



Travis County Commissioners Court Agenda Request

Meeting Date: 11/20/2012, 9:00 AM, Voting Session

Prepared By/Phone Number: Alan Miller, Planning and Budget Office, 854-9726

Elected/Appointed Official/Dept. Head: Leslie Browder, County Executive
Planning and Budget

Commissioners Court Sponsor: Judge Samuel T. Biscoe

Review and approve requests regarding grant programs, applications, contracts and related special budgets, and permissions to continue:

- A. Annual contract with the University of North Texas to continue the Seniors and Volunteers for Childhood Immunization (SVCI) Program in Health and Human Services and Veterans Service;
- B. Annual contract with the Corporation for National and Community Service (CNCS) with funds originating from the Texas Department on Aging and Disability Services (DADS) for Health and Human Services and Veterans Service to receive operating resources to continue the Coming of Age Program;
- C. Annual contract with the Texas Department of Housing and Community Affairs to receive U.S. Department of Energy funds for the Weatherization Assistance Program in the Health & Human Services Department; and
- D. Annual contract with Atmos Energy Corporation to continue the existing Share the Warmth Program through Health and Human Services.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

These items are all renewal of existing programs.

STAFF RECOMMENDATIONS:

PBO recommends approval.

ISSUES AND OPPORTUNITIES:

Additional information is provided on each item's grant summary sheet.

FISCAL IMPACT AND SOURCE OF FUNDING:

Only item B requires a match and this match is met through existing HHS resources.

REQUIRED AUTHORIZATIONS:

Planning and Budget Office
County Judge's Office

Leslie Browder
Melissa Velasquez

GRANT APPLICATIONS, CONTRACTS AND PERMISSIONS TO CONTINUE
FY 2013

The following list represents those actions required by the Commissioners Court for departments to apply for, accept, or continue to operate grant programs. This regular agenda item contains this summary sheet, as well as backup material that is attached for clarification.

Application	Dept.	Grant Title	Grant Period	Grant Award	County Cost Share	County Contribution	In-Kind Contribution	Program Total	FTEs	PBO Notes	Auditor's Assessment	Page #
Contracts												
A	158	Seniors and Volunteers for Childhood Immunization (SVCJ)	09/01/12 - 08/31/13	\$8,845	\$0	\$0	\$0	\$8,845	0.14	R	S	5
B	158	Coming of age (DADS)	09/01/12 - 08/31/13	\$24,484	\$24,484	\$0	\$0	\$48,968	-	R	MC	61
C	158	DOE Weatherization Program	04/01/12 - 03/31/13	\$60,471	\$0	\$0	\$0	\$60,471	-	R	EC	74
D	158	Atmos Energy Share the Warmth	11/01/12 - 10/31/13	\$13,188	\$0	\$0	\$0	\$13,188	-	R	S	100

* Amended from original.

PBO Notes:

R - PBO recommends approval.

NR - PBO does not recommend approval

D - PBO recommends item be discussed.

County Auditor's Complexity Assessment measuring Impact to their Office's Resources/Workload

S - Simple

MC - Moderately Complex

C - Complex

EC - Extremely Complex

FY 2013 Grant Summary Report
Grant Applications approved by Commissioners Court

The following is a list of grants for which application has been submitted since October 1, 2012, and the notification of award has not yet been received.

Dept	Name of Grant	Grant Term	Grant Award	County Cost Share	County Contribution	In-Kind Contribution	Program Total	FTEs	Approval Date
117	Southeast Travis County Historical Survey	10/01/12 - 09/30/14	\$7,500	\$0	\$6,000	\$1,500	\$15,000	-	10/30/2012
119	Underage Drinking Prevention Program	10/01/13 - 09/30/14	\$161,204	\$0	\$35,951	\$55,000	\$252,155	3.00	11/6/2012
			\$168,704	\$0	\$41,951	\$56,500	\$267,155	3.00	

*Amended from original agreement.

**FY 2013 Grant Summary Report
Grants Approved by Commissioners Court**

The following is a list of grants that have been received by Travis County since October 1, 2012

Dept	Name of Grant	Grant Term	Grant Award	County Cost Share	County Contribution	In-Kind Contribution	Program Total	FTEs	Approval Date
145	Travis County Eagle Resource Project	09/01/12 - 08/31/13	\$29,930	\$0	\$0	\$0	\$29,930	-	10/2/2012
145	Trama Informed Assessment and Response Program	09/01/12 - 08/31/13	\$192,666	\$0	\$0	\$0	\$192,666	0.50	10/2/2012
137	Sheriff's Office Command and Support Vessel*	9/1/12- 3/31/13	\$250,000	\$0	\$0	\$0	\$250,000	-	10/16/2012
139	Travis County Adult Probation DWI Court	9/1/2012- 8/31/2013	\$229,112	\$0	\$0	\$0	\$229,112	4.00	10/16/2012
147	Emergency Management Performance Grant	10/01/11 - 03/31/13	\$71,221	\$71,221	\$0	\$0	\$142,442	-	10/16/2012
119	Family Violence Protection Team*	10/1/2010 - 03/31/2012	\$699,507	\$168,239	\$0	\$0	\$867,746	4.50	10/23/2012
122	Family Drug Treatment Court	09/01/12 - 08/31/13	\$137,388	\$0	\$0	\$0	\$137,388	1.00	10/23/2012
145	Drug Court & In-Home Family Services	09/01/12 - 08/31/13	\$66,428	\$7,381	\$0	\$0	\$73,809	0.09	10/23/2012
158	Comprehensive Energy Assistance Grant*	01/01/12 - 12/31/12	\$4,546,172	\$0	\$0	\$0	\$4,546,172	-	10/23/2012
158	Low Income Home Energy Assistance Program (LIHEAP) Weatherization Program	04/01/12 - 03/31/13	\$817,334	\$0	\$0	\$0	\$817,334	-	10/23/2012
124	Travis County Veterans' Court	09/01/12 - 08/31/13	\$186,000	\$0	\$0	\$0	\$186,000	2.00	10/30/2012
142	Drug Diversion Court	09/01/12 - 08/31/12	\$132,585	\$0	\$0	\$0	\$132,585	1.00	10/30/2012
158	Parenting in Recovery II	09/30/12 - 09/29/13	\$500,000	\$0	\$214,286	\$0	\$714,286	2.00	11/6/2012
158	Targeted Low Income Weatherization Program (TLIWP)	10/01/12 - 12/31/12	\$42,061	\$0	\$0	\$0	\$42,061	-	11/6/2012
			\$7,900,404	\$246,841	\$214,286	\$0	\$8,361,531	15.09	

*Amended from original agreement.

FY 2013 Grants Summary Report

Permission to Continue

Dept	Name of Grant	Grant Term per Application	Personnel Cost	Operating Transfer	Total Request	Filled FTEs	PTC Expiration Date	Cm. Ct. PTC Approval Date	Cm. Ct. Contract Approval Date	Has the General Fund been Reimbursed?
137	Child Abuse Victim Services Personnel**	9/1/12-8/31/13	\$8,920	\$0	\$8,920	1.00	10/31/2012	8/14/2012	N/A	No
119	Family Violence Accelerated Prosecution Program	9/1/12-8/31/13	\$12,620	\$0	\$12,620	1.00	10/31/2012	8/21/2012	N/A	No
122	Family Drug Treatment Court	09/01/12 - 08/31/13	\$10,922	\$0	\$10,922	1.00	10/31/2012	8/28/2012	N/A	No
124	Travis County Veterans Court	09/01/12 - 08/31/13	\$25,630	\$0	\$25,630	2.00	10/31/2012	8/28/2012	N/A	No
142	Drug Diversion Court	09/01/12 - 08/31/13	\$10,144	\$0	\$10,144	1.00	10/31/2012	8/28/2012	N/A	No
145	Juvenile Accountability Block Grant- Local Assessment Center	09/01/12 - 08/31/13	\$13,747	\$0	\$13,747	1.00	11/30/2012	8/28/2012	N/A	No
145	Residential Substance Abuse Treatment Program	10/01/12 - 09/30/13	\$15,046	\$0	\$15,046	1.00	12/31/2012	8/28/2012	N/A	No
158	Parenting in Recovery (PIR) FY 12	09/30/12 - 09/29/13	\$94,630	\$0	\$94,630	-	12/31/2012	9/25/2012	N/A	No
158	Parenting in Recovery (PIR) FY 13	09/30/12 - 09/29/13	\$84,756	\$0	\$84,756	-	12/31/2012	10/2/2012	N/A	No
Totals			\$276,415	\$0	\$276,415	8.00				



**TRAVIS COUNTY
FY 13 GRANT SUMMARY SHEET**

Check One:	Application Approval: <input type="checkbox"/>	Permission to Continue: <input type="checkbox"/>
	Contract Approval: <input checked="" type="checkbox"/>	Status Report: <input type="checkbox"/>
Check One:	Original: <input checked="" type="checkbox"/>	Amendment: <input type="checkbox"/>
Check One:	New Grant: <input type="checkbox"/>	Continuation Grant: <input checked="" type="checkbox"/>
Department/Division:	Travis County Health and Human Services and Veterans Service	
Contact Person/Title:	John C. Bradshaw/ Contract Specialist	
Phone Number:	854-4277	

Grant Title:	Seniors and Volunteers for Childhood Immunization (SVCI)		
Grant Period:	From: <input type="text" value="Sep 1, 2012"/>	To: <input type="text" value="Aug 31, 2013"/>	
Fund Source:	Federal: <input checked="" type="checkbox"/>	State: <input type="checkbox"/>	Local: <input type="checkbox"/>
Grantor:	University of North Texas		
Will County provide grant funds to a sub-recipient?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
Are the grant funds pass-through from another agency? If yes, list originating agency below.	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>	
Originating Grantor:	Texas Dept. of State Health Services (DSHS)		

Budget Categories	Grant Funds	County Cost Share	Budgeted County Contribution #595010 (Cash Match)	In-Kind	TOTAL
Personnel:	\$ 8,845	\$ 0	\$ 0	\$ 0	\$ 8,845
Operating:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Capital Equipment:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Indirect Costs:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Totals:	\$ 8,845	\$ 0	\$ 0	\$ 0	\$ 8,845
FTEs:	0.14	0.00	0.00	0.00	0.14

Permission to Continue Information					
Funding Source (Cost Center)	Personnel Cost	Operating Cost	Estimated Total	Filled FTE	PTC Expiration Date
	\$ 0	\$ 0	\$ 0	0.00	

Department	Review	Staff Initials	Comments
County Auditor	<input checked="" type="checkbox"/>	PL	
County Attorney	<input checked="" type="checkbox"/>	MEG	

Performance Measures					
#	Measure	Actual FY 11 Measure	Projected FY 12 Measure	Projected FY 13 Measure	Projected FY 14 Measure
Applicable Departmental Measures					
1.	Number of volunteers referred to nonprofit organizations	3,732	800	800	800
2.	Number of agencies using volunteers as part of the effort to maintain services and programs	40	30	30	30
3.	Number of nonprofit organizations provided with training and technical assistance through the nonprofit support component of the Coming of Age program	32	30	30	30
Measures for the Grant					
1.	Number of volunteers	8	31	31	31
Outcome Impact Description		Volunteers for the SVCI program are recruited by Coming of Age to explain to new mothers the importance of having their babies vaccinated.			
2.	Number of volunteer hours	636	595	595	595
Outcome Impact Description		Volunteers distribute information to new mothers at local hospitals.			
3.	Number of mothers enrolled	510	839	839	839
Outcome Impact Description		Mothers enrolled in the program receive mailings informing them when it is time for their child's immunizations.			

PBO Recommendation:

This grant contract with the University of North Texas supports the Health and Human Services and Veterans Service program, Seniors and Volunteers for Childhood Immunization that provides information to new mothers about the importance of vaccinating their babies. The FY 13 award is \$8,845. This is the 16th year the county has received this grant.

There is no grant match requirement. PBO recommends approval of this grant contract.

1. Brief Narrative - Summary of Grant: What is the goal of the program? How does the grant fit into the current activities of the department? Is the grant starting a new program, or is it enhancing an existing one?

The Seniors and Volunteers for Childhood Immunization (SVCI) program is run out of the Coming of Age offices. A grant from UNT helps pay part of the salary of a Coming of Age staff member who recruits volunteers to provide information to new mothers about the importance of vaccinating their babies. The SVCI program provides volunteer opportunities for Coming of Age participants.

2. Departmental Resource Commitment: What are the long term County funding requirements of the grant?

If UNT were to decrease or eliminate funding for the SVCI program, then Coming of Age would seek money from other sources, including the General Fund.

3. County Commitment to the Grant: Is a county match required? If so, how does the department propose to fund the grant match? Please explain.

No cash or in-kind match is required.

4. Does the grant program have an indirect cost allocation, in accordance with the grant rules? If not, please explain why not.

The UNT grant does not allow payment of administrative costs.

5. County Commitment to the Program Upon Termination of the Grant: Will the program end upon termination of the grant funding: Yes or No? If No, what is the proposed funding mechanism: (1) Request additional funding or (2) Use departmental resources. If (2), provide details about what internal resources are to be provided and what other programs will be discontinued as a result.

If UNT were to decrease or eliminate funding for the SVCI program, then Coming of Age would seek money from other sources, including the General Fund.

6. If this is a new program, please provide information why the County should expand into this area.

NA.

7. Please explain how this program will affect your current operations. Please tie the performance measures for this program back to the critical performance measures for your department or office.

The SVCI program allows Coming of Age volunteers a chance to serve the community. The Coming of Age program is built around promoting community service. The grant measures tie into the Coming of Age departmental measures.

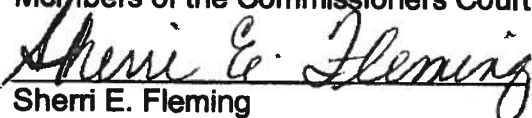


**TRAVIS COUNTY HEALTH and HUMAN SERVICES
and VETERANS SERVICE
100 North I.H. 35
P. O. Box 1748
Austin, Texas 78767**

**Sherri E. Fleming
Executive Manager
(512) 854-4100
Fax (512) 854-4115**

DATE: November 1, 2012

TO: Members of the Commissioners Court

FROM: 
Sherri E. Fleming
County Executive for Travis County Health and Human Services
and Veterans Service

SUBJECT: University of North Texas grant subcontract

Proposed Motion:

Consider and take appropriate action to approve a grant subcontract with the University of North Texas to help fund the Seniors and Volunteers for Childhood Immunization program for FY'13.

Summary and Staff Recommendations:

The Seniors and Volunteers for Childhood Immunization (SVCI) program provides information to new mothers about the importance of vaccinating their babies. While in the hospital, new mothers can sign up to receive mailings during their child's first year reminding them that certain vaccinations are due. More than 14,000 mothers have enrolled since the program began in FY'98.

A grant from the University of North Texas (UNT) provides \$8,845.20 to help cover program costs. A Coming of Age staff member administers the SVCI program and works with volunteers to distribute information at local hospitals. The Coming of Age program is built around promoting community service.

TCHHSVS staff recommends approving this grant subcontract.

Budgetary and Fiscal Impact:

The \$8,845.20 grant from UNT does not require a cash or in-kind match.

Issues and Opportunities:

The SVCI program gives Coming of Age volunteers a chance to serve the community.

Background:

UNT has provided grant funds for the SVCI program since FY'98, but has reduced the amount of funding over the years.

Cc: Deborah Britton, Division Director, Community Services, TCHHSVS
Fred Lugo, Manager, Coming of Age
Nicki Riley, CPA, CMA, Travis County Auditor
Jose Palacios, Chief Assistant County Auditor
Patty Lennon, Financial Analyst, Travis County Auditor's Office
Mary Etta Gerhardt, Assistant County Attorney
Leslie Browder, Executive Manager, Planning and Budget Office
Diana Ramirez, Analyst, Planning and Budget Office
Cyd Grimes, C.P.M., Travis County Purchasing Agent
Shannon Pleasant, Purchasing Agent Assistant, Travis County Purchasing Office

UNIVERSITY OF NORTH TEXAS
Denton, Texas

SUBCONTRACT NO. GF4154-2

THIS AGREEMENT, by and between the **University of North Texas**, with business offices located at 1155 Union Circle #305250, Denton, Texas 76203-5017 (hereinafter "UNT") and **Travis County through Coming of Age-Austin Metro**, with business offices located at 100 N. IH-35, Suite 3800, Austin, Texas 78701, (hereinafter "Subcontractor"), and constituting a subcontract under Texas Department of State Health Services (TDSHS) Contract No. 2013-041975, CFDA No. 93.268, between UNT and the Immunization Division of the TDSHS (hereinafter "Sponsor").

WITNESSETH:

WHEREAS, UNT has entered into the above referenced agreement with Sponsor in order to provide administrative support and technical assistance to certain entities in the implementation of projects regarding childhood immunization; and

WHEREAS, in connection with such work, Subcontractor desires to be one of the entities to receive administrative support and technical assistance from UNT and, as such, is willing to perform certain services, as herein provided;

NOW, THEREFORE, in consideration of the foregoing and in further consideration of the premises as hereinafter set forth, the parties agree to the following terms and conditions:

Article 1. Integration of Subcontract

The parties acknowledge that this Agreement is part of a series of contracts between UNT, Sponsor and other entities in order to accomplish a series of specific projects, generically identified as the "Seniors and Volunteers for Childhood Immunization" or "SVCI" Projects. This Agreement is to be construed as part of the overall SVCI project agreement with Sponsor.

Article 2. Objectives of the SVCI Projects and Subcontract

The objectives of the SVCI Projects are as follows:

- a. to persuade parents to start immunization of their infants on a timely basis and check with their providers about their preschool child's immunization status.
- b. to persuade providers to check the immunization records of every child they treat and use every opportunity to bring children up to date.

Article 3. UNT Project Directors

All work under this Subcontract shall be performed under the general guidance and technical direction of Kathy Dreyer, UNT Project Coordinator. Such guidance and direction shall not, however, effect any change in the provisions of this Subcontract, increase its estimated cost, or extend the period of performance. Such changes shall be made only by amendment to this Subcontract in the manner stipulated herein. The UNT Project Directors are not authorized to amend the terms of this subcontract in any manner.

Article 4. Responsibilities of Subcontractor

In the performance of this Subcontract, Subcontractor agrees to fulfill the following responsibilities:

- a. Subcontractor agrees to develop and operate a SVCI Project in accordance with the terms and condition set forth herein and as specifically described in Attachment A hereto.
- b. In the operation of its SVCI Project, Subcontractor agrees to exercise reasonable efforts to assure that:
 1. it will address local needs that are not being met by other sources of funding;
 2. it will prevent unnecessary duplication of services within a community;
 3. it will encourage cooperation and inter-dependence between regional and local public health systems/organizations providing services in order to maximize impact and effectiveness of these limited resources; and
 4. it will strive to ensure the sustainability and maintenance of project momentum beyond the availability of public health funds.
- c. If Subcontractor is establishing a new SVCI Project, Subcontractor agrees to participate in an initial training session for volunteer coordinators, volunteer organization directors, and coalition members on implementing their SVCI projects which will be organized by UNT. If Subcontractor is operating an established SVCI Project, Subcontractor agrees to participate in annual update training as required by UNT.
- d. Subcontractor shall allow UNT to provide on-site training as may be required and shall accept technical assistance from UNT. Subcontractor further agrees to allow UNT to perform follow up visits, as desired, to review and evaluate SVCI Project.
- e. Subcontractor agrees to assist in data collection as reasonably specified by UNT.

- f. Subcontractor agrees to maintain and submit a property inventory listing to UNT which sets forth any equipment and supplies which may be purchased under this Subcontract.
- g. Subcontractor agrees to provide UNT with news items of public interest regarding its SVCI Project and to allow the use of such news items as UNT sees fit.
- h. Subcontractor agrees to provide UNT with any information which may be reasonably required regarding Subcontractor's SVCI Project and shall allow UNT to review all records related thereto.
- i. In operation of its SVCI Project, Subcontractor agrees to obey all reasonable directives of UNT.

