childcare operations, parents, stakeholders, and other experts in a variety of fields, developed minimum standards for residential childcare operations. GRO, a type of licensed residential childcare operation, provide 24-hour care for seven or more children 17 years or younger

and may provide various treatment services, emergency care services, or therapeutic camps.

In September 2021, during the 87th legislature, second called special session, the Texas legislature passed HB5 into law, amending the General Appropriations Act (GAA), Acts 2021, S.B. 1, 87<sup>th</sup> Leg., R.S. to, in part, increase funding for DFPS, including for the purpose of providing targeted foster care capacity grants across the state to address the existing foster care capacity shortage. This RFA seeks qualified Applicants that are licensed GRO's to submit proposals to increase foster care capacity as outlined in Section 2.5, Scope.

## 2.2 GRANT AWARD AND TERM

### 2.2.1 Available Funding

The total amount of state funding available for the HB5 Foster Care Capacity program is **\$19,000,000**, and it is DFPS' intention to make multiple awards. DFPS will consider Grant proposals in varying sizes, with a range of eligible awards, up to \$1,000,000 each. Requests for state funding may not be fully funded to ensure that funds are available for the broadest possible array of communities and programs.

Grants awarded of this RFA will be funded on a cost reimbursement basis. Under the cost reimbursement method of funding, Grant Recipients are required to finance operations with their own working capital, with Grant payments subsequently made by HHSC to reimburse the Grant Recipients for actual cash disbursements supported by adequate documentation.

### 2.2.2 Grant Term

It is anticipated that the Grant funding period for this program will begin **September 1, 2022**, and end **August 31, 2025**. Reimbursement will only be made for those allowable expenses that occur within the term of the Grant. No pre-award spending will be reimbursed.

## 2.3 ELIGIBLE APPLICANTS

In order to receive an award as a result of this RFA, a Respondent must:

- a. Be licensed as GRO under an initial permit, renewed initial permit or full permit;
- b. Be in good standing with HHSC, which means that the agency's GRO license cannot be on probationary status and be in regulatory compliance;
- c. Demonstrate substantial compliance within their Heightened Monitoring episode, if applicable; and
  1. Agree to the terms of the Grant Agreement requirements which have been or will be established consistent with the 24-Hour Residential Child Care Contract Requirements at:

[https://www.dfps.state.tx.us/Doing\\_Business/Purchased\\_Client\\_Services/Residential\\_Child\\_Care\\_Contracts/documents/24\\_Hour\\_RCC\\_Requirements.pdf](https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/documents/24_Hour_RCC_Requirements.pdf)

## 2.4 PROGRAM REQUIREMENTS

To meet the mission and objectives of HB5 Foster Care Capacity, Respondents must:

- a. Be an eligible applicant as outlined in **Section 2.3, Eligible Applicants.**
- b. Agree to utilize the full amount of the award solely toward costs relating to expanding foster care capacity.
- c. Agree to expend full grant amount no later than August 31, 2025.
- d. Agree to complete timely submission of all required and/or requested financial documents to ensure grant funding can be applied toward or reimbursed for its intended purpose.
- e. Agree to proceed with the intention of providing placement and services for youth involved with HHSC, DFPS or TJJJ.

## 2.5 SCOPE

DFPS will consider grant proposals in varying sizes, with a range of eligible awards up to \$1,000,000 each.

The Grant proposal must address how the organization intends to provide interventions to increase capacity for the Target Population. The Target Population includes:

- a. Children without placement;
- b. Children with a history of being without placement; and
- c. Children with common characteristics of children without placement or those at risk of being without placement.

Priority will be given to Applicants that can demonstrate the following:

- a. Service types and geographic location based on the Foster Care Needs Assessment;
- b. The awarded grant will extend capacity to serve children in the target population;
- c. The timeframe when additional capacity will be available is easily identifiable, as well as the length of availability of that capacity once the change to service array is implemented;
- d. Proposal demonstrates use of a less restrictive, non-congregate care setting; and
- e. Implementation of services that are a direct solution to long term placement stability and providing a continuous service.