Article 5. Programmatic Reports

Subcontractor agrees to provide timely and accurate Programmatic reports to the UNT Project Directors in the types and amounts in Attachment A. If Attachment A does not contain a report schedule, Subcontractor hereby agrees to provide interim and final Programmatic reports, as required of UNT by Sponsor, of the work hereunder to the UNT Project Director or Coordinator no later than seven days prior to submission of UNT reports to Sponsor.

Article 6. Period of Performance, Stop Work and Termination

- a. The period of performance under this Subcontract shall begin on **September 1, 2012** and shall terminate on **August 31, 2013**, unless extended or sooner terminated in accordance with the provisions herein.
- b. UNT may notify Subcontractor to stop work at any time, in which case Subcontractor agrees to immediately cease incurring expenses hereunder and to forego incurring additional expenses until so notified by UNT.
- c. UNT may terminate this Subcontract by giving written notice to Subcontractor if, in the sole judgment of UNT, Subcontractor is not properly fulfilling its obligations hereunder. Further, if the underlying TDSHS Contract No. 2013-041975 is canceled or if some of the other integral contracts and arrangements between the other parties render it impossible or impractical to proceed with this Subcontract, UNT retains the right to immediately terminate this Subcontract upon written notification to Subcontractor.
- d. In the event that UNT terminates this Subcontract pursuant to Article 6.b. or c., above, UNT agrees to pay Subcontractor for all costs incurred by Subcontractor under the terms of this Subcontract through the date that Subcontractor received notice of said termination or the date of termination set forth in the notice, whichever comes later.

Article 7. Compensation

- a. In performing this Subcontract, Subcontractor agrees to adhere to the budget set forth in Attachment B. UNT shall pay Subcontractor on a cost-reimbursable basis in an amount not to exceed eight thousand eight hundred and forty-five dollars and twenty cents (**\$8,845.20**). Such reimbursement shall be made in accordance with the budget set forth in Attachment B.
- b. Subcontractor agrees not to use funds provided under this Subcontract for indirect costs or for the purchase of vaccines.
- c. Subcontractor further agrees to obtain prior written approval from UNT prior to using any funds provided under this Subcontract for: (1) out of state travel; (2) immunization supplies; or (3) purchase of equipment.
- d. **ALL COSTS INCURRED BY SUBCONTRACTOR MUST BE BILLED NOT LATER THAN FORTY-FIVE (45) DAYS AFTER TERMINATION OF THIS SUBCONTRACT. ANY COST NOT BILLED WITHIN FORTY-FIVE (45) DAYS AFTER TERMINATION WILL NOT BE PAYABLE UNDER THIS SUBCONTRACT.**
- e. **ALL PAYMENTS TO SUBCONTRACTOR ARE CONTINGENT UPON THE SATISFACTORY PERFORMANCE OF THE WORK HEREUNDER AND THE APPROVAL OF SUCH BY THE UNT PROJECT DIRECTOR OR COORDINATOR, WHO SHALL BE THE SOLE JUDGES OF THE ADEQUACY AND APPROPRIATENESS OF THE WORK PERFORMED BY SUBCONTRACTOR HEREUNDER.**

Article 8. Billing Instructions

- a. During the term of this Subcontract, Subcontractor shall submit an itemized monthly invoice to UNT for payment of reimbursable services performed and expenses incurred within the preceding month. These invoices must be sufficient in detail and must be accompanied by all supporting documents as may be required for payment by UNT. UNT shall review invoices and make reasonable determination of allowable costs.
- b. Following execution of this Agreement, UNT Purchasing and Payment Services will send Subcontractor the UNT Purchase Order. In addition, billings must reference the subcontract number, UNT Purchase Order number, and Federal Entity Identification Number (FEIN) in order to be paid by UNT.

Invoices are to be submitted as follows: **Submission by email is preferred and shall be the method of invoice submission whenever possible.**

Business Service Center
Attn: Payment Services
University of North Texas
1112 Dallas Drive, Suite 400
Denton, Texas 76205
Email: invoices@untsystem.edu

With Copy to:

Kathy Dreyer
Project Coordinator
Center for Public Service
1155 Union Circle #310919
Denton, Texas 76203-5017
Email: Katherine.Dreyer@unt.edu
Telephone: 940.565.3450

- c. UNT shall only be obligated to pay those funds as specified and expended in accordance with this Subcontract and the approved budget. Further, payment by UNT under this Subcontract is explicitly contingent on UNT's receipt of funds to cover same from the Sponsor pursuant to the underlying agreement with Sponsor.
- d. UNT agrees to reimburse Subcontractor for the costs billed within thirty (30) days of receipt of invoice. All payments shall be made payable to **Travis County** and shall be sent to:

Coming of Age-Austin Metro
P.O. Box 1748
Austin, Texas 78767
Attn: Fred Lugo

Article 9. Audit and Reimbursement

- a. The books of account, files, and other records of Subcontractor which are applicable to this Subcontract shall be available at all reasonable times for inspection, review and audit by representatives of UNT, Sponsor and/or another authorized agency to determine the proper application and use of all funds paid to or for the account or benefit of Subcontractor. Subcontractor agrees to maintain these records and make them available as required for a minimum of three (3) years following completion or termination of this Subcontract.
- b. The allowability of costs under this Subcontract shall be determined in accordance with OMB Circular A-21 and appropriate Sponsor regulations. Subcontractor assumes sole responsibility for reimbursement to UNT and/or Sponsor of a sum of money equivalent to the amount of any expenditures disallowed should Sponsor or another authorized agency rule through audit

exception or some other appropriate means that expenditures from funds allocated to Subcontractor were not made in compliance with the terms of this Subcontract.

Article 10. Legal Compliance

Subcontractor agrees to exercise its best efforts to comply with the following:

- a. Subcontractor agrees to comply with all Federal and State statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. "1681-1683, and 1985-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. '794) which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. "6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) "523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. &3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statutes(s) which may apply to the application.
- b. Subcontractor agrees to comply with P.L. 93-348 regarding the protection of human subjects, if any, involved in research, development and/or related activities under this Subcontract. Subcontractor agrees to bear full responsibility for the performance of all work and services involving the use of human subjects under this Subcontract in a proper manner and as safely as is feasible.
- c. Subcontractor agrees to comply with all applicable requirements of Federal and state law, executive orders, regulations and policies governing any activities undertaken during the performance of this Subcontract.
- d. Subcontractor agrees to comply with the requirements and obligations imposed on the PERFORMING AGENCY in the General Provisions for Texas Department of State Health Services Contracts (attached hereto as Attachment C and incorporated herein for all purposes.) Subcontractor further agrees and understands that in the performance of this Subcontract, UNT shall have all of the rights of the RECEIVING AGENCY as set forth in Attachment C.

Article 11. Independent Contractor

The parties hereto agree that Subcontractor retains the right to control and direct the performance of all work under this Subcontract. No provision of this Subcontract shall be construed as making Subcontractor the employee, agent, joint venturer or partner of UNT or of the Federal Government. Subcontractor agrees that it has entered into this Subcontract and will discharge its obligations, duties and undertakings and the work pursuant thereto, whether requiring professional judgment or otherwise, as an independent subcontract without imputing liability on the part of UNT or the Federal Government for the acts of the Subcontractor or its employees. Subcontractor shall not have the power to contract for or otherwise bind UNT, nor shall Subcontractor represent to any third party that it has such power.

Article 12. Indemnification

Neither party shall by reason of this Subcontract be obligated to defend, assume the cost of defense, hold harmless, or indemnify the other from any liability to third parties for loss or damage to property, death, or bodily injury arising out of or connected with the work under this Subcontract.

Article 13. Subcontractor Responsibility and Liability

Approval of UNT shall not constitute nor be deemed a release of the responsibility and liability of Subcontractor, its employees, agents or associates for the accuracy and competency of their reports, information, documents or services nor shall approval be deemed to be the assumption of such responsibility by UNT for any defect, error, omission, act or negligence or bad faith by Subcontractor, its employees, agents or associates.

Article 14. Notices

All notices under this Subcontract given by either party to the other shall be in writing and shall be sent by the U.S. Postal Service, Certified Mail, Return Receipt requested, postage prepaid and addressed to the following individuals:

For UNT:

Barbara Lindley
Sr. Contracts Manager
Office of Research Services
University of North Texas
1155 Union Circle #305250
Denton, Texas 76203-5017
Telephone: 940.565.3939
Fax: 940.565.4277
Email: Barbara.Lindley@unt.edu

For Subcontractor: Fred Lugo, Director
Coming of Age-Austin Metro
P.O. Box 1748
Austin, Texas 78767
Telephone: 512.854.7787
Fax: 512.854.4131
Email: Fred.Lugo@co.travis.tx.us
Email: Dawn.Sparks@co.travis.tx.us

Article 15. Governing Law

This Subcontract shall be governed by and construed in accordance with the laws of the State of Texas.

Article 16. Assignment and Subcontracting

This Subcontract may not be assigned in whole or in part without the prior written permission of UNT. No portion of the work hereunder may be subcontracted to a third party without the prior written consent of UNT.

Article 17. Amendments

This Subcontract may be extended, renewed, or otherwise amended at any time by the mutual written consent of the parties. No modification of this Subcontract or waiver of the terms or conditions hereof shall be binding upon either party hereto unless approved in writing by an authorized representative, or shall be effected by the acknowledgement or acceptance of purchase order forms containing other or different terms and conditions whether or not assigned by an authorized representative of the party.

Article 18. Health Insurance Portability and Accountability Act of 1996

All parties certify that they are familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with the applicable HIPAA requirements in the course of this agreement.

Article 19. Enforceability

The failure of either party to enforce any provision of this Subcontract or to exercise any remedy available under this Subcontract or in accordance with law upon the other party's breach of the terms, covenants and conditions of this Subcontract or the failure to demand the prompt performance of any obligation under this Subcontract shall not be construed as a waiver or limitation of such right or remedy, or the party's right to subsequently enforce and compel strict compliance with every provision of this Subcontract.

Article 20. Dispute Resolution

Chapter 2260 of the Texas Government Code establishes a dispute resolution process for contracts involving goods, services and certain types of projects. If Chapter 2260 applies to this Agreement, then the statutory dispute resolution process must be used to resolve disputes arising hereunder.

Article 21. Captions

The captions to the various clauses of this Subcontract are for informational purposes only and shall not alter the substance of the terms and conditions of this Subcontract.

Article 22. Entire Agreement

This Subcontract, together with the Attachments hereto, constitutes the entire agreement between the parties and supersedes all previous agreements and understandings relating to the matter described herein.

Article 23. Immunity

It is expressly understood and agreed by all Parties that neither the execution of this agreement, nor any conduct of any representative of either Party relating to this agreement shall be considered to waive, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to that Party against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit.

Article 24. Acceptance of Facsimile and Scanned Signatures

The parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission or delivered by scanned image (e.g. .pdf or .tiff file extension name) as an attachment to electronic mail (email). Such facsimile or scanned signature must be treated in all respects as having the same effect as an original signature.

IN WITNESS WHEREOF, the parties have executed this Subcontract as of the date of the last signature following.

UNIVERSITY OF NORTH TEXAS

TRAVIS COUNTY THROUGH
COMING OF AGE-AUSTIN METRO

By _____
Dr. Geoff Gamble
Vice President for Research and
Economic Development

By _____
Hon. Samuel T. Biscoe
Travis County Judge

Date _____

Date _____

UNT SUBCONTRACT NO. GF 4154-02

ATTACHMENT A

DESCRIPTION OF SVCI TO BE OPERATED BY SUBCONTRACTOR

Subcontractor will develop and deliver immunization activities organized and operated in accordance with the model known as "Seniors and Volunteers for Childhood Immunizations" and designed to:

1. expand the base of immunization education/outreach activities being conducted on the local level
2. address needs that are not being met by other sources of funding
3. prevent unnecessary duplication of services within a community

Subcontractor agrees that all activities will be performed in accordance with UNT's guidelines and Sponsor's guidelines and request for application (RFA), and Subcontractor's application as approved by the UNT and Sponsor. All of the above-named documents are adopted by reference as part of this Attachment. Any revisions to said document will be approved by UNT and Sponsor and transmitted in writing to Subcontractor.

Subcontractor will provide an estimated 80 clients/mo. With services in or benefiting the area defined as: Travis County, Texas.

Programmatic Report

UNT must submit a quarterly programmatic report to the Sponsor. Subcontractor will submit progress reports quarterly (not later than: January 15; May 15; September 15; following the end of each quarter) to Kathy Dreyer, SVCI Project Coordinator, Texas Institute for Research and Education on Aging (TIREA), University of North Texas, P.O. Box 310919, Denton, TX 76203-0919. Subcontractor will include the following information in each quarterly programmatic report: 1) hospital volunteer coverage (number of SVCI and alternates) for each day of the week at each hospital as well as volunteers assigned to reminder and follow-up duties; 2) volunteer recruitment, retention and roles; 3) volunteer coordinator and paid staff hours; 4) follow up data; 5) list of any new or continuing sources of funding SVCI (other DSHS/UNT); 6) list any collaborated events or other activities, such as participation/staffing at health fairs and immunization clinics, to promote childhood immunization planned for the next reporting period; 7) report public promotion of SVCI program during the current reporting period (i.e. articles in newspapers or newsletters; radio; or television advertisements or segments, etc.), including any attempts to solicit publicity for your SVCI program via submission of press releases, articles, or other efforts; 8) report any problems/challenges related to SVCI program that occurred during the current reporting period or have continued from a previous reporting period; 9) report SVCI-related plans (training, recruiting, planning, etc.) for the next reporting period; 10) report any anecdotal information or testimonials your agency has received (from volunteer, family, or other sources).

This, and any other requirement for time-based performance, will apply to performance only as of the date that this Subcontract is signed by both parties. Subcontractor will not be penalized in any way for failure to make timely reports, etc., relative to activities prior to the date of full execution of this contract.

UNT SUBCONTRACT NO. GF 4154-02

ATTACHMENT B

Personnel/Fringe Benefits	\$ 8,845.20
Salaries	
FICA-OASDI	
Hospitalization	
Life Insurance	
Retirement Contribution	
Workers Comp	
FICA-Medicare	
Total	\$ 8,845.20

Total reimbursement will not exceed \$ 8,845.20

UNT SUBCONTRACT NO. GF 4154-02

ATTACHMENT C

FISCAL YEAR 2013
DEPARTMENT OF STATE HEALTH SERVICES CONTRACT
GENERAL PROVISIONS
CORE/SUB RECIPIENT

**Fiscal Year 2013 Department of State Health Services Contract
General Provisions
(Core/Subrecipient)**

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**Fiscal Year 2013 Department of State Health Services Contract
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(Core/Subrecipient)**

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**Fiscal Year 2013 Department of State Health Services Contract
General Provisions
(Core/Subrecipient)**

ARTICLE I COMPLIANCE AND REPORTING

Section 1.01 Compliance with Statutes and Rules. Contractor shall comply, and shall require its subcontractor(s) to comply, with the requirements of the Department's rules of general applicability and other applicable state and federal statutes, regulations, rules, and executive orders, as such statutes, regulations, rules, and executive orders currently exist and as they may be lawfully amended. The Department rules are located in the Texas Administrative Code, Title 25 (Rules). To the extent this Contract imposes a higher standard, or additional requirements beyond those required by applicable statutes, regulations, rules or executive orders, the terms of this Contract will control. Contractor further agrees that, upon notification from DSHS, Contractor shall comply with the terms of any contract provisions DSHS is required to include in its contracts under legislation effective at the time of the effective date of this Contract or during the term of this Contract.

Section 1.02 Compliance with Requirements of Solicitation Document. Except as specified in these General Provisions or the Program Attachment(s), Contractor shall comply with the requirements, eligibility conditions, assurances, certifications and program requirements of the Solicitation Document, if any, (including any revised or additional terms agreed to in writing by Contractor and DSHS prior to execution of this Contract) for the duration of this Contract or any subsequent renewals. The Parties agree that the Department has relied upon Contractor's response to the Solicitation Document. The Parties agree that any misrepresentation contained in Contractor's response to the Solicitation Document constitutes a breach of this Contract.

Section 1.03 Reporting. Contractor shall submit reports in accordance with the reporting requirements established by the Department and shall provide any other information requested by the Department in the format required by DSHS. Failure to submit any required report or additional requested information by the due date specified in the Program Attachment(s) or upon request constitutes a breach of contract, may result in delayed payment and/or the imposition of sanctions and remedies, and, if appropriate, emergency action; and may adversely affect evaluation of Contractor's future contracting opportunities with the Department.

Section 1.04 Client Financial Eligibility. Where applicable, Contractor shall use financial eligibility criteria, financial assessment procedures and standards developed by the Department to determine client eligibility.

Section 1.05 Applicable Contracts Law and Venue for Disputes. Regarding all issues related to contract formation, performance, interpretation, and any issues that may arise in any dispute between the Parties, this Contract will be governed by, and construed in accordance with, the laws of the State of Texas. In the event of a dispute between the Parties, venue for any suit will be Travis County, Texas.

Section 1.06 Applicable Laws and Regulations Regarding Funding Sources. Where applicable, federal statutes and regulations, including federal grant requirements applicable to funding sources, will apply to this Contract. Contractor agrees to comply with applicable laws, executive orders, regulations and policies, as well as Office of Management and Budget (OMB) Circulars (as codified in Title 2 of the Code of Federal Regulations), the Uniform Grant and Contract Management Act of 1981 (UGMA), Tex. Gov. Code Chapter 783, and Uniform Grant Management Standards (UGMS), as revised by federal circulars and incorporated in UGMS by the Comptroller of Public Accounts, Texas Procurement and Support Services Division. UGMA and UGMS can be located through web links on the DSHS website at <http://www.dshs.state.tx.us/contracts/links.shtm>. Contractor also shall comply with all applicable federal and state assurances contained in UGMS, Part III, State Uniform Administrative Requirements for Grants and

Cooperative Agreements §____.14. If applicable, Contractor shall comply with the Federal awarding agency's Common Rule, and the U.S. Health and Human Services Grants Policy Statement, both of which may be located through web links on the DSHS website at <http://www.dshs.state.tx.us/contracts/links.shm>. For contracts funded by block grants, Contractor shall comply with Tex. Gov. Code Chapter 2105.

Section 1.07 Statutes and Standards of General Applicability. Contractor is responsible for reviewing and complying with all applicable statutes, rules, regulations, executive orders and policies. To the extent applicable to Contractor, Contractor shall comply with the following:

- a) the following statutes, rules, regulations, and DSHS policy (and any of their subsequent amendments) that collectively prohibit discrimination, exclusion from or limitation of participation in programs, benefits or activities or denial of any aid, care, service or other benefit on the basis of race, color, national origin, limited English proficiency, sex, sexual orientation (where applicable), disabilities, age, substance abuse, political belief or religion: 1) Title VI of the Civil Rights Act of 1964, 42 USC §§ 2000d et seq.; 2) Title IX of the Education Amendments of 1972, 20 USC §§ 1681-1683, and 1685-1686; 3) Section 504 of the Rehabilitation Act of 1973, 29 USC § 794(a); 4) the Americans with Disabilities Act of 1990, 42 USC §§ 12101 et seq.; 5) Age Discrimination Act of 1975, 42 USC §§ 6101-6107; 6) Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, 42 USC § 290dd (b)(1); 7) 45 CFR Parts 80, 84, 86 and 91; 8) U.S. Department of Labor, Equal Employment Opportunity E.O. 11246; 9) Tex. Lab. Code Chapter 21; 10) Food Stamp Act of 1977 (7 USC § 200 et seq.); 11) Executive Order 13279, 45 CFR Part 87 or 7 CFR Part 16 regarding equal treatment and opportunity for religious organizations; 12) Drug Abuse Office and Treatment Act of 1972, 21 USC §§ 1101 et seq., relating to drug abuse; 13) Public Health Service Act of 1912, §§ 523 and 527, 42 USC § 290dd-2, and 42 CFR Part 2, relating to confidentiality of alcohol and drug abuse patient records; 14) Title VIII of the Civil Rights Act of 1968, 42 USC §§ 3601 et seq., relating to nondiscrimination in housing; and 15) DSHS Policy AA-5018, Non-discrimination Policy for DSHS Programs;
- b) Immigration Reform and Control Act of 1986, 8 USC § 1324a, and Immigration Act of 1990, 8 USC 1101 et seq., regarding employment verification; and Illegal Immigration Reform and Immigrant Responsibility Act of 1996;
- c) Pro-Children Act of 1994, 20 USC §§ 6081-6084, and the Pro-Children Act of 2001, 20 USC § 7183, regarding the non-use of all tobacco products;
- d) National Research Service Award Act of 1971, 42 USC §§ 289a-1 et seq., and 6601 (PL 93-348 and PL 103-43), regarding human subjects involved in research;
- e) Hatch Political Activity Act, 5 USC §§ 1501-1508 and 7324-28, which limits the political activity of employees whose employment is funded with federal funds;
- f) Fair Labor Standards Act, 29 USC §§ 201 et seq., and the Intergovernmental Personnel Act of 1970, 42 USC §§ 4701 et seq., as applicable, concerning minimum wage and maximum hours;
- g) Tex. Gov. Code Chapter 469, pertaining to eliminating architectural barriers for persons with disabilities;
- h) Texas Workers' Compensation Act, Tex. Lab. Code Chapters 401-406 and 28 Tex. Admin. Code Part 2, regarding compensation for employees' injuries;
- i) The Clinical Laboratory Improvement Amendments of 1988, 42 USC § 263a, regarding the regulation and certification of clinical laboratories;
- j) The Occupational Safety and Health Administration Regulations on Blood Borne Pathogens, 29 CFR § 1910.1030, or Title 25 Tex. Admin. Code Chapter 96 regarding safety standards for handling blood borne pathogens;
- k) Laboratory Animal Welfare Act of 1966, 7 USC §§ 2131 et seq., pertaining to the treatment of laboratory animals;

- l) environmental standards pursuant to the following: 1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, 42 USC §§ 4321-4347 and Executive Order 11514 (35 Fed. Reg. 4247), "Protection and Enhancement of Environmental Quality;" 2) Notification of violating facilities pursuant to Executive Order 11738 (40 CFR Part 32), "Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans;" 3) Protection of wetlands pursuant to Executive Order 11990, 42 Fed. Reg. 26961; 4) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 Fed. Reg. 26951 and, if applicable, flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234); 5) Assurance of project consistency with the approved State Management program developed under the Coastal Zone Management Act of 1972, 16 USC §§ 1451 et seq.; 6) Federal Water Pollution Control Act, 33 USC §1251 et seq.; 7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, 42 USC §§ 300f-300j; 8) Protection of endangered species under the Endangered Species Act of 1973, 16 USC §§ 1531 et seq.; 9) Conformity of federal actions to state clean air implementation plans under the Clean Air Act of 1955, 42 USC §§7401 et seq.; 10) Wild and Scenic Rivers Act of 1968 (16 USC §§ 1271 et seq.) related to protecting certain rivers system; and 11) Lead-Based Paint Poisoning Prevention Act (42 USC §§ 4801 et seq.) prohibiting the use of lead-based paint in residential construction or rehabilitation;
- m) Intergovernmental Personnel Act of 1970 (42 USC §§4278-4763) regarding personnel merit systems for programs specified in Appendix A of the federal Office of Program Management's Standards for a Merit System of Personnel Administration (5 CFR Part 900, Subpart F);
- n) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646), relating to fair treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs;
- o) Davis-Bacon Act (40 USC §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 USC § 874), and the Contract Work Hours and Safety Standards Act (40 USC §§ 327-333), regarding labor standards for federally-assisted construction subagreements;
- p) National Historic Preservation Act of 1966, §106 (16 USC § 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1974 (16 USC §§ 469a-1 et seq.) regarding historic property to the extent necessary to assist DSHS in complying with the Acts;
- q) financial and compliance audits in accordance with Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations;"
- r) Trafficking Victims Protection Act of 2000, Section 106(g) (22 USC § 7104);
- s) Executive Order, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, if required by a federal funding source of the Contract; and
- t) requirements of any other applicable state and federal statutes, executive orders, regulations, rules and policies.

If this Contract is funded by a federal grant or cooperative agreement, additional state or federal requirements found in the Notice of Grant Award are imposed on Contractor and incorporated herein by reference. Contractor may obtain a copy of any applicable Notice of Grant Award from the contract manager assigned to the Program Attachment.

Section 1.08 Applicability of General Provisions to Interagency and Interlocal Contracts. Certain sections or portions of sections of these General Provisions will not apply to Contractors that are State agencies or units of local government; and certain additional provisions will apply to such Contractors.

- a) The following sections or portions of sections of these General Provisions will not apply to interagency or interlocal contracts:
 - 1) Hold Harmless and Indemnification, Section 13.19;
 - 2) Independent Contractor, Section 12.15 (delete the third sentence in its entirety; delete the word "employees" in the fourth sentence; the remainder of the section applies);

- 3) Insurance, Section 12.03;
 - 4) Liability Coverage, Section 12.05;
 - 5) Fidelity Bond, Section 12.04;
 - 6) Historically Underutilized Businesses, Section 12.10 (Contractor, however, shall comply with HUB requirements of other statutes and rules specifically applicable to that entity);
 - 7) Debt to State and Corporate Status, Section 3.01;
 - 8) Application of Payment Due, Section 3.02; and
 - 9) Article XV Claims against the Department (This Article is inapplicable to interagency contracts only).
- b) The following additional provisions will apply to interagency contracts:
- 1) This Contract is entered into pursuant to the authority granted and in compliance with the provisions of the Interagency Cooperation Act, Tex. Gov. Code Chapter 771;
 - 2) The Parties hereby certify that (1) the services specified are necessary and essential for the activities that are properly within the statutory functions and programs of the affected agencies of State government; (2) the proposed arrangements serve the interest of efficient and economical administration of the State government; and (3) the services, supplies or materials contracted for are not required by Section 21 of Article 16 of the Constitution of the State of Texas to be supplied under contract given to the lowest responsible bidder; and
 - 3) DSHS certifies that it has the authority to enter into this Contract granted in Tex. Health & Safety Code Chapter 1001, and Contractor certifies that it has specific statutory authority to enter into and perform this Contract.
- c) The following additional provisions will apply to interlocal contracts:
- 1) This Contract is entered into pursuant to the authority granted and in compliance with the provisions of the Interlocal Cooperation Act, Tex. Gov. Code Chapter 791;
 - 2) Payments made by DSHS to Contractor will be from current revenues available to DSHS; and
 - 3) Each Party represents that it has been authorized to enter into this Contract.
- d) Contractor agrees that Contract Revision Requests (pursuant to the Contractor's Request for Revision to Certain Contract Provisions section), when signed by a duly authorized representative of Contractor, will be effective as of the effective date specified by the Department, whether that date is prior to or after the date of any ratification by Contractor's governing body.

Section 1.09 Civil Rights Policies and Complaints. Upon request, Contractor shall provide the Health and Human Services Commission (HHSC) Civil Rights Office with copies of all Contractor's civil rights policies and procedures. Contractor shall notify HHSC's Office of Civil Rights of any civil rights complaints received relating to performance under this Contract no more than ten (10) calendar days after Contractor's receipt of the claim. Notice must be directed to –

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

Section 1.10 Licenses, Certifications, Permits, Registrations and Approvals. Contractor shall obtain and maintain all applicable licenses, certifications, permits, registrations and approvals to conduct its business and to perform the services under this Contract. Failure to obtain or any revocation, surrender, expiration, non-renewal, inactivation or suspension of any such license, certification, permit, registration or approval constitutes grounds for termination of this Contract or other remedies the Department deems appropriate.

Contractor shall ensure that all its employees, staff and volunteers obtain and maintain in active status all licenses, certifications, permits, registrations and approvals required to perform their duties under this Contract and shall prohibit any person who does not hold a current, active required license, certification, permit, registration or approval from performing services under this Contract.

Section 1.11 Funding Obligation. This Contract is contingent upon the availability of funding. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or health and human services agencies, amendment of the Appropriations Act, health and human services agency consolidation, or any other disruptions of current appropriated funding for this Contract, DSHS may restrict, reduce or terminate funding under this Contract. Notice of any restriction or reduction will include instructions and detailed information on how DSHS will fund the services and/or goods to be procured with the restricted or reduced funds.

ARTICLE II SERVICES

Section 2.01 Education to Persons in Residential Facilities. If applicable, Contractor shall ensure that all persons, who are housed in Department-licensed and/or -funded residential facilities and who are twenty-two (22) years of age or younger, have access to educational services as required by Tex. Educ. Code § 29.012. Contractor shall notify the local education agency or local early intervention program as prescribed by Tex. Educ. Code § 29.012 not later than the third calendar day after the date a person who is twenty-two (22) years of age or younger is placed in Contractor's residential facility.

Section 2.02 Disaster Services. In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or as a federal disaster by the appropriate federal official, Contractor may be called upon to assist DSHS in providing services, as appropriate, in the following areas: community evacuation; health and medical assistance; assessment of health and medical needs; health surveillance; medical care personnel; health and medical equipment and supplies; patient evacuation; in-hospital care and hospital facility status; food, drug, and medical device safety; worker health and safety; mental health and substance abuse; public health information; vector control and veterinary services; and victim identification and mortuary services. Contractor shall carry out disaster services in the manner most responsive to the needs of the emergency, be cost-effective, and be least intrusive on Contractor's primary services.

Section 2.03 Consent to Medical Care of a Minor. If Contractor provides medical, dental, psychological or surgical treatment to a minor under this Contract, either directly or through contracts with subcontractors, Contractor shall not provide treatment of a minor unless informed consent to treatment is obtained pursuant to Tex. Fam. Code Chapter 32, relating to consent to treatment of a child by a non-parent or child or pursuant to other state law. If requirements of federal law relating to consent directly conflict with Tex. Fam. Code Chapter 32, federal law supersedes state law.

Section 2.04 Telemedicine Medical Services. Contractor shall ensure that if Contractor or its subcontractor uses telemedicine/telepsychiatry that the services are implemented in accordance with written procedures and using a protocol approved by Contractor's medical director and using equipment that complies with the equipment standards as required by the Department. Procedures for providing telemedicine service must include the following requirements:

- a) clinical oversight by Contractor's medical director or designated physician responsible for medical leadership;
- b) contraindication considerations for telemedicine use;
- c) qualified staff members to ensure the safety of the individual being served by telemedicine at the remote site;
- d) safeguards to ensure confidentiality and privacy in accordance with state and federal laws;

- e) use by credentialed licensed providers providing clinical care within the scope of their licenses;
- f) demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- g) priority in scheduling the system for clinical care of individuals;
- h) quality oversight and monitoring of satisfaction of the individuals served; and
- i) management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites.

Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under Rule § 448.911.

Section 2.05 Fees for Personal Health Services. Contractor may develop a system and schedule of fees for personal health services in accordance with the provisions of Tex. Health & Safety Code § 12.032, DSHS Rule §1.91 covering Fees for Personal Health Services, and other applicable laws or grant requirements. The amount of a fee must not exceed the actual cost of providing the services. No client may be denied a service due to inability to pay.

Section 2.06 Cost Effective Purchasing of Medications. If medications are funded under this Contract, Contractor shall make needed medications available to clients at the lowest possible prices and use the most cost effective medications purchasing arrangement possible.

Section 2.07 Services and Information for Persons with Limited English Proficiency. Contractor shall 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. Contractor shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter. Contractor shall make every effort to avoid use of any persons under the age of eighteen (18) or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency, unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

ARTICLE III FUNDING

Section 3.01 Debt to State and Corporate Status. Pursuant to Tex. Gov. Code § 403.055, the Department will not approve and the State Comptroller will not issue payment to Contractor if Contractor is indebted to the State for any reason, including a tax delinquency. Contractor, if a corporation, certifies by execution of this Contract that it is current and will remain current in its payment of franchise taxes to the State of Texas or that it is exempt from payment of franchise taxes under Texas law (Tex. Tax Code §§ 171.001 et seq.). Contractor, if a corporation, further certifies that it is and will remain in good standing with the Secretary of State's office. A false statement regarding franchise tax or corporate status is a material breach of this Contract. If franchise tax payments become delinquent during the Contract term, all or part of the payments under this Contract may be withheld until Contractor's delinquent franchise tax is paid in full.

Section 3.02 Application of Payment Due. Contractor agrees that any payments due under this Contract will be applied towards any debt of Contractor, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Section 3.03 Use of Funds. Contractor shall expend Department funds only for the provision of approved services and for reasonable and allowable expenses directly related to those services.

Section 3.04 **Use for Match Prohibited.** Contractor shall not use funds provided through this Contract for matching purposes in securing other funding unless directed or approved by the Department in writing.

Section 3.05 **Program Income.** Gross income directly generated from Department funds through a project or activity performed under a Program Attachment and/or earned only as a result of a Program Attachment during the term of the Program Attachment are considered program income. Unless otherwise required under the terms of the grant funding this Contract, Contractor shall use the addition alternative, as provided in UGMS § __.25(g)(2), for the use of program income to further the program objectives of the state or federal statute under which the Program Attachment was made, and Contractor shall spend the program income on the same Program Attachment project in which it was generated. Contractor shall identify and report this income in accordance with the Compliance and Reporting Article of these General Provisions, the Contractor's Financial Procedures Manual located at <http://www.dshs.state.tx.us/contracts/cfpm.htm> and the provisions of the Program Attachment(s). Contractor shall expend program income during the Program Attachment term and may not carry forward to any succeeding term. Contractor shall refund program income not expended in the term in which it is earned to DSHS. DSHS may base future funding levels, in part, upon Contractor's proficiency in identifying, billing, collecting, and reporting program income, and in using it for the purposes and under the conditions specified in this Contract.

Section 3.06 **Nonsupplanting.** Contractor shall not supplant (i.e., use funds from this Contract to replace or substitute existing funding from other sources that also supports the activities that are the subject of this Contract) but rather shall use funds from this Contract to supplement existing state or local funds currently available for a particular activity. Contractor shall make a good faith effort to maintain its current level of support. Contractor may be required to submit documentation substantiating that a reduction in state or local funding, if any, resulted for reasons other than receipt or expected receipt of funding under this Contract.

ARTICLE IV PAYMENT METHODS AND RESTRICTIONS

Section 4.01 **Payment Methods.** Except as otherwise provided by the provisions of the Program Attachment(s), the payment method for each Program Attachment will be one of the following methods:

- a) cost reimbursement. This payment method is based on an approved budget in the Program Attachment(s) and acceptable submission of a request for reimbursement; or
- b) unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service, as stated in the Program Attachment(s) and acceptable submission of all required documentation, forms and/or reports.

Section 4.02 **Billing Submission.** Contractors shall bill the Department in accordance with the Program Attachment(s) in the form and format prescribed by DSHS. Unless otherwise specified in the Program Attachment(s) or permitted under the Third Party Payors section of this Article, Contractor shall submit requests for reimbursement or payment monthly by the last business day of the month following the end of the month covered by the bill. Contractor shall maintain all documentation that substantiates billing submissions and make the documentation available to DSHS upon request.

Section 4.03 **Final Billing Submission.** Unless otherwise provided by the Department, Contractor shall submit a reimbursement or payment request as a final close-out bill not later than sixty (60) calendar days following the end of the term of the Program Attachment for goods received and services rendered during the term. If necessary to meet this deadline, Contractor may submit reimbursement or payment requests by facsimile transmission. Reimbursement or payment requests received in DSHS's offices more than sixty (60) calendar days following the end of the applicable term will not be paid. Consideration of requests for an exception will be made on a case-by-case basis, subject to the availability of funding, and only for an extenuating circumstance, such as a catastrophic event, natural disaster, or criminal activity that substantially

interferes with normal business operations or causes damage or destruction of a place of business and/or records. A written statement describing the extenuating circumstance and the last request for reimbursement must be submitted for review and approval to the DSHS Accounting Section.

Section 4.04 Working Capital Advance. If allowed under this Contract, a single one-time working capital advance per term of the Program Attachment may be granted at the Department's discretion. Contractor must submit documentation to the contract manager assigned to the Program Attachment to justify the need for a working capital advance. Contractor shall liquidate the working capital advance as directed by the Department. The requirements for the documentation justifying the need for an advance and the directions for liquidating the advance are found in the Contractor's Financial Procedures Manual located at <http://www.dshs.state.tx.us/contracts/cfpm.shtm>.

Section 4.05 Financial Status Reports (FSRs). Except as otherwise provided in these General Provisions or in the terms of the Program Attachment(s), for contracts with categorical budgets, Contractor shall submit quarterly FSRs to Accounts Payable by the last business day of the month following the end of each quarter of the Program Attachment term for Department review and financial assessment. Contractor shall submit the final FSR no later than sixty (60) calendar days following the end of the applicable term.

Section 4.06 Third Party Payors. A third party payor is any person or entity who has the legal responsibility for paying for all or part of the services provided. Third party payors include, but are not limited to, commercial health or liability insurance carriers, Medicaid, or other federal, state, local, and private funding sources. Except as provided in this Contract, Contractor shall screen all clients and shall not bill the Department for services eligible for reimbursement from third party payors. Contractor shall (a) enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Contract that may be covered by those programs, and bill those programs for the covered services; (b) provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs; (c) allow clients who are otherwise eligible for Department services, but cannot pay a deductible required by a third party payor, to receive services up to the amount of the deductible and to bill the Department for the deductible; (d) not bill the Department for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted, in which case the thirty (30)-day requirement in the Billing Submission section will be extended until all such appeals have been exhausted; (e) maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement; (f) bill all third party payors for services provided under this Contract before submitting any request for reimbursement to Department; and (g) provide third party billing functions at no cost to the client.

ARTICLE V TERMS AND CONDITIONS OF PAYMENT

Section 5.01 Prompt Payment. Upon receipt of a timely, undisputed invoice pursuant to this Contract, Department will pay Contractor. Payments and reimbursements are contingent upon a signed Contract and will not exceed the total amount of authorized funds under this Contract. Contractor is entitled to payment or reimbursement only if the service, work, and/or product has been authorized by the Department and performed or provided pursuant to this Contract. If those conditions are met, Department will make payment in accordance with the Texas prompt payment law (Tex. Gov. Code Chapter 2251). Contractor shall comply with Tex. Gov. Code Chapter 2251 regarding its prompt payment obligations to subcontractors. Payment of invoices by the Department will not constitute acceptance or approval of Contractor's performance, and all invoices and Contractor's performance are subject to audit or review by the Department.

Section 5.02 Withholding Payments. Department may withhold all or part of any payments to Contractor to offset reimbursement for any ineligible expenditures, disallowed costs, or overpayments that Contractor has not refunded to Department, or if financial status report(s) required by the Department are not submitted by the

date(s) due. Department may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Contractor's repayment obligations.

Section 5.03 Condition Precedent to Requesting Payment. Contractor shall disburse program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting cash payments including any advance payments from Department.

Section 5.04 Acceptance as Payment in Full. Except as permitted in the Fees for Personal Health Services section of the Services Article of these General Provisions or under 25 Tex. Admin. Code § 444.413, Contractor shall accept reimbursement or payment from DSHS as payment in full for services or goods provided to clients or participants, and Contractor shall not seek additional reimbursement or payment for services or goods from clients or participants or charge a fee or make a profit with respect to the Contract. A fee or profit is considered to be an amount in excess of actual allowable costs that are incurred in conducting an assistance program.