The Foster Care Needs Assessment is a publicly available tool which provides data and summary information on the capacity needs of our residential foster care network to drive strategic efforts for network growth [Foster Care Needs Assessment, November 2020 \(state.tx.us\)](#). The needs assessment provides current and forecast needs broken down by:

- a. Service Type
- b. Geographic Location
- c. Age of the children



By utilizing this tool, the DFPS Department, as well as providers can focus their capacity building efforts on the areas of need in Texas. By prioritizing the services and geographic locations identified in the Foster Care Needs Assessment, Grant awards aim to build the capacity and services for the populations that need them the most.

The Foster Care Needs Assessment identifies gaps in available capacity by geographic region that, when filled, could reduce the need for Child Specific Contracts and Children Without Placement (CWOP) as well as increase least-restrictive placement availability. Though the Foster Care Needs Assessment focuses on legacy service areas, the capacity would be available to all children in state conservatorship including those in a Community Based Care ([https://www.dfps.state.tx.us/Child\\_Protection/Foster\\_Care/Community-Based\\_Care/default.asp](https://www.dfps.state.tx.us/Child_Protection/Foster_Care/Community-Based_Care/default.asp)) catchment area.

### 2.5.1 Expenditure Proposal

In attached **Form D, Expenditure Proposal**, Respondents must:

- a. Identify Project costs to be requested from DFPS.
- b. Demonstrate the requested Project costs outlined in the Expenditure Proposal are reasonable, allowable, allocable, and developed in accordance with applicable state grant requirements.
- c. Complete the form per the instructions outlined in **Article VII – Expenditure Proposal**.

## 2.6 PERFORMANCE MEASURES

DFPS will monitor the performance of contracts awarded under this RFA. All services and deliverables under the contract shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standard, custom, and practice.

Grantees awarded the Foster Care Capacity Grant Funding will provide DFPS with financial reports and/or statements related to their proposal expenses upon request and/or no later than five Business Days after payment of said expenses.

In attached **Form E, Deliverable Timeline**, Respondents must identify a timeline including dates by which items listed in **Form C, Work Plan Narrative**, and **Form D, Expenditure Proposal**, will be completed within the grant funding period.

## 2.7 PROHIBITIONS

Grant funds may not be used to support the following services, activities, and costs:

- a. Inherently religious activities such as prayer, worship, religious instruction, or proselytization;
- b. Lobbying;
- c. Any portion of the salary of, or any other compensation for, an elected or appointed government official;
- d. Vehicles or equipment for government agencies that are for general agency use and/or do not have a clear nexus to terrorism prevention, interdiction, and

- disruption (i.e., mobile data terminals, body cameras, in-car video systems, or radar units, etc. for officers assigned to routine patrol);
- e. Weapons, ammunition, tracked armored vehicles, weaponized vehicles or explosives (exceptions may be granted when explosives are used for bomb squad training);
  - f. Admission fees or tickets to any amusement park, recreational activity or sporting event;
  - g. Promotional gifts;
  - h. Food, meals, beverages, or other refreshments, except for eligible per diem associated with grant-related travel or where pre-approved for working events;
  - i. Membership dues for individuals;
  - j. Any expense or service that is readily available at no cost to the grant project;
  - k. Any use of grant funds to replace (supplant) funds that have been budgeted for the same purpose through non-grant sources;
  - l. Fundraising;
  - m. Any other prohibition imposed by federal, state, or local law; and
  - n. The acquisition or construction of facilities.

## 2.8 STANDARDS

Grantees must comply with the requirements cited in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards (45 CFR 75) at <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-75>; the Texas Grant Management Standards (TxGMS) at <https://comptroller.texas.gov/purchasing/grant-management/>, and all statutes, requirements, and guidelines applicable to this funding.

Grantees are required to conduct Project activities in accordance with federal and state laws prohibiting discrimination. Guidance for adhering to non-discrimination requirements can be found on the HHSC Civil Rights Office website at: <https://www.hhs.texas.gov/about/your-rights/civil-rights-office>.