ARTICLE VI ALLOWABLE COSTS AND AUDIT REQUIREMENTS

Section 6.01 Allowable Costs. For services satisfactorily performed, and sufficiently documented, pursuant to this Contract, DSHS will reimburse Contractor for allowable costs. Contractor must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. DSHS will determine whether costs submitted by Contractor are allowable and eligible for reimbursement. If DSHS has paid funds to Contractor for unallowable or ineligible costs, DSHS will notify Contractor in writing, and Contractor shall return the funds to DSHS within thirty (30) calendar days of the date of this written notice. DSHS may withhold all or part of any payments to Contractor to offset reimbursement for any unallowable or ineligible expenditures that Contractor has not refunded to DSHS, or if financial status report(s) required under the Financial Status Reports section are not submitted by the due date(s). DSHS may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Contractor's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include-

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local and Tribal Governments	OMB Circular A-87 (2 CFR, Part 225)	OMB Circular A-133 and UGMS	UGMS, OMB Circular A-102, and applicable Federal awarding agency common rule
Educational Institutions	OMB Circular A-21 (2 CFR, Part 220)	OMB Circular A-133	OMB Circular A-110 (2 CFR, Part 215) and applicable Federal awarding agency common rule; and UGMS, as applicable
Non-Profit Organizations	OMB Circular A-122 (2 CFR, Part 230)	OMB Circular A-133 and UGMS	UGMS; OMB Circular A-110 (2 CFR, Part 215) and applicable Federal awarding agency common rule
For-profit Organization other than a hospital and an organization named	48 CFR Part 31, Contract Cost Principles	OMB Circular A-133 and UGMS	UGMS and applicable Federal awarding agency common rule

in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency		
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A chart of applicable Federal awarding agency common rules is located through a weblink on the DSHS website at <http://www.dshs.state.tx.us/contracts/links.shtm>. OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

Section 6.02 Independent Single or Program-Specific Audit. If Contractor within Contractor’s fiscal year expends a total amount of at least \$500,000 in federal funds awarded, Contractor shall have a single audit or program-specific audit in accordance with the Office of Management and Budget (OMB) Circ. No. A-133, the Single Audit Act of 1984, P L 98-502, 98 Stat. 2327, and the Single Audit Act Amendments of 1996, P L 104-156, 110 Stat. 1396. The \$500,000 federal threshold amount includes federal funds passed through by way of state agency awards. If Contractor within Contractor’s fiscal year expends a total amount of at least \$500,000 in state funds awarded, Contractor must have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. For-profit Contractors whose expenditures meet or exceed the federal and/or state expenditure thresholds stated above shall follow the guidelines in OMB Circular A-133 or UGMS, as applicable, for their program-specific audits. The HHSC Office of Inspector General (OIG) will notify Contractor to complete the Single Audit Status Registration Form. If Contractor fails to complete the Single Audit Status Form within thirty (30) calendar days after notification by OIG to do so, Contractor shall be subject to DSHS sanctions and remedies for non-compliance with this Contract. The audit must be conducted by an independent certified public accountant and in accordance with applicable OMB Circulars, Government Auditing Standards, and UGMS, which is accessible through a web link on the DSHS website at <http://www.dshs.state.tx.us/contracts/links.shtm>. Contractor shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS. Contractor, unless Contractor is a state governmental entity, shall competitively re-procure independent single audit services at least every five (5) years.

Section 6.03 Submission of Audit. Within thirty (30) calendar days of receipt of the audit reports required by the Independent Single or Program-Specific Audit section, Contractor shall submit one copy to the Department’s Contract Oversight and Support Section, and one copy to the OIG, at the following addresses:

Department of State Health Services
Contract Oversight and Support, Mail Code 1326
P.O. Box 149347
Austin, Texas 78714-9347

Health and Human Services Commission
Office of Inspector General
Compliance/Audit, Mail Code 1326
P.O. Box 85200
Austin, Texas 78708-5200

If Contractor fails to submit the audit report as required by the Independent Single or Program-Specific Audit section within thirty (30) calendar days of receipt by Contractor of an audit report, Contractor shall be subject to DSHS sanctions and remedies for non-compliance with this Contract.

ARTICLE VII CONFIDENTIALITY

Section 7.01 Maintenance of Confidentiality. Contractor must maintain the privacy and confidentiality of information and records received during or related to the performance of this Contract, including patient and client records that contain protected health information (PHI), and any other information that discloses confidential personal information or identifies any client served by DSHS, in accordance with applicable federal and state laws, rules and regulations, including but not limited to 7 CFR Part 246; 42 CFR Part 2; 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act [HIPAA]); Tex. Health & Safety Code Chapters 12, 47, 81, 82, 85, 88, 92, 161, 181, 241, 245, 251, 534, 576, 577, 596, 611, and 773; and Tex. Occ. Code Chapters 56 and 159 and all applicable rules and regulations.

Section 7.02 Department Access to PHI and Other Confidential Information. Contractor shall cooperate with Department to allow Department to request, collect and receive PHI and other confidential information under this Contract, without the consent of the individual to whom the PHI relates, for funding, payment and administration of the grant program, and for purposes permitted under applicable state and federal confidentiality and privacy laws.

Section 7.03 Exchange of Client-Identifying Information. Except as prohibited by other law, Contractor and DSHS shall exchange PHI without the consent of clients in accordance with 45 CFR § 164.504(e)(3)(i)(B), Tex. Health & Safety Code § 533.009 and Rule Chapter 414, Subchapter A or other applicable laws or rules. Contractor shall disclose information described in Tex. Health & Safety Code § 614.017(a)(2) relating to special needs offenders, to an agency described in Tex. Health & Safety Code § 614.017(c) upon request of that agency, unless Contractor documents that the information is not allowed to be disclosed under 45 CFR Part 164 or other applicable law.

Section 7.04 Security of Patient or Client Records. Contractor shall maintain patient and client records in compliance with state and federal law relating to security and retention of medical or mental health and substance abuse patient and client records. Department may require Contractor to transfer original or copies of patient and client records to Department, without the consent or authorization of the patient or client, upon termination of this Contract or a Program Attachment to this Contract, as applicable, or if the care and treatment of the individual patient or client is transferred to another entity. Prior to providing services funded under this Contract to a patient or client, Contractor shall attempt to obtain consent from the patient or client to transfer copies of patient or client records to another entity funded by DSHS upon termination of this Contract or a Program Attachment to this Contract, as applicable, or if care or treatment is transferred to another DSHS-funded contractor.

Section 7.05 HIV/AIDS Model Workplace Guidelines. If providing direct client care, services, or programs, Contractor shall implement Department's policies based on the HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome) Model Workplace Guidelines for Businesses, State Agencies, and State Contractors, Policy No. 090.021, and Contractor shall educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Tex. Health & Safety Code § 85.112-114. A link to the Model Workplace Guidelines can be found at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>.

ARTICLE VIII RECORDS RETENTION

Section 8.01 Retention. Contractor shall retain records in accordance with applicable state and federal statutes, rules and regulations. At a minimum, Contractor shall retain and preserve all other records, including financial records that are generated or collected by Contractor under the provisions of this Contract, for a period of four (4) years after the termination of this Contract. If services are funded through Medicaid, the

federal retention period, if more than four (4) years, will apply. Contractor shall retain all records pertaining to this Contract that are the subject of litigation or an audit until the litigation has ended or all questions pertaining to the audit are resolved. Legal requirements for Contractor may extend beyond the retention schedules established in this section. Contractor shall retain medical records in accordance with Tex. Admin. Code Title 22, Part 9, § 165.1(b) and (c) or other applicable statutes, rules and regulations governing medical information. Contractor shall include this provision concerning records retention in any subcontract it awards. If Contractor ceases business operations, it shall ensure that records relating to this Contract are securely stored and are accessible by the Department upon Department's request for at least four (4) years from the date Contractor ceases business or from the date this Contract terminates, whichever is sooner. Contractor shall provide, and update as necessary, the name and address of the party responsible for storage of records to the contract manager assigned to the Program Attachment.

ARTICLE IX ACCESS AND INSPECTION

Section 9.01 Access. In addition to any right of access arising by operation of law, Contractor, and any of Contractor's affiliate or subsidiary organizations or subcontractors shall permit the Department or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, including the Comptroller General of the United States, OIG, and the State Auditor's Office (SAO), unrestricted access to and the right to examine any site where business is conducted or client services are performed, and all records (including financial records, client and patient records, if any, and Contractor's personnel records and governing body personnel records), books, papers or documents related to this Contract; and the right to interview members of Contractor's governing body, staff, volunteers, participants and clients concerning the Contract, Contractor's business and client services. If deemed necessary by the Department or the OIG, for the purpose of investigation or hearing, Contractor shall produce original documents related to this Contract. The Department and HHSC will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Payments will not foreclose the right of Department and HHSC to recover excessive or illegal payments. Contractor shall make available to the Department information collected, assembled or maintained by Contractor relative to this Contract for the Department to respond to requests that it receives under the Public Information Act. Contractor shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any subcontract it awards.

Section 9.02 State Auditor's Office. Contractor shall, upon request, make all records, books, papers, documents, or recordings related to this Contract available for inspection, audit, or reproduction during normal business hours to any authorized representative of the SAO. Contractor understands that the acceptance of funds under this Contract acts as acceptance of the authority of the SAO, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor shall cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested, and providing access to any information the SAO considers relevant to the investigation or audit. The SAO's authority to audit funds will apply to Contract funds disbursed by Contractor to its subcontractors, and Contractor shall include this provision concerning the SAO's authority to audit and the requirement to cooperate, in any subcontract Contractor awards.

Section 9.03 Responding to Deficiencies. Any deficiencies identified by DSHS or HHSC upon examination of Contractor's records or during an inspection of Contractor's site(s) will be conveyed in writing to Contractor. Contractor shall submit, by the date prescribed by DSHS, a resolution to the deficiency identified in a site inspection, program review or management or financial audit to the satisfaction of DSHS or, if directed by DSHS, a corrective action plan to resolve the deficiency. A DSHS or HHSC determination of either an inadequate or inappropriate resolution of the findings may result in contract remedies or sanctions under the Breach of Contract and Remedies for Non-Compliance Article of these General Provisions.

ARTICLE X NOTICE REQUIREMENTS

Section 10.01 Child Abuse Reporting Requirement. This section applies to mental health and substance abuse contractors and contractors for the following public health programs: Human Immunodeficiency Virus/Sexually Transmitted Diseases (HIV/STD); Family Planning (Titles V, X and XX); Primary Health Care; Maternal and Child Health; and Women, Infants and Children (WIC) Nutrition Services. Contractor shall make a good faith effort to comply with child abuse reporting guidelines and requirements in Tex. Fam. Code Chapter 261 relating to investigations of reports of child abuse and neglect. Contractor shall develop, implement and enforce a written policy that includes at a minimum the Department's Child Abuse Screening, Documenting, and Reporting Policy for Contractors/Providers and train all staff on reporting requirements. Contractor shall use the DSHS Child Abuse Reporting Form as required by the Department located at www.dshs.state.tx.us/childabuserreporting. Contractor shall retain reporting documentation on site and make it available for inspection by DSHS.

Section 10.02 Significant Incidents. In addition to notifying the appropriate authorities, Contractor shall report to the contract manager assigned to the Program Attachment significant incidents involving substantial disruption of Contractor's program operation, or affecting or potentially affecting the health, safety or welfare of Department-funded clients or participants within seventy-two (72) hours of discovery.

Section 10.03 Litigation. Contractor shall notify the contract manager assigned to the Program Attachment of litigation related to or affecting this Contract and to which Contractor is a party within seven (7) calendar days of becoming aware of such a proceeding. This includes, but is not limited to an action, suit or proceeding before any court or governmental body, including environmental and civil rights matters, professional liability, and employee litigation. Notification must include the names of the parties, nature of the litigation and remedy sought, including amount of damages, if any.

Section 10.04 Action Against the Contractor. Contractor shall notify the contract manager assigned to the Program Attachment if Contractor has had a contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within three (3) working days of the suspension or termination. Such notification must include the reason for such action; the name and contact information of the local, state or federal department or agency or entity; the date of the contract; and the contract or case reference number. If Contractor, as an organization, has surrendered its license or has had its license suspended or revoked by any local, state or federal department or agency or non-profit entity, it shall disclose this information within three (3) working days of the surrender, suspension or revocation to the contract manager assigned to the Program Attachment by submitting a one-page description that includes the reason(s) for such action; the name and contact information of the local, state or federal department or agency or entity; the date of the license action; and a license or case reference number.

Section 10.05 Insolvency. Contractor shall notify in writing the contract manager assigned to the Program Attachment of Contractor's insolvency, incapacity, or outstanding unpaid obligations to the Internal Revenue Service (IRS) or Texas Workforce Commission (TWC) within three (3) working days of the date of determination that Contractor is insolvent or incapacitated, or the date Contractor discovered an unpaid obligation to the IRS or TWC. Contractor shall notify in writing the contract manager assigned to the Program Attachment of its plan to seek bankruptcy protection within three (3) working days of such action by Contractor's governing body.

Section 10.06 Misuse of Funds and Performance Malfeasance. Contractor shall report to the contract manager assigned to the Program Attachment, any knowledge of debarment, suspected fraud, program abuse, possible illegal expenditures, unlawful activity, or violation of financial laws, rules, policies, and procedures

related to performance under this Contract. Contractor shall make such report no later than three (3) working days from the date that Contractor has knowledge or reason to believe such activity has taken place. Additionally, if this Contract is federally funded by the Department of Health and Human Services (HHS), Contractor shall report any credible evidence that a principal, employee, subcontractor or agent of Contractor, or any other person, has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. Contractor shall make this report to the SAO at <http://sao.fraud.state.tx.us>, and to the HHS Office of Inspector General at <http://www.oig.hhs.gov/fraud/hotline/> no later than three (3) working days from the date that Contractor has knowledge or reason to believe such activity has taken place.

Section 10.07 Criminal Activity and Disciplinary Action. Contractor affirms that no person who has an ownership or controlling interest in the organization or who is an agent or managing employee of the organization has been placed on community supervision, received deferred adjudication, is presently indicted for or has been convicted of a criminal offense related to any financial matter, federal or state program or felony sex crime. Contractor shall notify in writing the contract manager assigned to the Program Attachment if it has reason to believe Contractor, or a person with ownership or controlling interest in the organization or who is an agent or managing employee of the organization, an employee or volunteer of Contractor, or a subcontractor providing services under this Contract has engaged in any activity that would constitute a criminal offense equal to or greater than a Class A misdemeanor or if such activity would reasonably constitute grounds for disciplinary action by a state or federal regulatory authority, or has been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime. Contractor shall make the reports required by this section no later than three (3) working days from the date that Contractor has knowledge or reason to believe such activity has taken place. Contractor shall not permit any person who engaged, or was alleged to have engaged, in an activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed by DSHS.

Section 10.08 Retaliation Prohibited. Contractor shall not retaliate against any person who reports a violation of, or cooperates with an investigation regarding, any applicable law, rule, regulation or standard to the Department, another state agency, or any federal, state or local law enforcement official.

Section 10.09 Documentation. Contractor shall maintain appropriate documentation of all notices required under these General Provisions.

ARTICLE XI ASSURANCES AND CERTIFICATIONS

Section 11.01 Certification. Contractor certifies by execution of this Contract to the following:

- a) it is not disqualified under 2 CFR §376.935 or ineligible for participation in federal or state assistance programs;
- b) neither it, nor its principals, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state department or agency in accordance with 2 CFR Parts 376 and 180 (parts A-I), 45 CFR Part 76 (or comparable federal regulations);
- c) it has not knowingly failed to pay a single substantial debt or a number of outstanding debts to a federal or state agency;
- d) it is not subject to an outstanding judgment in a suit against Contractor for collection of the balance of a debt;
- e) it is in good standing with all state and/or federal agencies that have a contracting or regulatory relationship with Contractor;

- f) that no person who has an ownership or controlling interest in Contractor or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or a federal block grant;
- g) neither it, nor its principals have within the three(3)-year period preceding this Contract, has been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private or public (federal, state or local) transaction or contract under a private or public transaction, violation of federal or state antitrust statutes (including those proscribing price-fixing between competitors, allocation of customers between competitors and bid-rigging), or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or false claims, tax evasion, obstruction of justice, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contractor or its principals;
- h) neither it, nor its principals is presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with the commission of any of the offenses enumerated in subsection g) of this section; and
- i) neither it, nor its principals within a three(3)-year period preceding this Contract has had one or more public transaction (federal, state or local) terminated for cause or default.

Contractor shall include the certifications in this Article, without modification (except as required to make applicable to the subcontractor), in all subcontracts and solicitations for subcontracts. Where Contractor is unable to certify to any of the statements in this Article, Contractor shall submit an explanation to the contract manager assigned to the Program Attachment. If Contractor's status with respect to the items certified in this Article changes during the term of this Contract, Contractor shall immediately notify the contract manager assigned to the Program Attachment.

Section 11.02 Child Support Delinquencies. As required by Tex. Fam. Code § 231.006, a child support obligor who is more than thirty (30) calendar days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five percent (25%) is not eligible to receive payments from state funds under a contract to provide property, materials, or services or receive a state-funded grant or loan. If applicable, Contractor shall maintain its eligibility to receive payments under this Contract, certifies that it is not ineligible to receive the payments specified in this Contract, and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

Section 11.03 Authorization. Contractor certifies that it possesses legal authority to contract for the services described in this Contract and that a resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the binding of the organization under this Contract including all understandings and assurances contained in this Contract, and directing and authorizing the person identified as the authorized representative of Contractor to act in connection with this Contract and to provide such additional information as may be required.

Section 11.04 Gifts and Benefits Prohibited. Contractor certifies that it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, present or future employment, gift, loan, gratuity, special discount, trip, favor, service or anything of monetary value to a DSHS or HHSC official or employee in connection with this Contract.

Section 11.05 Ineligibility to Receive the Contract. (a) Pursuant to Tex. Gov. Code § 2155.004 and federal law, Contractor is ineligible to receive this Contract if this Contract includes financial participation by a person who received compensation from DSHS to participate in developing, drafting or preparing the specifications, requirements, statement(s) of work or Solicitation Document on which this Contract is based. Contractor certifies that neither Contractor, nor its employees, nor anyone acting for Contractor has received

compensation from DSHS for participation in the development, drafting or preparation of specifications, requirements or statement(s) of work for this Contract or in the Solicitation Document on which this Contract is based; (b) pursuant to Tex. Gov. Code §§ 2155.006 and 2261.053, Contractor is ineligible to receive this Contract, if Contractor or any person who would have financial participation in this Contract has been convicted of violating federal law, or been assessed a federal civil or administrative penalty, in connection with a contract awarded by the federal government for relief, recovery or reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 24, 2005; (c) Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract under Tex. Gov. Code §§ 2155.004, 2155.006 or 2261.053, and acknowledges that this Contract may be terminated and payment withheld if these certifications are inaccurate.

Section 11.06 Antitrust. Pursuant to 15 USC § 1, et seq. and Tex. Bus. & Comm. Code § 15.01, et seq. Contractor certifies that neither Contractor, nor anyone acting for Contractor has violated the antitrust laws of this state or federal antitrust laws, nor communicated directly or indirectly regarding a bid with any competitor or any other person engaged in Contractor's line of business for the purpose of substantially lessening competition in such line of business.

Section 11.07 Initiation and Completion of Work. Contractor certifies that it shall initiate and complete the work under this Contract within the applicable time frame prescribed in this Contract.

ARTICLE XII GENERAL BUSINESS OPERATIONS OF CONTRACTOR

Section 12.01 Responsibilities and Restrictions Concerning Governing Body, Officers and Employees. Contractor and its governing body shall bear full responsibility for the integrity of the fiscal and programmatic management of the organization. This provision applies to all organizations, including Section 501(c)(3) organizations as defined in the Internal Revenue Service Code as not-for-profit organizations. Each member of Contractor's governing body shall be accountable for all funds and materials received from Department. The responsibility of Contractor's governing body shall also include accountability for compliance with Department Rules, policies, procedures, and applicable federal and state laws and regulations; and correction of fiscal and program deficiencies identified through self-evaluation and Department's monitoring processes. Further, Contractor's governing body shall ensure separation of powers, duties, and functions of governing body members and staff. Staff members, including the executive director, shall not serve as voting members of Contractor's governing body. No member of Contractor's governing body, or officer or employee of Contractor shall vote for, confirm or act to influence the employment, compensation or change in status of any person related within the second degree of affinity or the third degree of consanguinity (as defined in Tex. Gov. Code Chapter 573) to the member of the governing body or the officer or any employee authorized to employ or supervise such person. This prohibition does not prohibit the continued employment of a person who has been continuously employed for a period of two (2) years prior to the election, appointment or employment of the officer, employee, or governing body member related to such person in the prohibited degree. These restrictions also apply to the governing body, officers and employees of Contractor's subcontractors. Ignorance of any Contract provisions or other requirements contained or referred to in this Contract will not constitute a defense or basis for waiving or appealing such provisions or requirements.

Section 12.02 Management and Control Systems. Contractor shall comply with all the requirements of the Department's Contractor's Financial Procedures Manual, and any of its subsequent amendments, which is available at the Department's web site: <http://www.dshs.state.tx.us/contracts/cfpm.shim>. Contractor shall maintain an appropriate contract administration system to ensure that all terms, conditions, and specifications are met. Contractor shall develop, implement, and maintain financial management and control systems that meet or exceed the requirements of UGMS and adhere to procedures detailed in Department's Contractor's Financial Procedures Manual. Those requirements and procedures include, at a minimum, the following:

- a) financial planning, including the development of budgets that adequately reflect all functions and resources necessary to carry out authorized activities and the adequate determination of costs;
- b) financial management systems that include accurate accounting records that are accessible and identify the source and application of funds provided under each Program Attachment of this Contract, and original source documentation substantiating that costs are specifically and solely allocable to the Program Attachment and are traceable from the transaction to the general ledger; and
- c) effective internal and budgetary controls; comparison of actual costs to budget; determination of reasonableness, allowableness, and allocability of costs; timely and appropriate audits and resolution of any findings; billing and collection policies; and a mechanism capable of billing and making reasonable efforts to collect from clients and third parties.

Section 12.03 Insurance. Contractor shall maintain insurance or other means of repairing or replacing assets purchased with Department funds. Contractor shall repair or replace with comparable equipment any such equipment not covered by insurance that is lost, stolen, damaged or destroyed. If any insured equipment purchased with DSHS funds is lost, stolen, damaged or destroyed, Contractor shall notify the contract manager assigned to the Program Attachment to obtain instructions whether to submit and pursue an insurance claim. Contractor shall use any insurance proceeds to repair the equipment or replace the equipment with comparable equipment or remit the insurance proceeds to DSHS.

Section 12.04 Fidelity Bond. For the benefit of DSHS, Contractor is required to carry a fidelity bond or insurance coverage equal to the amount of funding provided under this Contract up to \$100,000 that covers each employee of Contractor handling funds under this Contract, including person(s) authorizing payment of such funds. The fidelity bond or insurance must provide for indemnification of losses occasioned by (1) any fraudulent or dishonest act or acts committed by any of Contractor's employees, either individually or in concert with others, and/or (2) failure of Contractor or any of its employees to perform faithfully his/her duties or to account properly for all monies and property received by virtue of his/her position or employment. The bond or insurance acquired under this section must include coverage for third party property. Contractor shall notify, and obtain prior approval from, the DSHS Contract Oversight and Support Section before settling a claim on the fidelity bond or insurance.

Section 12.05 Liability Coverage. For the benefit of DSHS, Contractor shall at all times maintain liability insurance coverage, referred to in Tex. Gov. Code § 2261.102, as "director and officer liability coverage" or similar coverage for all persons in management or governing positions within Contractor's organization or with management or governing authority over Contractor's organization (collectively "responsible persons"). Contractor shall maintain copies of liability policies on site for inspection by DSHS and shall submit copies of policies to DSHS upon request. This section applies to entities that are organized as non-profit corporations under the Texas Non-Profit Corporation Act; for-profit corporations organized under the Texas Business Corporations Act; and any other legal entity. Contractor shall maintain liability insurance coverage in an amount not less than the total value of this Contract and that is sufficient to protect the interests of Department in the event an actionable act or omission by a responsible person damages Department's interests. Contractor shall notify, and obtain prior approval from, the DSHS Contract Oversight and Support Section before settling a claim on the insurance.

Section 12.06 Overtime Compensation. Except as provided in this section, Contractor shall not use any of the funds provided by this Contract to pay the premium portion of overtime. Contractor shall be responsible for any obligations of premium overtime pay due employees. Premium overtime pay is defined as any compensation paid to an individual in addition to the employee's normal rate of pay for hours worked in excess of normal working hours. Funds provided under this Contract may be used to pay the premium portion of overtime only under the following conditions: 1) with the prior written approval of DSHS; 2) temporarily, in the case of an emergency or an occasional operational bottleneck; 3) when employees are performing

indirect functions, such as administration, maintenance, or accounting; 4) in performance of tests, laboratory procedures, or similar operations that are continuous in nature and cannot reasonably be interrupted or otherwise completed; or 5) when lower overall cost to DSHS will result.

Section 12.07 Program Site. Contractor shall provide services only in locations that are in compliance with all applicable local, state and federal zoning, building, health, fire, and safety standards.

Section 12.08 Cost Allocation Plan. Contractor shall submit a Cost Allocation Plan in the format provided in the Department's Contractor's Financial Procedures Manual to the Department's Contract Oversight and Support Section, at Mail Code 1326, P.O. Box 149347, Austin, Texas 78714-9347, or by email to <mailto:coscap@dshs.state.tx.us> no later than the 60th calendar day after the effective date of the Contract, except when a Contractor has a current Cost Allocation Plan on file with the Department. Contractor shall implement and follow the applicable Cost Allocation Plan. If Contractor's plan is the same as the plan previously submitted to DSHS, by signing this Contract, Contractor certifies that its current Cost Allocation Plan for the current year is the same as the plan previously submitted. If the Cost Allocation Plan changes during the Contract term, Contractor shall submit a new Cost Allocation Plan to the Contract Oversight and Support Section within thirty (30) calendar days after the effective date of the change. Cost Allocation Plans must comply with the guidelines provided in the Department's Contractor's Financial Procedures Manual located at <http://www.dshs.state.tx.us/contracts/cfpm.shtm>.

Section 12.09 No Endorsement. Other than stating the fact that Contractor has a contract with DSHS, Contractor and its subcontractors are prohibited from publicizing the contractual relationship between Contractor and DSHS, and from using the Department's name, logo or website link in any manner that is intended, or that could be perceived, as an endorsement or sponsorship by DSHS or the State of Texas of Contractor's organization, program, services or product, without the express written consent of DSHS.

Section 12.10 Historically Underutilized Businesses (HUBs). If Contractor was not required to submit a HUB subcontracting plan and if subcontracting is permitted under this Program Attachment, Contractor is encouraged to make a good faith effort to consider subcontracting with HUBs in accordance with Tex. Gov. Code Chapter 2161 and 34 Tex. Admin. Code § 20.10 et seq. Contractors may obtain a list of HUBs at <http://www.window.state.tx.us/procurement/prog/hub>. If Contractor has filed a HUB subcontracting plan, the plan is incorporated by reference in this Contract. If Contractor desires to make a change in the plan, Contractor must obtain prior approval from the Department's HUB Coordinator of the revised plan before proposed changes will be effective under this Contract. Contractor shall make a good faith effort to subcontract with HUBs during the performance of this Contract and shall report HUB subcontract activity to the Department's HUB Coordinator by the 15th day of each month for the prior month's activity, if there was any such activity, in accordance with 34 Tex. Admin. Code § 20.16(b).

Section 12.11 Buy Texas. Contractor shall purchase products and materials produced in Texas when the products and materials are available at a price and time comparable to products and materials produced outside of Texas as required by Tex. Gov. Code § 2155.4441.

Section 12.12 Contracts with Subrecipient and Vendor Subcontractors. Contractor may enter into contracts with subrecipient subcontractors unless restricted or otherwise prohibited in a specific Program Attachment(s). Prior to entering into a subrecipient agreement equaling or exceeding \$100,000, Contractor shall obtain written approval from DSHS. Contractor shall establish written policies and procedures for competitive procurement and monitoring of subcontracts and shall produce a subcontracting monitoring plan. Contractor shall monitor subrecipient subcontractors for both financial and programmatic performance and shall maintain pertinent records that must be available for inspection by DSHS. Contractor shall ensure that subcontractors are fully aware of the requirements placed upon them by state/federal statutes, rules, and regulations and by the provisions of this Contract.

Contracts with all subcontractors, whether vendor or subrecipient, must be in writing and include the following:

- a) name and address of all parties and the subcontractor's Vendor Identification Number (VIN) or Employee Identification Number (EIN);
- b) a detailed description of the services to be provided;
- c) measurable method and rate of payment and total not-to-exceed amount of the contract;
- d) clearly defined and executable termination clause; and
- e) beginning and ending dates that coincide with the dates of the applicable Program Attachment(s) or that cover a term within the beginning and ending dates of the applicable Program Attachment(s).

Contractor is responsible to DSHS for the performance of any subcontractor. Contractor shall not contract with a subcontractor, at any tier, that is debarred, suspended, or excluded from or ineligible for participation in federal assistance programs; or if the subcontractor would be ineligible under the following sections of these General Provisions: Ineligibility to Receive the Contract section (Assurances and Certifications Article); or the Conflict of Interest or Transactions Between Related Parties sections (General Terms Article).

Section 12.13 Status of Subcontractors. Contractor shall require all subcontractors to certify that they are not delinquent on any repayment agreements; have not had a required license or certification revoked; and have not had a contract terminated by the Department. Contractors shall further require that subcontractors certify that they have not voluntarily surrendered within the past three (3) years any license issued by the Department.

Section 12.14 Incorporation of Terms in Subrecipient Subcontracts. Contractor shall include in all its contracts with subrecipient subcontractors and solicitations for subrecipient subcontracts, without modification (except as required to make applicable to the subcontractor), (1) the certifications stated in the Assurances and Certifications Article; (2) the requirements in the Conflicts of Interest section and the Transaction Between Related Parties section of the General Terms Article; and (3) a provision granting to DSHS, SAO, OIG, and the Comptroller General of the United States, and any of their representatives, the right of access to inspect the work and the premises on which any work is performed, and the right to audit the subcontractor in accordance with the Access and Inspection Article in these General Provisions. Each subrecipient subcontract contract must also include a copy of these General Provisions and a copy of the Statement of Work and any other provisions in the Program Attachment(s) applicable to the subcontract. Contractor shall ensure that all written agreements with subrecipient subcontractors incorporate the terms of this Contract so that all terms, conditions, provisions, requirements, duties and liabilities under this Contract applicable to the services provided or activities conducted by a subcontractor are passed down to that subcontractor. No provision of this Contract creates privity of contract between DSHS and any subcontractor of Contractor. If a subcontractor is unable to certify to any of the statements in Section 12.13 or any of the certifications stated in the Assurances and Certifications Article, Contractor shall submit an explanation to the contract manager assigned to the Program Attachment. If the subcontractor's status with respect to the items certified in Section 12.13 or the assurances stated in the Assurances and Certifications Article changes during the term of this Contract, Contractor shall immediately notify the contract manager assigned to the Program Attachment.

Section 12.15 Independent Contractor. Contractor is an independent contractor. Contractor shall direct and be responsible for the performance of its employees, subcontractors, joint venture participants or agents. Contractor is not an agent or employee of the Department or the State of Texas for any purpose whatsoever. For purposes of this Contract, Contractor acknowledges that its employees, subcontractors, joint venture participants or agents will not be eligible for unemployment compensation from the Department or the State of Texas.

Section 12.16 Authority to Bind. The person or persons signing this Contract on behalf of Contractor, or representing themselves as signing this Contract on behalf of Contractor, warrant and guarantee that they have

been duly authorized by Contractor to execute this Contract for Contractor and to validly and legally bind Contractor to all of its terms.

Section 12.17 Tax Liability. Contractor shall comply with all state and federal tax laws and is solely responsible for filing all required state and federal tax forms and making all tax payments. If the Department discovers that Contractor has failed to remain current on a liability to the IRS, this Contract will be subject to remedies and sanctions under this Contract, including immediate termination at the Department's discretion. If the Contract is terminated under this section, the Department will not enter into a contract with Contractor for three (3) years from the date of termination.

Section 12.18 Notice of Organizational Change. Contractor shall submit written notice to the contract manager assigned to the Program Attachment within ten (10) business days of any change to the Contractor's name; contact information; key personnel, officer, director or partner; organizational structure, such as merger, acquisition or change in form of business; legal standing; or authority to do business in Texas. A change in Contractor's name and certain changes in organizational structure require an amendment to this Contract in accordance with the Amendments section of these General Provisions.

Section 12.19 Quality Management. Contractor shall comply with quality management requirements as directed by the Department.

Section 12.20 Equipment (Including Controlled Assets). Equipment means an article of nonexpendable, tangible personal property having a useful lifetime of more than one year and an acquisition cost of \$5,000 or more, and "controlled assets." Controlled assets include firearms regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Prior approval by DSHS of the purchase of controlled assets is not required. Contractors on a cost reimbursement payment method shall inventory all equipment, including controlled assets. Contractor shall initiate the purchase of all equipment approved in writing by DSHS, in the first quarter of the Contract or Program Attachment term, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter of the Program Attachment must be submitted to the contract manager assigned to the Program Attachment.

Section 12.21 Supplies. Supplies are defined as consumable items necessary to carry out the services under this Contract including medical supplies, drugs, janitorial supplies, office supplies, patient educational supplies, software, and any items of tangible personal property other than those defined as equipment above.

Section 12.22 Changes to Equipment List. All items of equipment, other than controlled assets, to be purchased with funds under this Contract must be itemized in Contractor's equipment list as finally approved by the Department in the executed Contract. Any changes to the approved equipment list in the executed Contract must be approved in writing by Department prior to the purchase of equipment. Contractor shall submit to the contract manager assigned to the Program Attachment, a written description including complete product specifications and need justification prior to purchasing any item of unapproved equipment. If approved, Department will acknowledge its approval by means of a written amendment or by written acceptance of Contractor's Contract Revision Request, as appropriate; or, in the case of minor changes to Contractor's approved equipment list, by email in accordance with the Contractor's Financial Procedures Manual.

Section 12.23 Property Inventory and Protection of Assets. Contractor shall maintain an inventory of equipment, including controlled assets, and property described in the Other Intangible Property section of

Article XIII and submit an annual cumulative report of the equipment and other property on Form GC-11 (Contractor's Property Inventory Report) to the Department's Contract Oversight and Support Section, Mail Code 1326, P.O. Box 149347, Austin, Texas 78714-9347, no later than October 15th of each year. The report is located on the DSHS website at <http://www.dshs.state.tx.us/contracts/forms.shtm>. Contractor shall maintain, repair, and protect assets under this Contract to assure their full availability and usefulness. If Contractor is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the assets provided or obtained under this Contract, Contractor shall use the proceeds to repair or replace those assets.

Section 12.24 Bankruptcy. In the event of bankruptcy, Contractor shall sever Department property, equipment, and supplies in possession of Contractor from the bankruptcy, and title must revert to Department. If directed by DSHS, Contractor shall return all such property, equipment and supplies to DSHS. Contractor shall ensure that its subcontracts, if any, contain a specific provision requiring that in the event the subcontractor's bankruptcy, the subcontractor must sever Department property, equipment, and supplies in possession of the subcontractor from the bankruptcy, and title must revert to Department, who may require that the property, equipment and supplies be returned to DSHS.

Section 12.25 Title to Property. At the conclusion of the contractual relationship between the Department and Contractor, for any reason, title to any remaining equipment and supplies purchased with funds under this Contract reverts to Department. Title may be transferred to any other party designated by Department. The Department may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Contractor.

Section 12.26 Property Acquisitions. Department funds must not be used to purchase buildings or real property. Any costs related to the initial acquisition of the buildings or real property are not allowable.

Section 12.27 Disposition of Property. Contractor shall follow the procedures in the American Hospital Association's (AHA's) "Estimated Useful Lives of Depreciable Hospital Assets" in disposing, at any time during or after the Contract term, of equipment purchased with the Department funds, except when federal or state statutory requirements supersede or when the equipment requires licensure or registration by the state, or when the acquisition price of the equipment is equal to or greater than \$5,000. All other equipment not listed in the AHA reference (other than equipment that requires licensure or registration or that has an acquisition cost equal to or greater than \$5,000) will be controlled by the requirements of UGMS. If, prior to the end of the useful life, any item of equipment is no longer needed to perform services under this Contract, or becomes inoperable, or if the equipment requires licensure or registration or had an acquisition price equal to or greater than \$5,000, Contractor shall request disposition approval and instructions in writing from the contract manager assigned to the Program Attachment. After an item reaches the end of its useful life, Contractor shall ensure that disposition of any equipment is in accordance with Generally Accepted Accounting Principles, and any applicable federal guidance.

Section 12.28 Closeout of Equipment. At the end of the term of a Program Attachment that has no additional renewals or that will not be renewed (Closeout) or when a Program Attachment is otherwise terminated, Contractor shall submit to the contract manager assigned to the Program Attachment, an inventory of equipment purchased with Department funds and request disposition instructions for such equipment. All equipment purchased with Department funds must be secured by Contractor at the time of Closeout or termination of the Program Attachment and must be disposed of according to the Department's disposition instructions, which may include return of the equipment to DSHS or transfer of possession to another DSHS contractor, at Contractor's expense.

Section 12.29 **Assets as Collateral Prohibited.** Contractors on a cost reimbursement payment method shall not encumber equipment purchased with Department funds without prior written approval from the Department.

ARTICLE XIII GENERAL TERMS

Section 13.01 **Assignment.** Contractor shall not transfer, assign, or sell its interest, in whole or in part, in this Contract, or in any equipment purchased with funds from this Contract, without the prior written consent of the Department.

Section 13.02 **Lobbying.** Contractor shall comply with Tex. Gov. Code § 556.0055, which prohibits contractors who receive state funds from using those funds to pay lobbying expenses. Further, Contractor shall not use funds paid under this Contract, either directly or indirectly, to support the enactment, repeal, modification, or adoption of any law, regulation or policy at any level of government, or to pay the salary or expenses of any person related to any activity designed to influence legislation, regulation, policy or appropriations pending before Congress or the state legislature, or for influencing or attempting to influence an officer or employee of any federal or state agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any contract or the extension, continuation, renewal, amendment, or modification of any contract (31 USC § 1352 and UGMS). If at any time this Contract exceeds \$100,000 of federal funds, Contractor shall file with the contract manager assigned to the Program Attachment a declaration containing the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of Contractor in connection with this Contract, a certification that none of the funds provided by Department have been or will be used for payment to lobbyists, and disclosure of the names of any and all registered lobbyists with whom Contractor has an agreement. Contractor shall file the declaration, certification, and disclosure at the time of application for this Contract; upon execution of this Contract unless Contractor previously filed a declaration, certification, or disclosure form in connection with the award; and at the end of each calendar quarter in which any event occurs that materially affects the accuracy of the information contained in any declaration, certification, or disclosure previously filed. Contractor shall require any person who requests or receives a subcontract to file the same declaration, certification, and disclosure with the contract manager assigned to the Program Attachment. Contractor shall also comply, as applicable, with the lobbying restrictions and requirements in 2 CFR Part 230 (OMB Circulars A-122), Appendix B paragraph 25; 2 CFR Part 225 (A-87) Appendix B section 24; 2 CFR §215.27 (A-110) and 2 CFR Part 220 (A-21) Appendix A, subsection J.17 and J.28. Contractor shall include this provision in any subcontracts.