Upon request, a Grantee must provide the HHSC Civil Rights Office with copies of all the Grantee's civil rights policies and procedures. Grantees must notify HHSC's Civil Rights Office of any civil rights complaints received relating to performance under the contract no more than 10 calendar days after receipt of the complaint. Notice must be directed to:

HHSC Civil Rights Office  
701 W. 51st Street, Mail Code W206  
Austin, TX 78751  
Phone Toll Free (888) 388-6332  
Phone: (512) 438-4313  
TTY Toll Free (877) 432-7232  
Fax: (512) 438-5885

A Grantee must ensure that its policies do not have the effect of excluding or limit participation of persons in the Grantee's programs, benefits or activities on the basis of national origin. A Grantee must take reasonable steps to provide services and information,

both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

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

DFPS makes no guarantee of volume, usage, or total compensation to be paid to any Respondent under any awarded Grant, if any, resulting from this Solicitation. Any awarded Grant is subject to appropriations and the continuing availability of funds.

DFPS reserves the right to cancel, make partial award, or decline to award a Grant under this Solicitation at any time at its sole discretion.

There should be no expectation of additional or continued funding on the part of the Grant Recipient. Any additional funding or future funding may require submission of an application through a subsequent RFA.

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## ARTICLE III. ADMINISTRATIVE INFORMATION

### 3.1 SCHEDULE OF EVENTS

<b>EVENT</b>	<b>DATE/TIME</b>
Solicitation Release Date	May 6, 2022
Respondent Conference (optional)	May 13, 2022, at 9:00AM Central Time
Deadline for Submitting Questions	May 17, 2022, by 2:00PM Central Time
Tentative Date Answers to Questions Posted	May 24, 2022 at 5:00PM Central Time
<b>Deadline for Submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by HHSC by the deadline.]</b>	June 6, 2022, by 10:30AM Central Time
Anticipated Notice of Award	August 1, 2022
Anticipated Contract Start Date	September 1, 2022

**Note:** All dates are tentative and DFPS reserves the right to change these dates at any time. At the sole discretion of DFPS, 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 Solicitation Responses will be published by posting an Addendum to the [HHS Grants website](#). After the Deadline for Submission, 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 web page. Each Respondent is responsible for checking the [HHS Grants website](#) and Procurement Forecast for updates.

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

HHSC and DFPS reserves the right to change, amend or modify any provision of this Solicitation, or to withdraw this Solicitation, at any time prior to award, if it is in the best interest of DFPS and will post on the [HHS Grants website](#). It is the responsibility of Respondent to periodically check the [HHS Grants website](#) to ensure full compliance with the requirements of this Solicitation.

### 3.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Sole Point of Contact listed in **Section 3.4.1** as soon as possible so corrective Addenda may be furnished to prospective Respondents.

### 3.4 INQUIRIES

#### 3.4.1 Sole Point of Contact

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

Name: Amy Pearson, CTCD  
Title: Grants Specialist  
Address: HHSC Procurement and Contracting Services (PCS) 1100 West 49th Street; Mail Code 2020, Building S, Austin, TX 78756  
Phone: 512-406-2638  
Email: [amy.pearson@hhs.texas.gov](mailto:amy.pearson@hhs.texas.gov)

Applicants must not use this e-mail address to submit Applications. Follow the instructions for submission as outlined in Section 3.6, Application Submission and Delivery.

**However, if expressly directed in writing by the Sole Point of Contact, Respondent may communicate with another designated HHSC or DFPS representative, e.g., during contract negotiations, if any.**

#### 3.4.2 Prohibited Communications

All communications between Respondents and other DFPS or HHSC staff members concerning the Solicitation may not be relied upon and Respondent should send all questions or other communications to the Sole Point of Contact. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

#### 3.4.3 Questions

DFPS will allow written questions and requests for clarification of this Solicitation. Questions must be submitted in writing and sent by U.S. First class mail or email to the Sole Point of Contact listed in **Section 3.4.1** above. Respondents' names will be removed

from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

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

**Note: Questions or other written requests for clarification must be received by the Sole Point of Contact by the deadline set forth in Section 3.1, Schedule of Events above. However, HHSC, at its sole discretion, may respond to questions or other written requests received after the deadline. Please provide entity name, address, phone number, fax number, e-mail address, and name of contact person when submitting questions.**

#### **3.4.4 Clarification Request Made By Respondent**

Respondents must notify the Sole Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in the Solicitation in the manner and by the deadline for submitting questions.