Section 13.03 **Conflict of Interest.** Contractor represents to the Department that it and its -subcontractors, if any, do not have nor shall Contractor or its subcontractors knowingly acquire or retain, any financial or other interest that would conflict in any manner with the performance of their obligations under this Contract. Potential conflicts of interest include, but are not limited to, an existing or potential business or personal relationship between Contractor (or subcontractor), its principal (or a member of the principal's immediate family), or any affiliate or subcontractor and the Department or HHSC, their commissioners or employees, or any other entity or person involved in any way in any project that is the subject of this Contract. Contractor shall establish safeguards to prohibit employees and subcontractors and their employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain. If, at any time during the term of this Contract, Contractor or any of its subcontractors has a conflict of interest or potential conflict of interest, Contractor shall disclose the actual or potential conflict of interest to the contract manager assigned to the Program Attachment within ten (10) days of when Contractor becomes aware of the existence of the actual or potential conflict of interest. Contractor shall require each of its subcontractors to report to Contractor any conflict of interest or potential conflict of interest the subcontractor has or may have within ten (10) days of when the subcontractor becomes aware of the actual or potential conflict of interest.

Section 13.04 Transactions Between Related Parties. Contractor shall identify and report to DSHS any transactions between Contractor and a related party that is part of the work that the Department is purchasing under this Contract before entering into the transaction or immediately upon discovery. Contractor shall submit to the contract manager assigned to the Program Attachment the name, address and telephone number of the related party, how the party is related to Contractor and the work the related party will perform under this Contract. A related party is a person or entity related to Contractor by blood or marriage, common ownership or any association that permits either to significantly influence or direct the actions or policies of the other. Contractor, for purposes of reporting transactions between related parties, includes the entity contracting with the Department under this Contract as well as the chief executive officer, chief financial officer and program director of Contractor. Contractor shall comply with Tex. Gov. Code Chapter 573. Contractor shall maintain records and supply any additional information requested by the Department, regarding a transaction between related parties, needed to enable the Department to determine the appropriateness of the transaction pursuant to applicable state or federal law, regulations or circulars, which may include 45 CFR part 74, OMB Circ. No. A-110, 2 CFR § 215.42, and UGMS.

Section 13.05 Intellectual Property. Tex. Health & Safety Code § 12.020 authorizes DSHS to protect intellectual property developed as a result of this Contract.

- a) "Intellectual property" means created property that may be protected under copyright, patent, or trademark/service mark law.
- b) For purposes of this Contract intellectual property prepared for DSHS use, or a work specially ordered or commissioned through a contract for DSHS use is "work made for hire." DSHS owns works made for hire unless it agrees otherwise by contract. To the extent that title and interest to any such work may not, by operation of law, vest in DSHS, or such work may not be considered a work made for hire, Contractor irrevocably assigns the rights, title and interest therein to DSHS. DSHS has the right to obtain and hold in its name any and all patents, copyrights, registrations or other such protections as may be appropriate to the subject matter, and any extensions and renewals thereof. Contractor shall give DSHS and the State of Texas, as well as any person designated by DSHS and the State of Texas, all assistance required to perfect the rights defined herein without charge or expense beyond those amounts payable to Contractor for goods provided or services rendered under this Contract.
- c) If federal funds are used to finance activities supported by this Contract that result in the production of intellectual property, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes (1) the copyright in any intellectual property developed under this Contract, including any subcontract; and (2) any rights of copyright to which a Contractor purchases ownership with contract funds. Contractor shall place an acknowledgment of federal awarding agency grant support and a disclaimer, as appropriate, on any publication written or published with such support and, if feasible, on any publication reporting the results of or describing a grant-supported activity. An acknowledgment must be to the effect that "This publication was made possible by grant number _____ from (federal awarding agency)" or "The project described was supported by grant number _____ from (federal awarding agency)" and "Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the (federal awarding agency)."
- d) If the terms of a federal grant award the copyright to Contractor, DSHS reserves a royalty-free, nonexclusive, worldwide and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for DSHS, public health, and state governmental noncommercial purposes (1) the copyright, trademark, service mark, and/or patent on an invention, discovery, or improvement to any process, machine, manufacture, or composition of matter; products; technology; scientific information; trade secrets; and computer software, in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (2) any rights of copyright, service or trade marks or patents to which a grantee, subgrantee or a Contractor purchases ownership with contract funds.
- e) If the results of the contract performance are subject to copyright law, Contractor cannot publish those

results without prior review and approval of DSHS. Contractor shall submit requests for review and approval to the contract manager assigned to the Program Attachment.

Section 13.06 Other Intangible Property. At the conclusion of the contractual relationship between Department and Contractor, for any reason, Department shall have the sole ownership rights and interest in all non-copyrighable intangible property that was developed, produced or obtained by Contractor as a specific requirement under this Contract or under any grant that funds this Contract, such as domain names, URLs, software licenses with a value of \$500 or more, etc. Contractor shall inventory all such non-copyrighable intangible property. Contractor shall cooperate with Department and perform all actions necessary to transfer ownership of such property to the Department or its designee, or otherwise affirm Department's ownership rights and interest in such property. This provision will survive the termination or expiration of this Contract.

Section 13.07 Severability and Ambiguity. If any provision of this Contract is construed to be illegal or invalid, the illegal or invalid provision will be deemed stricken and deleted to the same extent and effect as if never incorporated, but all other provisions will continue. The Parties represent and agree that the language contained in this Contract is to be construed as jointly drafted, proposed and accepted.

Section 13.08 Legal Notice. Any notice required or permitted to be given by the provisions of this Contract will be deemed to have been received by a Party on the third business day after the date on which it was mailed to the Party at the address specified by the Party to the other Party in writing or, if sent by certified mail, on the date of receipt.

Section 13.09 Successors. This Contract will be binding upon the Parties and their successors and assignees, except as expressly provided in this Contract.

Section 13.10 Headings. The articles and section headings used in this Contract are for convenience of reference only and will not be construed in any way to define, limit or describe the scope or intent of any provisions.

Section 13.11 Parties. The Parties represent to each other that they are entities fully familiar with transactions of the kind reflected by the contract documents, and are capable of understanding the terminology and meaning of their terms and conditions and of obtaining independent legal advice pertaining to this Contract.

Section 13.12 Survivability of Terms. Termination or expiration of this Contract or a Program Attachment for any reason will not release either Party from any liabilities or obligations in this Contract that (a) the Parties have expressly agreed will survive any such termination or expiration, or (b) remain to be performed or (c) by their nature would be intended to be applicable following any such termination or expiration.

Section 13.13 Direct Operation. At the Department's discretion, the Department may temporarily assume operations of a Contractor's program or programs funded under this Contract when the continued operation of the program by Contractor puts at risk the health or safety of clients and/or participants served by Contractor.

Section 13.14 Customer Service Information. If requested, Contractor shall supply such information as required by the Department to comply with the provisions of Tex. Gov. Code Chapter 2114 regarding Customer Service surveys.

Section 13.15 Amendment. The Parties agree that the Department may unilaterally reduce funds pursuant to the terms of this Contract without the written agreement of Contractor. All other amendments to this Contract must be in writing and agreed to by both Parties, except as otherwise specified in the Contractor's Notification of Change to Certain Contract Provisions section or the Contractor's Request for Revision to

Certain Contract Provisions section of this Article. Contractor's request for certain budget revisions or other amendments must be submitted in writing, including a justification for the request, to the contract manager assigned to the Program Attachment; and if a budget revision or amendment is requested during the last quarter of the Contract or Program Attachment term, as applicable, Contractor's written justification must include a reason for the delay in making the request. Revision or other amendment requests may be granted at the discretion of DSHS. Except as otherwise provided in this Article, Contractor shall not perform or produce, and DSHS will not pay for the performance or production of, different or additional goods, services, work or products except pursuant to an amendment of this Contract that is executed in compliance with this section; and DSHS will not waive any term, covenant, or condition of this Contract unless by amendment or otherwise in compliance with this Article.

Section 13.16 Contractor's Notification of Change to Certain Contract Provisions. The following changes may be made to this Contract without a written amendment or the Department's prior approval:

- a) contractor's contact person and contact information;
- b) contact information for key personnel, as stated in Contractor's response to the Solicitation Document, if any;
- c) cumulative budget transfers that exceed 25% among direct cost categories, other than the equipment category, of cost reimbursement contract Program Attachments of less than \$100,000, provided that the total budget amount is unchanged (This subsection does not apply to contracts funded by funding sources that have different percentage requirements);
- d) minor corrections or clarifications to the Contract language that in no way alter the scope of work, objectives or performance measures; and
- e) a change in Contractor's share of the budget concerning non-DSHS funding other than program income and match, regardless of the amount of the change, provided that in changing the budget, Contractor is not supplanting DSHS funds.

Contractor within ten (10) calendar days shall notify in writing the contract manager assigned to the Program Attachment of any change enumerated in this section. The notification may be by letter, fax or email. Except for contracts funded by funding sources that have different percentage requirements, cumulative budget line item transfers of 25% or less among direct cost categories, other than equipment, of cost reimbursement contracts of any amount do not require written amendment or prior approval or notification.

Section 13.17 Contractor's Request for Revision of Certain Contract Provisions. A Contractor's Revision Request is an alternative method for amending certain specified provisions of this Contract that is initiated by Contractor, but must be approved by DSHS. The following amendments to this Contract may be made through a Contractor's Revision Request, rather than through the amendment process described in the Amendment section of this Article:

- a) cumulative budget transfers among direct cost categories, other than the equipment category, that exceed 25% of Program Attachments of \$100,000 or more, provided that the total budget amount is unchanged (This subsection does not apply to contracts funded by funding sources that have different percentage requirements);
- b) budget transfer to other categories of funds for direct payment to trainees for training allowances;
- c) change in clinic hours or location;
- d) change in the equipment list substituting an item of equipment equivalent to an item of equipment on the approved budget;
- e) changes in the equipment category of a previously approved equipment budget;
- f) changes specified in applicable OMB Circular cost principles as requiring prior approval, regardless of dollar threshold (e.g., foreign travel expenses, overtime premiums, membership fees; and
- g) cumulative budget transfers into or out of the equipment category that do not exceed 10% of any Program Attachment, provided that the total budget amount is unchanged (cumulative transfers from

or to the equipment category that equal or exceed 10% of any Program Attachment require an amendment to this Contract as described in the Amendment section of this Article).

In order to request a revision of any of the enumerated provisions, Contractor shall obtain a Contract Revision Request form from the DSHS website available at <http://www.dshs.state.tx.us/grants/forms.shtm>, and complete the form as directed by the Department. Two copies of the completed form must be signed by Contractor's representative who is authorized to sign contracts on behalf of Contractor, and both original, signed forms must be submitted to the contract manager assigned to the Program Attachment. Any approved revision will not be effective unless signed by the DSHS Director of the Client Services Contracting Unit. A separate Contractor Revision Request is required for each Program Attachment to be revised. Circumstances of a requested contract revision may indicate the need for an amendment described in the Amendment section of this Article rather than a contract revision amendment under this section.

Section 13.18 Immunity Not Waived. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS CONTRACT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY DEPARTMENT OR THE STATE OF TEXAS OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT DEPARTMENT OR THE STATE OF TEXAS MAY HAVE BY OPERATION OF LAW.

Section 13.19 Hold Harmless and Indemnification. Contractor, as an independent contractor, agrees to hold Department, the State of Texas, individual state employees and officers, and the federal government harmless and to indemnify them from any and all liability, suits, claims, losses, damages and judgments; and to pay all costs, fees, and damages to the extent that such costs, fees, and damages arise from performance or nonperformance of Contractor, its employees, subcontractors, joint venture participants or agents under this Contract.

Section 13.20 Waiver. Acceptance by either Party of partial performance or failure to complain of any action, non-action or default under this Contract will not constitute a waiver of either Party's rights under this Contract.

Section 13.21 Electronic and Information Resources Accessibility and Security Standards. As required by 1 Tex. Admin. Code Chapters 213 and 206, as a state agency, DSHS must procure products that comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 Tex. Admin. Code Chapter 213 and Website Accessibility Standards/Specifications specified in 1 Tex. Admin. Code Chapter 206 (collectively EIR Standards) when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. If performance under this Contract includes the development, modification or maintenance of a website or other electronic and information resources for DSHS or for the public on behalf of DSHS, Contractor certifies that the website or other electronic and information resources comply with the EIR Standards. Contractor further certifies that any network hardware or software purchased or provided under this Contract has undergone independent certification testing for known and relevant vulnerabilities, in accordance with rules adopted by Department of Information Resources.

Section 13.22 Force Majeure. Neither Party will be liable for any failure or delay in performing all or some of its obligations, as applicable, under this Contract if such failure or delay is due to any cause beyond the reasonable control of such Party, including, but not limited to, extraordinarily severe weather, strikes, natural disasters, fire, civil disturbance, epidemic, war, court order, or acts of God. The existence of any such cause of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the cause of the delay or failure no longer exists and, if applicable, for any reasonable period of time thereafter required to resume performance. A Party, within a period of time reasonable under the circumstances, must inform the other by any reasonable method (phone, email, etc.) and, as soon as practicable, must submit

written notice with proof of receipt, of the existence of a force majeure event or otherwise waive the right as a defense to non-performance.

Section 13.23 Interim Contracts. The Parties agree that the Contract and/or any of its Program Attachments will automatically continue as an “Interim Contract” beyond the expiration date of the term of the Contract or Program Attachment(s), as applicable, under the following circumstances: (1) on or shortly prior to the expiration date of the Contract or Program Attachment, there is a state of disaster declared by the Governor that affects the ability or resources of the DSHS contract or program staff managing the Contract to complete in a timely manner the extension, renewal, or other standard contract process for the Contract or Program Attachment; and (2) DSHS makes the determination in its sole discretion that an Interim Contract is appropriate under the circumstances. DSHS will notify Contractor promptly in writing if such a determination is made. The notice will specify whether DSHS is extending the Contract or Program Attachment for additional time for Contractor to perform or complete the previously contracted goods and services (with no new or additional funding) or is purchasing additional goods and services as described in the Program Attachment for the term of the Interim Contract, or both. The notice will include billing instructions and detailed information on how DSHS will fund the goods or services to be procured during the Interim Contract term. The Interim Contract will terminate thirty (30) days after the disaster declaration is terminated unless the Parties agree to a shorter period of time.

Section 13.24 Cooperation and Communication. Contractor shall cooperate with Department staff and, as applicable, other DSHS contractors, and shall promptly comply with requests from DSHS for information or responses to DSHS inquiries concerning Contractor’s duties or responsibilities under this Contract.

ARTICLE XIV BREACH OF CONTRACT AND REMEDIES FOR NON-COMPLIANCE

Section 14.01 Actions Constituting Breach of Contract. Actions or inactions that constitute breach of contract include, but are not limited to, the following:

- a) failure to properly provide the services and/or goods purchased under this Contract;
- b) failure to comply with any provision of this Contract, including failure to comply with all applicable statutes, rules or regulations;
- c) failure to pay refunds or penalties owed to the Department;
- d) failure to comply with a repayment agreement with the DSHS or agreed order issued by DSHS;
- e) failure by Contractor to provide a full accounting of funds expended under this Contract;
- f) discovery of a material misrepresentation in any aspect of Contractor’s application or response to the Solicitation Document;
- g) any misrepresentation in the assurances and certifications in Contractor’s application or response to the Solicitation Document or in this Contract; or
- h) Contractor is on or is added to the Excluded Parties List System (EPLS).

Section 14.02 General Remedies and Sanctions. The Department will monitor Contractor for both programmatic and financial compliance. The remedies and sanctions in this section are available to the Department against Contractor and any entity that subcontracts with Contractor for provision of services or goods. HHSC OIG may investigate, audit and impose or recommend imposition of remedies or sanctions to Department for any breach of this Contract and may monitor Contractor for financial compliance. The Department may impose one or more remedies or sanctions for each item of noncompliance and will determine remedies or sanctions on a case-by-case basis. Contractor is responsible for complying with all of the terms of this Contract. The listing of or use of one or more of the remedies or sanctions in this section does not relieve Contractor of any obligations under this Contract. A state or federal statute, rule or regulation, or

federal guideline will prevail over the provisions of this Article unless the statute, rule, regulation, or guideline can be read together with the provision(s) of this Article to give effect to both. If Contractor breaches this Contract by failing to comply with one or more of the terms of this Contract, including but not limited to compliance with applicable statutes, rules or regulations, the Department may take one or more of the following actions:

- a) terminate this Contract or a Program Attachment of this Contract as it relates to a specific program type. In the case of termination, the Department will inform Contractor of the termination no less than thirty (30) calendar days before the effective date of the termination in a notice of termination, except for circumstances that require immediate termination as described in the Emergency Action section of this Article. The notice of termination will state the effective date of the termination, the reasons for the termination, and, if applicable, alert Contractor of the opportunity to request a hearing on the termination pursuant to Tex. Gov. Code Chapter 2105 regarding administration of Block Grants. Contractor shall not make any claim for payment or reimbursement for services provided from the effective date of termination;
- b) suspend all or part of this Contract. Suspension is an action taken by the Department in which the Contractor is notified to temporarily (1) discontinue performance of all or part of the Contract, and/or (2) discontinue incurring expenses otherwise allowable under the Contract as of the effective date of the suspension, pending DSHS's determination to terminate or amend the Contract or permit the Contractor to resume performance and/or incur allowable expenses. Contractor shall not bill DSHS for services performed during suspension, and Contractor's costs resulting from obligations incurred by Contractor during a suspension are not allowable unless expressly authorized by the notice of suspension;
- c) deny additional or future contracts with Contractor;
- d) reduce the funding amount for failure to 1) provide goods and services as described in this Contract or consistent with Contract performance expectations, 2) achieve or maintain the proposed level of service, 3) expend funds appropriately and at a rate that will make full use of the award, or 4) achieve local match, if required;
- e) disallow costs and credit for matching funds, if any, for all or part of the activities or action not in compliance;
- f) temporarily withhold cash payments. Temporarily withholding cash payments means the temporary withholding of a working capital advance, if applicable, or reimbursements or payments to Contractor for proper charges or obligations incurred, pending resolution of issues of noncompliance with conditions of this Contract or indebtedness to the United States or to the State of Texas;

- g) permanently withhold cash payments. Permanent withholding of cash payment means that Department retains funds billed by Contractor for (1) unallowable, undocumented, disputed, inaccurate, improper, or erroneous billings; (2) material failure to comply with Contract provisions; or (3) indebtedness to the United States or to the State of Texas;
- h) declare this Contract void upon the Department's determination that this Contract was obtained fraudulently or upon the Department's determination that this Contract was illegal or invalid from this Contract's inception and demand repayment of any funds paid under this Contract;
- i) request that Contractor be removed from the Centralized Master Bidders List (CMBL) or any other state bid list, and barred from participating in future contracting opportunities with the State of Texas;
- j) delay execution of a new contract or contract renewal with Contractor while other imposed or proposed sanctions are pending resolution;
- k) place Contractor on probation. Probation means that Contractor will be placed on accelerated monitoring for a period not to exceed six (6) months at which time items of noncompliance must be resolved or substantial improvement shown by Contractor. Accelerated monitoring means more frequent or more extensive monitoring will be performed by Department than would routinely be conducted;
- l) require Contractor to obtain technical or managerial assistance;
- m) establish additional prior approvals for expenditure of funds by Contractor;
- n) require additional or more detailed, financial and/or programmatic reports to be submitted by Contractor;
- o) demand repayment from Contractor when it is verified that Contractor has been overpaid, e.g., because of disallowed costs, payments not supported by proper documentation, improper billing or accounting practices, or failure to comply with Contract terms;
- p) pursue a claim for damages as a result of breach of contract;
- q) require Contractor to prohibit any employee or volunteer of Contractor from performing under this Contract or having direct contact with DSHS-funded clients or participants, or require removal of any employee, volunteer, officer or governing body member, if the employee, volunteer, officer or member of the governing body has been indicted or convicted of the misuse of state or federal funds, fraud or illegal acts that are in contraindication to continued obligations under this Contract, as reasonably determined by DSHS;
- r) withhold any payments to Contractor to satisfy any recoupment, liquidated damages, match insufficiency, or any penalty (if the penalty is permitted by statute) imposed by DSHS, and take repayment from funds available under this Contract in amounts necessary to fulfill Contractor's payment or repayment obligations;
- s) reduce the Contract term;
- t) recoup improper payments when it is verified that Contractor has been overpaid, e.g., because of disallowed costs, payments not supported by proper documentation, improper billing or accounting practices or failure to comply with Contract terms;
- u) assess liquidated damages;
- v) demand repayment of an amount equal to the amount of any match Contractor failed to provide, as determined by DSHS;
- w) impose other remedies, sanctions or penalties permitted by statute.

Section 14.03 Notice of Remedies or Sanctions. Department will formally notify Contractor in writing when a remedy or sanction is imposed (with the exception of accelerated monitoring, which may be unannounced), stating the nature of the remedies and sanction(s), the reasons for imposing them, the corrective actions, if any, that must be taken before the actions will be removed and the time allowed for completing the corrective actions, and the method, if any, of requesting reconsideration of the remedies and sanctions imposed. Other than in the case of repayment or recoupment, Contractor is required to file, within fifteen (15) calendar days of receipt of notice, a written response to Department acknowledging receipt of such notice. If

requested by the Department, the written response must state how Contractor shall correct the noncompliance (corrective action plan) or demonstrate in writing that the findings on which the remedies or sanction(s) are based are either invalid or do not warrant the remedies or sanction(s). If Department determines that a remedy or sanction is warranted, unless the remedy or sanction is subject to review under a federal or state statute, regulation, rule, or guideline, Department's decision is final. Department will provide written notice to Contractor of Department's decision. If required by the Department, Contractor shall submit a corrective action plan for DSHS approval and take corrective action as stated in the approved corrective action plan. If DSHS determines that repayment is warranted, DSHS will issue a demand letter to Contractor for repayment. If full repayment is not received within the time limit stated in the demand letter, and if recoupment is available, DSHS will recoup the amount due to DSHS from funds otherwise due to Contractor under this Contract.

Section 14.04 Emergency Action. In an emergency, Department may immediately terminate or suspend all or part of this Contract, temporarily or permanently withhold cash payments, deny future contract awards, or delay contract execution by delivering written notice to Contractor, by any verifiable method, stating the reason for the emergency action. An "emergency" is defined as the following:

- a) Contractor is noncompliant and the noncompliance has a direct adverse effect on the public or client health, welfare or safety. The direct adverse effect may be programmatic or financial and may include failing to provide services, providing inadequate services, providing unnecessary services, or using resources so that the public or clients do not receive the benefits contemplated by the scope of work or performance measures; or
- b) Contractor is expending funds inappropriately.

Whether Contractor's conduct or noncompliance is an emergency will be determined by Department on a case-by-case basis and will be based upon the nature of the noncompliance or conduct.

ARTICLE XV CLAIMS AGAINST THE DEPARTMENT

Section 15.01 Breach of Contract Claim. The process for a breach of contract claim against the Department provided for in Tex. Gov. Code Chapter 2260 and implemented in Department Rules §§ 4.11- . 4.24 will be used by DSHS and Contractor to attempt to resolve any breach of contract claim against DSHS.

Section 15.02 Notice. Contractor's claims for breach of this Contract that the Parties cannot resolve in the ordinary course of business must be submitted to the negotiation process provided in Tex. Gov Code Chapter 2260, subchapter B. To initiate the process, Contractor shall submit written notice, as required by subchapter B, to DSHS's Office of General Counsel. The notice must specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice must also be given to all other representatives of DSHS and Contractor. Subchapter B is a condition precedent to the filing of a contested case proceeding under Tex. Gov. Code Chapter 2260, subchapter C.

Section 15.03 Sole Remedy. The contested case process provided in Tex. Gov. Code Chapter 2260, subchapter C, is Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by DSHS if the Parties are unable to resolve their disputes under this Article.

Section 15.04 Condition Precedent to Suit. Compliance with the contested case process provided in Tex. Gov. Code Chapter 2260, subchapter C, is a condition precedent to seeking consent to sue from the Legislature under Tex. Civ. Prac. & Rem. Code Chapter 107. Neither the execution of this Contract by DSHS nor any other conduct of any representative of DSHS relating to this Contract will be considered a waiver of sovereign immunity to suit.

Section 15.05 **Performance Not Suspended.** Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by Contractor, in whole or in part.

ARTICLE XVI TERMINATION AND TEMPORARY SUSPENSION

Section 16.01 **Expiration of Contract or Program Attachment(s).** Except as provided in the Survivability of Terms section of the General Terms Article, Contractor's service obligations stated in each Program Attachment will end upon the expiration date of that Program Attachment unless extended or renewed by written amendment. Prior to completion of the term of all Program Attachments, all or a part of this Contract may be terminated with or without cause under this Article.

Section 16.02 **Effect of Termination.** Termination is the permanent withdrawal of Contractor's authority to obligate previously awarded funds before that authority would otherwise expire or the voluntary relinquishment by Contractor of the authority to obligate previously awarded funds. Contractor's costs resulting from obligations incurred by Contractor after termination of an award are not allowable unless expressly authorized by the notice of termination. Upon termination of this Contract or Program Attachment, as applicable, Contractor shall cooperate with DSHS to the fullest extent possible to ensure the orderly and safe transfer of responsibilities under this Contract or Program Attachment, as applicable, to DSHS or another entity designated by DSHS. Upon termination of all or part of this Contract, Department and Contractor will be discharged from any further obligation created under the applicable terms of this Contract or the Program Attachment, as applicable, except for the equitable settlement of the respective accrued interests or obligations incurred prior to termination and for Contractor's duty to cooperate with DSHS, and except as provided in the Survivability of Terms section of the General Terms Article. Termination does not, however, constitute a waiver of any remedies for breach of this Contract. In addition, Contractor's obligations to retain records and maintain confidentiality of information will survive this Contract.

Section 16.03 **Acts Not Constituting Termination.** Termination does not include the Department's (1) withdrawal of funds awarded on the basis of Contractor's underestimate of the unobligated balance in a prior period; (2) withdrawal of the unobligated balance at the expiration of the term of a program attachment; (3) refusal to extend a program attachment or award additional funds to make a competing or noncompeting continuation, renewal, extension, or supplemental award; (4) non-renewal of a contract or program attachment at Department's sole discretion; or (5) voiding of a contract upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Section 16.04 **Termination or Temporary Suspension Without Cause.**

- a) Either Party may terminate this Contract or a Program Attachment, as applicable, with at least thirty (30) calendar days prior written notice to the other Party, except that if Contractor seeks to terminate a Contract or Program Attachment that involves residential client services, Contractor shall give the Department at least ninety (90) calendar days prior written notice and shall submit a transition plan to ensure client services are not disrupted.
- b) The Parties may terminate this Contract or a Program Attachment by mutual agreement.
- c) DSHS may temporarily suspend or terminate this Contract or a Program Attachment if funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or health and human services agencies, amendments to the Appropriations Act, health and human services consolidations, or any disruption of current appropriated funding for this Contract or Program Attachment. Contractor will be notified in writing of any termination or temporary suspension or of any cessation of temporary suspension. Upon notification of temporary suspension, Contractor shall discontinue performance under the Contract as of the effective date of the suspension, for the duration of the suspension.

- d) Department may terminate this Contract or a Program Attachment immediately when, in the sole determination of Department, termination is in the best interest of the State of Texas.

Section 16.05 Termination For Cause. Either Party may terminate for material breach of this Contract with at least thirty (30) calendar days written notice to the other Party. Department may terminate this Contract, in whole or in part, for breach of contract or for any other conduct that jeopardizes the Contract objectives, by giving at least thirty (30) calendar days written notice to Contractor. Such conduct may include one or more of the following:

- a) Contractor has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;
- b) Contractor fails to communicate with Department or fails to allow its employees or those of its subcontractor to communicate with Department as necessary for the performance or oversight of this Contract;
- c) Contractor breaches a standard of confidentiality with respect to the services provided under this Contract;
- d) Department determines that Contractor is without sufficient personnel or resources to perform under this Contract or that Contractor is otherwise unable or unwilling to fulfill any of its requirements under this Contract or exercise adequate control over expenditures or assets;
- e) Department determines that Contractor, its agent or another representative offered or gave a gratuity (e.g., entertainment or gift) to an official or employee of DSHS or HHSC for the purpose of obtaining a contract or favorable treatment;
- f) Department determines that this Contract includes financial participation by a person who received compensation from DSHS to participate in developing, drafting or preparing the specifications, requirements or statement(s) of work or Solicitation Document on which this Contract is based in violation of Tex. Gov. Code § 2155.004; or Department determines that Contractor was ineligible to receive this Contract under Tex. Gov. Code §§ 2155.006 or 2261.053 related to certain disaster response contracts;
- g) Contractor appears to be financially unstable. Indicators of financial instability may include one or more of the following:
 - 1) Contractor fails to make payments for debts;
 - 2) Contractor makes an assignment for the benefit of its creditors;
 - 3) Contractor admits in writing its inability to pay its debts generally as they become due;
 - 4) if judgment for the payment of money in excess of \$50,000 (that is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not (a) discharge the judgment, or (b) provide for its discharge in accordance with its terms, or (c) procure a stay of execution within thirty (30) calendar days from the date of entry of the judgment, or (d) if the execution is stayed, within the thirty (30)-day period or a longer period during which execution of the judgment has been stayed, appeal from the judgment and cause the execution to be stayed during such appeal while providing such reserves for the judgment as may be required under Generally Accepted Accounting Principles;
 - 5) a writ or warrant of attachment or any similar process is issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) calendar days after its issuance;
 - 6) Contractor is adjudicated bankrupt or insolvent;
 - 7) Contractor files a case under the Federal Bankruptcy Code or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction then in effect, or consents to the filing of any case or petition against it under any such law;

- 8) any property or portion of the property of Contractor is sequestered by court order and the order remains in effect for more than thirty (30) calendar days after Contractor obtains knowledge of the sequestration;
- 9) a petition is filed against Contractor under any state reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction then in effect, and the petition is not dismissed within thirty (30) calendar days; or
- 10) Contractor consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property;
- h) Contractor's management system does not meet the UGMS management standards; or
- i) Any required license, certification, permit, registration or approval required to conduct Contractor's business or to perform services under this Contract is not obtained or is revoked, is surrendered, expires, is not renewed, is inactivated or is suspended.

Section 16.06 Notice of Termination. Either Party may deliver written notice of intent to terminate by any verifiable method. If either Party gives notice of its intent to terminate all or a part of this Contract, Department and Contractor shall attempt to resolve any issues related to the anticipated termination in good faith during the notice period.

ARTICLE XVII VOID, SUSPENDED, AND TERMINATED CONTRACTS

Section 17.01 Void Contracts. Department may void this Contract upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from its inception.

Section 17.02 Effect of Void, Suspended, or Involuntarily Terminated Contract. A Contractor who has been a party to a contract with DSHS that has been found to be void, or is suspended, or is terminated for cause is not eligible for expansion of current contracts, if any, or new contracts or renewals until, in the case of suspension or termination, the Department has determined that Contractor has satisfactorily resolved the issues underlying the suspension or termination. Additionally, if this Contract is found to be void, any amount paid is subject to repayment.

Section 17.03 Appeals Rights. Pursuant to Tex. Gov. Code § 2105.302, after receiving notice from the Department of termination of a contract with DSHS funded by block grant funds, Contractor may request an administrative hearing under Tex. Gov. Code Chapter 2001.

ARTICLE XVIII CLOSEOUT

Section 18.01 Cessation of Services At Closeout. Upon expiration of this Contract or Program Attachment, as applicable, (and any renewals of this Contract or Program Attachment) on its own terms, Contractor shall cease services under this Contract or Program Attachment; and shall cooperate with DSHS to the fullest extent possible upon expiration or prior to expiration, as necessary, to ensure the orderly and safe transfer of responsibilities under this Contract to DSHS or another entity designated by DSHS. Upon receiving notice of Contract or Program Attachment termination or non-renewal, Contractor shall immediately begin to effect an orderly and safe transition of recipients of services to alternative service providers, as needed. Contractor also shall completely cease providing services under this Contract or Program Attachment by the date specified in the termination or non-renewal notice. Contractor shall not bill DSHS for services performed after termination or expiration of this Contract or Program Attachment, or incur any additional expenses once this Contract or Program Attachment is terminated or has expired. Upon termination, expiration (with no renewal) or non-renewal of this Contract or a Program Attachment, Contractor shall immediately initiate Closeout activities described in this Article.

Section 18.02 Administrative Offset. The Department has the right to administratively offset amounts owed by Contractor against billings.

Section 18.03 Deadline for Closeout. Contractor shall submit all financial, performance, and other Closeout reports required under this Contract within sixty (60) calendar days after the Contract or Program Attachment end date. Unless otherwise provided under the Final Billing Submission section of the Payment Methods and Restrictions Article, the Department is not liable for any claims that are not received within sixty (60) calendar days after the Contract or Program Attachment end date.

Section 18.04 Payment of Refunds. Any funds paid to Contractor in excess of the amount to which Contractor is finally determined to be entitled under the terms of this Contract constitute a debt to the Department and will result in a refund due, which Contractor shall pay within the time period established by the Department.

Section 18.05 Disallowances and Adjustments. The Closeout of this Contract or Program Attachment does not affect the Department's right to disallow costs and recover funds on the basis of a later audit or other review or Contractor's obligation to return any funds due as a result of later refunds, corrections, or other transactions.



**TRAVIS COUNTY
FY 13 GRANT SUMMARY SHEET**

Check One:	Application Approval: <input type="checkbox"/>	Permission to Continue: <input type="checkbox"/>
	Contract Approval: <input checked="" type="checkbox"/>	Status Report: <input type="checkbox"/>
Check One:	Original: <input checked="" type="checkbox"/>	Amendment: <input type="checkbox"/>
Check One:	New Grant: <input type="checkbox"/>	Continuation Grant: <input checked="" type="checkbox"/>
Department/Division:	Travis County Health and Human Services and Veterans Service	
Contact Person/Title:	John C. Bradshaw/ Contract Specialist	
Phone Number:	854-4277	

Grant Title:	Coming of Age (DADS)		
Grant Period:	From: <input type="text" value="Sep 1, 2012"/>	To: <input type="text" value="Aug 31, 2013"/>	
Fund Source:	Federal: <input checked="" type="checkbox"/>	State: <input type="checkbox"/>	Local: <input type="checkbox"/>
Grantor:	Corporation for National and Community Service (CNCS)		
Will County provide grant funds to a sub-recipient?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
Are the grant funds pass-through from another agency? If yes, list originating agency below.	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>	
Originating Grantor:	Texas Dept. on Aging and Disability Services (DADS)		

Budget Categories	Grant Funds	County Cost Share	Budgeted County Contribution #595010 (Cash Match)	In-Kind	TOTAL
Personnel:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Operating:	\$ 24,484	\$ 24,484	\$ 0	\$ 0	\$ 48,968
Capital Equipment:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Indirect Costs:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Totals:	\$ 24,484	\$ 24,484	\$ 0	\$ 0	\$ 48,968
FTEs:	0.00	0.00	0.00	0.00	0.00

Permission to Continue Information					
Funding Source (Cost Center)	Personnel Cost	Operating Cost	Estimated Total	Filled FTE	PTC Expiration Date
	\$ 0	\$ 0	\$ 0	0.00	

Department	Review	Staff Initials	Comments
County Auditor	<input checked="" type="checkbox"/>	PL	
County Attorney	<input checked="" type="checkbox"/>	MEG	

Performance Measures					
#	Measure	Actual FY 11 Measure	Projected FY 12 Measure	Projected FY 13 Measure	Projected FY 14 Measure
+ -		Applicable Departmental Measures			
1.	Number of volunteers referred to nonprofit organizations	3,732	800	800	800
2.	Number of elderly able to continue living in their own homes because of volunteer help	628	500	500	500
3.	Number of agencies using volunteers as part of the effort to maintain services and programs	40	30	30	30
4.	Number of nonprofit organizations provided with training and technical assistance through the nonprofit support component of the Coming of Age program	32	30	30	30
+ -		Measures for the Grant			
1.	Dept. measures and grant measures are the same	NA			
Outcome Impact Description		85% of organizations provided with Coming of Age volunteers reported			
2.		100%			
Outcome Impact Description		85% of clients served will remain in their homes			
3.		100% reported			
Outcome Impact Description		70% of agencies will report that they maintained services to their clients			
4.		100%			
Outcome Impact Description		80% of participating organizations will report that their adult clients are			
5.		100% reported			
Outcome Impact Description		90% of nonprofits receiving training and technical assistance through			

PBO Recommendation:

This grant of \$24,484 is a continuation of the Coming of Age Program implemented by Health and Human Services and Veterans Service. The grant funds require a 100% cash match which is covered internally by the department's ongoing General Fund budget. The department has not included any indirect costs in the grant due to a large funding decrease from their larger, related Corporation for National and Community Service (CNCS) grant. Because this grant is at the Contract Approval stage, PBO recommends approval for FY 13, but requests that the department come forward with an indirect cost allocation in the FY 14 application for this grant. If the program cannot withstand the budgetary strain of the required indirect cost allocation in the next contract, PBO will work with the department and grantor to negotiate an appropriate and accessible indirect cost amount that will not hamper the performance and outreach of the program.

PBO recommends approval.

1. Brief Narrative - Summary of Grant: What is the goal of the program? How does the grant fit into the current activities of the department? Is the grant starting a new program, or is it enhancing an existing one?

Coming of Age focuses on the skills available in the Baby Boomer population (those born between 1946 and 1964) as well as older retirees to create more value for the community. Coming of Age volunteers focus on the following service areas: education, independent living, health and human services, volunteer mobilization and capacity building. Volunteers will be able to explore their future, become community leaders, pursue lifelong learning, and engage in meaningful service. Activities these volunteers will pursue include tutoring, mentoring, food distribution, caregiver services, health education, recruiting volunteers for nonprofit organizations, and coordinating fund-raising events for nonprofits.

Coming of Age receives two grants from the Corporation for National and Community Service (CNCS). A grant for \$50,495 comes directly from CNCS. Another grant for \$24,484 comes from the Texas Dept. on Aging and Disability Services (DADS) and is passed through CNCS. These grant funds enhance an existing program.

2. Departmental Resource Commitment: What are the long term County funding requirements of the grant?

The \$24,484 grant requires a dollar for dollar cash match from the General Fund. The General Fund budget for Coming of Age more than covers the match requirement. This grant pays for operating expenses. The General Fund would most likely have to cover this if the grant is not renewed.

3. County Commitment to the Grant: Is a county match required? If so, how does the department propose to fund the grant match? Please explain.

The grant requires a dollar for dollar cash match. This is more than covered by the current Coming of Age General Fund budget. No additional funds are required.

4. Does the grant program have an indirect cost allocation, in accordance with the grant rules? If not, please explain why not.

As mentioned in the answer to question #1, Coming of Age receives two grants from CNCS. One of the grants is for \$50,495 and the other is for \$24,484. The larger grant was reduced from \$63,119 in FY'11 to the current \$50,495. This 20% decrease has put an even greater strain on an already tight budget. Coming of Age is requesting not to include any indirect costs in the grant due to the funding decrease.

5. County Commitment to the Program Upon Discontinuation of Grant by Grantor: Will the program discontinue upon discontinuance of the grant funding: Yes or No? If No, what is the proposed funding mechanism: (1) Request additional funding or (2) Use departmental resources. If (2), provide details about what internal resources are to be provided and what other programs will be discontinued as a result.

The Coming of Age program would have to seek funding from other sources, including the General Fund, if the Corporation for National and Community Service reduced or discontinued this grant.

6. If this is a new program, please provide information why the County should expand into this area.

NA.

7. Please explain how this program will affect your current operations. Please tie the performance measures for this program back to the critical performance measures for your department or office.

The DADS grant provides funding to help Coming of Age achieve the performance measures described on page 1. The grant measures are the same as the department measures.