#### **3.4.5 Responses**

Responses to questions or other written requests for clarification may be posted on the [HHS Grants website](#). DFPS reserves the right to amend answers prior to the deadline of Solicitation Responses. Amended answers may be posted on the [HHS Grants website](#). It is Respondent's responsibility to check the [HHS Grants website](#) or contact the Sole Point of Contact for updated responses. DFPS also reserves the right to decline to answer any question or questions or to provide a single consolidated response of all questions they choose to answer in any manner at DFPS' sole discretion.

#### **3.4.6 Respondent Conference**

HHSC and DFPS will conduct an **optional** pre-submittal respondent webinar on May 13, 2022, at 9:00AM Central Time. Respondents may register by accessing the following link at <https://attendee.gotowebinar.com/register/3598533754462537743> or dial +1 (631) 992-3221 and enter access code 339-024-020. The respondent conference is **optional**.

### **3.5 SOLICITATION RESPONSE COMPOSITION**

All Applications must be:

- a. Clearly legible;
- b. Sequentially page-numbered and include the respondents name at the top of each page;
- c. Organized in the sequence outlined in Article IX - Submission Checklist;

- d. In Arial or Times New Roman font, size 12 or larger for normal text, no less than size 10 for tables, graphs, and appendices;
- e. Inclusive of all forms provided in the Attachments with blanks to be completed by the Applicant completely filled out (electronic reproduction of the forms is acceptable; however, all forms must be identical to the original form(s) provided), with the font used on the provided forms unchanged;
- f. Correctly identified with the RFA number and submittal deadline;
- g. Responsive to all RFA requirements; and
- h. Signed by an authorized official in each place a signature is needed (copies must be signed but need not bear an original signature).

## **3.6 SOLICITATION RESPONSE SUBMISSION AND DELIVERY**

### **3.6.1 Deadline**

Applications must be received by the deadline for Submission of Deadline for Submission of Solicitation Responses specified in **Section 3.1, Schedule of Events**, or subsequent Addenda.

### **3.6.2 Delivery for Individual Submission Options**

Respondent must correctly submit Solicitation Responses by the method below. Solicitation Responses submitted by any other method (e.g., facsimile, telephone, email) will NOT be considered.

Respondent shall submit the following through the Online Bid Room utilizing the procedures in **Exhibit E, HHS Online Bid Room**:

- a. One file named “Original Proposal” that contains the Respondent’s entire proposal in searchable portable document format (PDF).
- b. One copy of the completed **Form D, Expenditure Proposal**, in original Excel format.
- c. In accordance with **Section 8.1.3**, one file named “Public Information Copy” that contains the Respondent’s entire proposal in searchable PDF, if applicable.

**NOTE:** All Solicitation Applications become the property of HHSC after submission and will not be returned to the Applicant. It is the Applicant’s responsibility to appropriately mark and deliver the Solicitation Application to HHSC by the specified date.

### **3.6.3 Alterations, Modifications, and Withdrawals**

Prior to the Solicitation submission deadline, a Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Sole Point of Contact identified in **Section 3.4.1**; or (2) modify its Solicitation Response by submitting a written amendment to the Sole Point of Contact identified in **Section 3.4.1**. DFPS may request Solicitation Response modifications at any time.

## ARTICLE IV. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS

### 4.1 GENERAL

A three-step selection process will be used:

- a. Eligibility screening;
- b. Evaluation based upon specific selection criteria; and
- c. Final Selection based upon State priorities.

### 4.2 ELIGIBILITY SCREENING

Applications will be reviewed for minimum qualifications as required in **2.3 Eligible Applicants**, and completeness. All complete applications meeting the minimum qualifications will move to the Evaluation stage.

### 4.3 EVALUATION

Applications will be evaluated and scored in accordance with the factors required by and other factors deemed relevant by DFPS.

#### 4.3.1 Specific Selection Criteria

Grant applications shall be evaluated based upon and using **Exhibit F, Evaluation Tool**.

- a. Applicant Experience/Personnel Qualifications (40%)
- b. Methodology and Approach (40%)
- c. Fiscal Administration and Management (20%)

### 4.4 FINAL SELECTION

DFPS intends on making multiple awards. After initial screening for eligibility, application completeness, and initial scoring of the elements listed above in **Section 4.3**, a selection committee will look at all eligible applicants to determine which proposals should be awarded in order to most effectively accomplish state priorities. The selection committee will recommend grant awards to be made to the DFPS Executive Commissioner, who will make the final award approval.

DFPS will review all received proposals and make Grant determinations based on statewide needs. DFPS will make informed decisions based on, but not limited to, the capacity needs assessment, statewide data regarding current foster care capacity, past contract performance, and regulatory compliance as noted in **Section 2.3**.

DFPS will evaluate each proposal for its compatibility with similar grants in the Community Based Care system and with Special Provision 26 (as required by HB 5) to ensure that any capacity growth or project does not contradict other ongoing projects or fund projects already funded by another HHSC or DFPS initiative. DFPS will also evaluate



proposals for any impact on expanding capacity as required by 87th Legislative Session, SB 1896.

#### 4.5 NEGOTIATION AND AWARD

The specific dollar amount awarded to each successful Applicant will depend upon the merit and scope of the Application, the recommendation of the selection committee, and the decision of the Executive Commissioner. Not all Applicants who are deemed eligible to receive funds are assured of receiving an award.

The negotiation phase will involve direct contact between the successful Applicant and DFPS representatives via phone and/or email. During negotiations, successful Applicants may expect:

- a. An in-depth discussion of the submitted proposal and budget; and
- b. Requests from DFPS for clarification or additional detail regarding the submitted Application.

The final funding amount and the provisions of the contract will be determined at the sole discretion of DFPS staff.

DFPS may announce tentative or Apparent Grant Recipients once the Executive Commissioner has given approval to initiate negotiation and execute contracts.

**Any exceptions to the requirements, terms, conditions, or certifications in the RFA or attachments, Addendums, or revisions to the RFA or General Provisions, sought by the Applicant must be specifically detailed in writing by the Applicant on Exhibit D, Exceptions Form in this proposal and submitted to DFPS for consideration. DFPS will accept or reject each proposed exception. DFPS will not consider exceptions submitted separately from the Applicant's proposal or at a later date.**

HHSC will post to the [HHS Grants website](#) and may publicly announce a list of Applicants whose Applications are selected for final award. This posting does not constitute HHSC's agreement with all the terms of any Applicant's proposal and does not bind HHSC to enter into a contract with any Applicant whose award is posted.

#### 4.6 QUESTIONS OR REQUESTS FOR CLARIFICATION BY HHSC OR DFPS

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

## ARTICLE V. NARRATIVE PROPOSAL

### 5.1 NARRATIVE PROPOSAL

#### 5.1.1 Work Plan Narrative

Utilizing **Form C, Work Plan Narrative**, Provider must submit a proposal to DFPS detailing their plan to address capacity, either through strengthening and expanding existing capacity including through increased admissions or creating additional new capacity. The proposal must identify how the provider will serve children of the Target Population, how the provider intends to use the funds requested, and the expected outcome or effect of the additional investment of grant funds, including how many beds will be created or placements are anticipated to be accepted. Provider must notify DFPS if they do not accept admission of a youth who meets program admission criteria and provider has an opening. Provider must document the denial and justification for the denied admission and reasons why youth cannot be accepted into the program.

## ARTICLE VI. REQUIRED RESPONDENT INFORMATION

### 6.1 ADMINISTRATIVE ENTITY INFORMATION

Using **Form A, Applicant Information; Form B, Entity Contact Information; Form C, Work Plan Narrative; and Form D, Expenditure Proposal** attached to this RFA, Respondent's must provide satisfactory evidence of its ability as an organization to manage and coordinate the types of activities described in this RFA.

### 6.2 LITIGATION AND CONTRACT HISTORY

Respondent must attach to its application a complete disclosure of any alleged or significant contractual or grant failures.

In addition, Respondent must attach to its application a disclosure of any civil or criminal litigation or investigation pending over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable. Failure to comply with the terms of this provision may disqualify Respondent. See, **Exhibit A, HHSC and DFPS Affirmations and Grant Opportunity Acceptance**. Respondent certifies it does not have any existing claims against or unresolved audit exceptions with the State of Texas or any agency of the State of Texas.

Application may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual or grant obligations.

### 6.3 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. 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 Grant Agreement or not:

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

### 6.4 AFFIRMATIONS, CERTIFICATIONS, AND EXHIBITS

Respondent must complete and return all of the following affirmations, assurances, certifications, and exhibits. A complete list of exhibits is included as **Article X**.

- a. **Exhibit A, HHSC and DFPS Affirmations and Grant Opportunity Acceptance**
- b. **Exhibit D, Exceptions Form**, if applicable

### 6.5 OTHER REPORTS

#### 6.5.1 Financial Statements and Financial Solvency

- a. Respondent must submit electronically, in a word searchable .PDF format, an annual report, which must include:
  1. Last three (3) years of Audited Financial Statements, including all supplements, management discussion and analysis, and actuarial opinions.
  2. If applicable, last three (3) years of consolidated statements for any holding companies or affiliates
  3. A full disclosure of any events, liabilities, or contingent liabilities that could affect Respondent's financial ability to perform this Contract. At a minimum, such financial statements must include:
    - A. Balance sheet,
    - B. Income Statement,
    - C. Statement of Changes in Financial Position,
    - D. Statement of Cash Flows, and
    - E. Capital Expenditures.
- b. If the Respondent is a corporation that is required to report to the Securities and Exchange Commission (SEC), Respondent must submit its three (3) most recent SEC Form 10K, Annual Reports, pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Financial materials must be submitted electronically in a word searchable .PDF format.

- c. If Audited Financial Statements are not available, Respondent must submit unaudited financial information and any other information the Respondent believes meets the requirements of this section. See Section 6.6.3 (Alternate Report). If the submitted documents do not provide adequate assurance of financial stability or solvency, HHSC reserves the right to request additional information or to disqualify the Respondent.
- d. If the Respondent is either substantially or wholly owned by another corporate (or legal) entity, the Respondent must include the information required in this Section 6.6.2 for each such entity, including the most recent detailed financial report for each such entity.
- e. If HHSC determines that an entity does not have sufficient financial resources to guarantee the Respondent's performance, HHSC may require the Respondent to obtain another acceptable financial instrument or resource from such entity, or to obtain an acceptable guarantee from another entity with sufficient financial resources to guarantee performance.

### **6.5.2 Alternate Report**

If Respondent(s) is unable to provide the annual report specified above, Respondent(s) may, at the discretion of HHSC and DFPS, provide the following alternate report:

- a. Last three (3) years un-audited financial statements, including all supplements, management discussion and analysis, and actuarial opinions.;
- b. An un-audited financial statement of the most recent quarter of operation; and
- c. A full disclosure of any events, liabilities, or contingent liabilities that could affect Respondent's financial ability to perform this Contract. At a minimum, such financial statements must include:
  - 1. Balance sheet,
  - 2. Income Statement,
  - 3. Statement of Changes in Financial Position,
  - 4. Statement of Cash Flows, and
  - 5. Capital Expenditures.

## **6.6 TEXAS HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)**

In procuring goods and services using funding awarded under this RFA, Grantee must use HUBs or other designated businesses as required by law or the terms of the state or federal grant under which this RFA has been issued. See, e.g., 2 CFR 200.321. If there are no such requirements, DFPS encourages Applicant to use HUBs to provide goods and services.

For information regarding the Texas HUB program, refer to CPA's website: <https://comptroller.texas.gov/purchasing/vendor/hub/>.

## **ARTICLE VII. EXPENDITURE PROPOSAL**

### **7.1 EXPENDITURE PROPOSAL**

Attached **Form D, Expenditure Proposal** of this RFA includes the template for submitting the Expenditure Proposal.

Respondents must base their Expenditure Proposal on the Scope of Grant Award described in **Article II**. This section should include any business, economic, legal, programmatic, or practical assumptions that underlie the Expenditure Proposal. DFPS reserves the right to accept or reject any assumptions.

Respondents must demonstrate that project costs outlined in the Expenditure Proposal are reasonable, allowable, allocable, and developed in accordance with applicable state and federal grant requirements.

Respondent must utilize the HHSC template provided and identify costs to be requested from DFPS. Costs must be broken out to a degree that is sufficient to determine if costs are reasonable, allowable, and necessary for the successful performance of the project.

Costs will be reviewed for compliance with TxGMS and federal grant guidance found in 45 CFR Part 75 at <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-75>, as modified by TxGMS, with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

Costs included in the Expenditure Proposal must be entered into the budget tables and supported by narrative descriptions describing the need for the requested cost and a calculation demonstrating how the cost was determined.

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

### **8.1 GENERAL CONDITIONS**

#### **8.1.1 Costs Incurred**

Respondents understand that issuance of this Solicitation in no way constitutes a commitment by DFPS to award a contract or to pay any costs incurred by a Respondent in the preparation of a response to this Solicitation. DFPS is not liable for any costs incurred by a Respondent prior to issuance of or entering into a formal Grant Agreement, contract, or purchase order. Costs of developing Solicitation Responses, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by a Respondent are entirely the responsibility of the Respondent, and will not be reimbursed in any manner by the State of Texas.

### 8.1.2 Contract Responsibility

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

### 8.1.3 Public Information Act - Respondent Requirements Regarding Disclosure

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

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

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

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

- c. Submit Public Information Act Copy of Proposal:

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

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

this section must be identical to those set forth in the Original Proposal as required in Subsection (a)(2), above. The only difference in required markings and information between the Original Proposal and the “Public Information Act Copy” of the proposal will be redactions - which can only be included in the “Public Information Act Copy.” There must be no redactions in the Original Proposal.

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

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

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

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

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

For more information concerning the types of information that may be withheld under the PIA or questions about the PIA, please refer to the Public Information Act Handbook

published by the Office of the Texas Attorney General or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). To access the Public Information Act Handbook, please visit the attorney general's website at <http://www.texasattorneygeneral.gov>.

#### **8.1.4 News Releases**

Prior to final award a respondent may not issue a press release or provide any information for public consumption regarding its participation in the procurement. Requests should be directed to the HHSC Point of Contact Identified in **Article III**.

#### **8.1.5 Additional Information**

By submitting a proposal, the Respondent grants DFPS the right to obtain information from any lawful source regarding the respondent's and its directors', officers', and employees': (1) past business history, practices, and conduct; (2) ability to supply the goods and services; and (3) ability to comply with contract requirements. By submitting a proposal, a respondent generally releases from liability and waives all claims against any party providing DFPS information about the respondent. DFPS may take such information into consideration in evaluating proposals.

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## **ARTICLE IX. SUBMISSION CHECKLIST**

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

### **Original Solicitation Response Package**

The Solicitation Package must include the Solicitation Response in the approved submission method identified in **Section 3.6**.

**a. Administrative Information (Forms A and B)**

- 1. Form A: Applicant Information \_\_\_\_\_
- 2. Form B: Entity Contact Information \_\_\_\_\_

**b. Narrative Proposal Forms (Form C and E) (Article V)**

- 1. Form C: Work Plan Narrative \_\_\_\_\_
- 2. Form E: Deliverable Timeline \_\_\_\_\_

**c. Expenditure Proposal (template included) (Article VII)**

- 1. Form D: Expenditure Proposal \_\_\_\_\_

**d. Applicable Exhibits (Section 6.4)**

- 1. Exhibit A: HHSC and DFPS Affirmations and Grant Opportunity Acceptance \_\_\_\_\_
- 2. Exhibit D: Exceptions, if applicable \_\_\_\_\_

## **ARTICLE X. LIST OF EXHIBITS, ATTACHMENTS, AND FORMS**

### **EXHIBITS**

Exhibit A	HHSC and DFPS Affirmations and Grant Opportunity Acceptance
Exhibit B	DFPS Grant Uniform Terms and Conditions
Exhibit C	DFPS Supplemental and Special Conditions
Exhibit D	Exceptions, if applicable
Exhibit E	HHS Online Bid Room
Exhibit F	Evaluation Tool

### **FORMS**

Form A	Applicant Information
Form B	Entity Contact Information
Form C	Work Plan Narrative
Form D	Expenditure Proposal Template
Form E	Deliverable Timeline