**TRAVIS COUNTY HEALTH and HUMAN SERVICES
and VETERANS SERVICE
502 E. Highland Mall Blvd.
P. O. Box 1748
Austin, Texas 78767**

**Sherri E. Fleming
County Executive
for TCHHSVS
(512) 854-4100
Fax (512) 279-1608**

DATE: October 31, 2012

TO: Members of the Commissioners Court

FROM: *Sherri E. Fleming*
Sherri E. Fleming
County Executive for Travis County Health and Human Services
and Veterans Service

SUBJECT: Coming of Age Grant from the Corporation for National and
Community Service for grant funds from the Texas Department of
Aging and Disability Services

Proposed Motion:

Consider and take appropriate action to approve a \$24,484 grant from the Corporation for National and Community Service for grant funds from the Texas Department of Aging and Disability Services to help fund the Coming of Age program in FY'13.

Summary and Staff Recommendation:

Coming of Age Austin Metro (formerly known as Travis County RSVP) broadens the scope of RSVP by focusing on the skills available in the Baby Boomer population (those born between 1946 and 1964) as well as older retirees to create more value for the community. Coming of Age volunteers focus on the following service areas: education, independent living, health and human services, volunteer mobilization and capacity building. Volunteers will be able to explore their future, become community leaders, pursue lifelong learning, and engage in meaningful service. Activities these volunteers will pursue include tutoring, mentoring, food distribution, caregiver services, health

education, recruiting volunteers for nonprofit organizations, and coordinating fund-raising events for nonprofits.

TCHHSVS staff recommends approving this grant award.

Budgetary and Fiscal Impact:

The FY'13 grant is \$24,484. Travis County is required to provide a dollar for dollar cash match. This is more than covered by the current Coming of Age departmental budget. No additional funds or staff are required.

Coming of Age receives two grants from the Corporation for National and Community Service (CNCS). A grant for \$50,495 comes directly from CNCS. Another grant for \$24,484 comes from the Texas Dept. on Aging and Disability Services (DADS) and is passed through CNCS.

Issues and Opportunities:

Coming of Age provides valuable services to the residents of Travis County in such areas as education, health and human services, volunteer mobilization and capacity building to improve the effectiveness of nonprofits.

Background:

Coming of Age is committed to bringing together people of diverse backgrounds by maintaining a broad and inclusive set of organizational members and volunteer opportunities. Coming of Age is also committed to providing volunteer opportunities for those who may have physical challenges such as sight or hearing limitations or restricted mobility.

Cc: Deborah Britton, Division Director, Community Services, TCHHSVS
 Fred Lugo, Manager, Coming of Age
 Nicki Riley, CPA, CMA, Travis County Auditor
 Jose Palacios, Chief Assistant County Auditor
 Patty Lennon, Financial Analyst, Travis County Auditor's Office
 Mary Etta Gerhardt, Assistant County Attorney
 Leslie Browder, Executive Manager, Planning and Budget Office
 Diana Ramirez, Analyst, Planning and Budget Office
 Cyd Grimes, C.P.M., Travis County Purchasing Agent
 Shannon Pleasant, Purchasing Agent Assistant, Travis County Purchasing Office

Notice of Grant Award**Corporation for National and Community Service**601 Walnut Street, Suite 876 E
Philadelphia, PA 19106-3323**Retired and Senior Volunteer Program****Grantee** *Travis County through the*Travis County Health and Human Services and Veterans Services
PO Box 1748 Austin TX 78767-1748

EIN: 746000192

Award Information

Agreement No.:	11RZWTX028	Project Period:	09/01/2011 - 08/31/2013
Amendment No.:	2	Budget Period:	09/01/2012 - 08/31/2013
CFDA No.:	94.002	Grant Year:	2

Award Description**Purpose**

The purpose of this award is to assist the grantee in carrying out a national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C., Chapter 22) using money appropriated by the State of Texas.

Funding Information

Year 2	Previously Awarded This Year	This Award/ Amendment	Total Current Year
Total Obligated by CNCS	\$0	\$24,484	\$24,484
Grantee's Unobligated Balance (Carryover)	\$0	\$0	\$0
Total Available	\$0	\$24,484	\$24,484

Cumulative Funding for Project Period

Total Awarded in Previous Amendments	\$24,484
Total CNCS Funds Awarded to Date	\$48,968

Funding Source and Amount

2012-OPE1-Q53-COO-61413-4101	\$24,484.00
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Special Conditions

Costs allowed under this grant are limited to those categories contained in signed application package dated 8/16/12.

The grantee shall be entitled to reimbursement for costs incurred on or after September 1, 2012 which if incurred before the signature date of this award, would have been reimbursed under the terms of this grant.

Terms of Acceptance: By accepting funds under this grant, the Grantee agrees to comply with all terms and conditions of the grant that are on the Corporation's https://egrants.cns.gov/termsandconditions/RSVPTandC_Revised20101001.pdf, all assurances and certifications made in the Grant application, and all applicable federal statutes, regulations and guidelines. The Grantee agrees to administer the funded Program in accordance with the approved Grant application and budget(s), supporting documents, and other representations made in support of the approved Grant application.

Corporation for National and Community Service:

Notice of Grant Award

601 Walnut Street, Suite 876 E
Philadelphia, PA 19106-3323

Retired and Senior Volunteer Program

Grantee

Travis County Health and Human Services and Veterans Services
PO Box 1748 Austin TX 78767-1748

EIN: 746000192

Corporation for National and Community Service:

 09/28/2012

Signature Date

Lennette B. White, 215-964-6309

Grants Official

Leslie McLain, (512)916-5671

Program Official

Lennette B. White

Name (typed)

Senior Grants Officer

Title

BY: _____
Samuel T. Biscoe
Travis County Judge

Date: _____

Coming of Age Austin Metro

Travis County Health and Human Services and Veterans Services

Application ID: 12SR143389

Budget Dates: 09/01/2011 - 08/31/2013

	Total Amt	CNCS Share	Grantee Share	Excess Amount
Section I. Volunteer Support Expenses				
A. Project Personnel Expenses				
B. Personnel Fringe Benefits				
FICA	0	0	0	0
Health Insurance	0	0	0	0
Retirement	0	0	0	0
Life Insurance	0	0	0	0
Total	\$0	\$0	\$0	\$0
C. Project Staff Travel				
Local Travel				
Long Distance Travel	200	200	0	0
Total	\$200	\$200	\$0	\$0
D. Equipment				
E. Supplies				
F. Contractual and Consultant Services				
	300	300	0	0
I. Other Volunteer Support Costs				
Criminal Background Check	0	0	0	0
Total	\$0	\$0	\$0	\$0
J. Indirect Costs				
Section I. Subtotal	\$500	\$500	\$0	\$0
Section II. Volunteer Expenses				
A. Other Volunteer Costs				
Meals	0	0	0	0
Uniforms	0	0	0	0
Insurance	1,284	1,284	0	0
Recognition	9,200	9,200	0	0
Volunteer Travel	13,500	13,500	0	0
Total	\$23,984	\$23,984	\$0	\$0
Section II. Subtotal	\$23,984	\$23,984	\$0	\$0
Budget Totals	\$24,484	\$24,484	\$0	\$0
Funding Percentages		100%	%	
Required Match		n/a		
# of years Receiving CNCS Funds		n/a		

Retired Senior Volunteer Program Terms and Conditions

Interest Bearing Account Must Maintain Advance Federal Funds

Institutions of higher education and other non-profit organizations covered by OMB Circular A-110 must maintain advance Federal funds in an interest bearing account. Interest earned on advances deposited in such accounts shall be remitted annually in a check, made payable to the U.S. Treasury, to the Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. The document transmitting the check must indicate that the payment is interest earned on advanced Federal funds. Interest up to \$250 per year may be retained by the grantee for administrative expenses.

Recognition Events

Grantee will assure that at Recognition events, the Corporation is acknowledged as the Federal agency responsible for the primary Federal funding of the project.

Lobby Disclosure

For grant awards exceeding \$100,000, pursuant to 31 U.S.C. 1352, the Grantee is required to file a disclosure report, Standard Form LLL, Disclosure of Lobbying Activities, at the end of any quarter, when the Grantee has paid or agreed to pay any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. The report must be submitted to the Corporation State Program Director.

External Evaluation And Data Collection

The grantee must cooperate with the Corporation and its evaluators in all monitoring and evaluation efforts. As part of this effort, the grantee must collect and submit certain project data, as defined in the Project Profile and Volunteer Activity (PPVA) and must provide data as requested or needed to support external evaluations.

Grant Period

Unless otherwise specified, the Grant covers a three year project period. In approving a multiyear project period the Corporation makes an initial award for the first budget period. Additional funding for subsequent budget periods is contingent upon satisfactory progress and the availability of funds. The project period and the budget are noted on the award document.

Federal Financial Reports – Expenditures /Jan to Jun and Jul to Dec

Grantees paid through HHS/PMS must submit the Standard Form 425, Federal Financial Report (FFR), semi-annually from the start date of the grant to report the status of all funds. FFRs must report expenses on a cumulative basis over the performance period of the grant and be submitted according to the following schedule:

<i>Period Covering:</i>	<i>Report Due:</i>
January 1 to June 30	July 31
July 1 to December 31	January 31

Programs completing the final year of their grant must submit a final FFR that is cumulative over the entire grant period. This FFR is due 90 days after the close of the grant.

Federal Financial Reports – Expenditures /Apr to Sep and Oct to Mar

Grantees paid through HHS/PMS must submit the Standard Form 425, Federal Financial Report (FFR), semi-annually from the start date of the grant to report the status of all funds. FFRs must report expenses on a cumulative basis over the performance period of the grant and be submitted according to the following schedule:

Period Covering:	Report Due:
April 1 - September 30	October 31
October 1 - March 30	April 30

Programs completing the final year of their grant must submit a final FFR that is cumulative over the entire grant period. This FFR is due 90 days after the close of the grant.

Federal Financial Reporting - Disbursements

Grantees paid through HHS/PMS will report quarterly disbursements to HHS through SMARTLINK II. Grantees will report disbursements using the web based version of the Standard Form 425, Federal Financial Report, no later than 30 calendar days following the end of each quarter.

Annual Progress Report

Grantees must prepare a Progress Report at the end of the 4th quarter of the budget period. The report must be submitted in eGrants no later than 30 days after the end of the designated reporting period.

Recognition of Federal Funding

When issuing statements, press releases, requests for proposals, bid solicitations, annual reports and other documents describing projects or programs funded in whole or in part with Federal Corporation money, the grantee receiving federal funds, including but not limited to the state and local governments, shall clearly state (1) the percentage of the total cost of the program which will be financed with the Federal Corporation money, and (2) the dollar amount of Federal Corporation funds for the project or program.

Program/Project Manager Authority

The Program/Project Manager for this grant is listed on the face page of the Notice of Grant Award. The Program/Project Manager has full authority to represent the Corporation in connection with management of the technical and programmatic performance of the grant. They are not authorized to change the terms and conditions, estimated costs, or period of performance, or to give approvals, written or verbal, specifically reserved for the grant officer.

Program Income

Program income is to be used to further the purposes of the grant program for which the award was made. Program income from all sources must be reported and documented. Program income is revenue earned as a direct result of the grant-funded program activities during the award period and must be retained by the Grantee and used to finance the grant's non-Corporation share. Program income earned in excess of the amount needed to finance the Grantee share must follow the appropriate administrative requirements of 45 CFR 2541 or 45 CFR 2543, and cost principles of 2 CFR 205, 2 CFR 225, 2 CFR 230 (formerly OMB circulars A-87, A-122 and A-21) 0148 CFR Part 31 and be deducted from total claimed costs, or with approval from the Corporation through a budget amendment be used to enhance the program (additive process). Grantees that earn excess income must specify the amount of the excess in the comment box on the financial report.

Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

NOTE: This section in no way authorizes the making of sub-grants. A grantee must be authorized to make sub-grants under the national service laws in order to do so.

Reporting Subawards and Executive Compensation

- a. Reporting of first-tier subawards.
 1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).
 2. Where and when to report.
 - i. You must report each obligating action described in paragraph a.1. of this award term to www.fsrs.gov.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
 3. What to report. You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.
- b. Reporting Total Compensation of Recipient Executives.
 1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if --
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received --
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at www.ccr.gov.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.
 1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if --

- i. in the subrecipient's preceding fiscal year, the subrecipient received --
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 - 2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

 - i. subawards, and
 - ii. the total compensation of the five most highly compensated executives of any subrecipient.
- e. Definitions. For purposes of this award term:
 - 1. "Entity" means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 - 2. "Executive" means officers, managing partners, or any other employees in management positions
 - 3. "Subaward":
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
 - 4. "Subrecipient" means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
 - 5. "Total compensation" means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.

- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under nonequity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

Trafficking Victims Protections Act of 2000

This term of award is pursuant to paragraph (g) of section 106 of the Trafficking Victims Protections Act of 2000, as amended (22 USC 7104).

- a. Provisions applicable to a recipient that is a private entity.
 - 1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
 - 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 376.
- b. Provision applicable to a recipient other than a private entity.

We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

 - 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 376.



**TRAVIS COUNTY
FY 13 GRANT SUMMARY SHEET**

Check One:	Application Approval: <input type="checkbox"/>	Permission to Continue: <input type="checkbox"/>
	Contract Approval: <input checked="" type="checkbox"/>	Status Report: <input type="checkbox"/>
Check One:	Original: <input checked="" type="checkbox"/>	Amendment: <input type="checkbox"/>
Check One:	New Grant: <input type="checkbox"/>	Continuation Grant: <input checked="" type="checkbox"/>
Department/Division:	1580330001	
Contact Person/Title:	Lisa Sindermann / Financial Analyst Lead	
Phone Number:	854-4594	

Grant Title:	DOE Weatherization Assistance Program		
Grant Period:	From: <input type="text" value="Apr 1, 2012"/>	To: <input type="text" value="Mar 31, 2013"/>	
Fund Source:	Federal: <input checked="" type="checkbox"/>	State: <input type="checkbox"/>	Local: <input type="checkbox"/>
Grantor:	Texas Department of Housing & Community Affairs		
Will County provide grant funds to a sub-recipient?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
Are the grant funds pass-through from another agency? If yes, list originating agency below.	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>	
Originating Grantor:	Department of Energy		

Budget Categories	Grant Funds	County Cost Share	Budgeted County Contribution #595010 (Cash Match)	In-Kind	TOTAL
Personnel:	\$ 13,822	\$ 0	\$ 0	\$ 0	\$ 13,822
Operating:	\$ 40,652	\$ 0	\$ 0	\$ 0	\$ 40,652
Capital Equipment:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Indirect Costs:	\$ 5,997	\$ 0	\$ 0	\$ 0	\$ 5,997
Totals:	\$ 60,471	\$ 0	\$ 0	\$ 0	\$ 60,471
FTEs:	0.00	0.00	0.00	0.00	0.00

Permission to Continue Information					
Funding Source (Cost Center)	Personnel Cost	Operating Cost	Estimated Total	Filled FTE	PTC Expiration Date
	\$ 0	\$ 0	\$ 0	0.00	

Department	Review	Staff Initials	Comments
County Auditor	<input checked="" type="checkbox"/>	MG	
County Attorney	<input checked="" type="checkbox"/>	MEG	

Performance Measures					
#	Measure	Actual FY 11 Measure	Projected FY 12 Measure	Projected FY 13 Measure	Projected FY 14 Measure
+ - Applicable Departmental Measures					
1.	Number of referrals required to support Housing programs from emergency assistance centers (includes DOE, LIHEAP, CEAP, Home Repair and ARRA)	710	710	300	300
2.					
3.					
+ - Measures for the Grant					
1.	# of Households receiving DOE Weatherization Assistance Program	49	132	39	39
Outcome Impact Description		Providing weatherization services and minor home repair for clients as prescribed by the grant guidelines will lower the household energy usage, lower household energy costs, and enable the household to become energy self-sufficient.			
2.					
Outcome Impact Description					
3.					
Outcome Impact Description					

PBO Recommendation:

This grant contract will provide Health and Human Services and Veterans Service with \$60,471 in federal pass-through funds to assist eligible Travis County residents with household weatherization needs. The department expects to assist 39 households with these grant funds.

There is no grant match requirement. PBO recommends approval of this contract.

1. Brief Narrative - Summary of Grant: What is the goal of the program? How does the grant fit into the current activities of the department? Is the grant starting a new program, or is it enhancing an existing one?

The department has received this grant for a number of years. These funds will be utilized to assist low-income households to achieve a level of energy efficiency by providing weatherization assistance to the residences. The benefit of weatherizing these households and reducing their home energy needs will further improve the ability to become energy self-sufficient.

2. Departmental Resource Commitment: What are the long term County funding requirements of the grant?

No additional funds are required.

3. County Commitment to the Grant: Is a county match required? If so, how does the department propose to fund the grant match? Please explain.

There is no County match required and no commitment by the Court to fund services if funds are discontinued.

4. Does the grant program have an indirect cost allocation, in accordance with the grant rules? If not, please explain why not.

This grant's funding source (Texas Department of Housing and Community Affairs) only allows for indirect costs (\$5,997) at the rate of 10% of the total allowable expenditures excluding funds for travel and training (\$500).

5. County Commitment to the Program Upon Termination of the Grant: Will the program end upon termination of the grant funding: Yes or No? If No, what is the proposed funding mechanism: (1) Request additional funding or (2) Use departmental resources. If (2), provide details about what internal resources are to be provided and what other programs will be discontinued as a result.

Yes

6. If this is a new program, please provide information why the County should expand into this area.

N/A

7. Please explain how this program will affect your current operations. Please tie the performance measures for this program back to the critical performance measures for your department or office.

Travis County Health and Human Services & Veterans Service Family Support Services division staff will perform the client eligibility interviews for assistance provided by this program and other programs available through the department. The Family Support Services staff will make referrals to the Housing Services division staff for those households deemed eligible for weatherization assistance. The Housing Services staff performs assessments of the residences and determines the weatherization services and minor home repairs that can be addressed with this grant funding. Services are provided by either in-house staff or by purchasing contracted services.

This grant assistance is another program the department uses to meet the requests of low-income clients who are seeking minor home repair, weatherization services and basic needs services. A residence may be assisted with this DOE program in conjunction with the LIHEAP weatherization grant program funding when needed to complete the weatherization tasks.



**TRAVIS COUNTY HEALTH and HUMAN SERVICES
and VETERANS SERVICE**

100 North I.H. 35
P. O. Box 1748
Austin, Texas 78767

Sherri E. Fleming
County Executive
(512) 854-4100
Fax (512) 854-4115

Date: November 1, 2012

TO: MEMBERS OF THE COMMISSIONERS COURT

FROM: *Sherri E. Fleming*
Sherri E. Fleming, County Executive
Travis County Health and Human Services and Veterans Service

SUBJECT: Acceptance of 2012 – 13 DOE Weatherization Assistance Program
Contract

Proposed Motion: Consider and take appropriate action to approve the contract with Texas Department of Housing and Community Affairs for the DOE Weatherization Assistance Program for 2012 - 13.

Summary and Staff Recommendation: Staff requests the acceptance of this contract from the Texas Department of Housing and Community Affairs (TDHCA). The total grant funding for this contract is in the amount of \$60,471. The DOE grant funds awarded to Travis County are used to provide weatherization services and minor home repair assistance for low-income households. Some examples of the program's weatherization services are providing attic and wall insulation, repair or replacement of the heating and cooling household appliances, minor household repairs such as replacing doors or patching interior walls, and addressing health and safety issues by adding or replacing smoke and carbon monoxide detectors. The distribution of assistance will be to qualified Travis County residents with household income levels at or below 125% of the current Federal Poverty Income Guidelines with household weatherization needs.

Budgetary and Fiscal Impact: We will be able to use the DOE funds for administration, materials, labor, insurance, single audits costs and training. The funds for materials will be budgeted in the GL accounts for contracted services and supplies

and funding for labor will be budgeted in the corresponding salary and benefit GL accounts. The insurance, training, single audit costs and administrative costs will be budgeted in the corresponding insurance, travel, training, audit, and administrative GL accounts. No matching funds are required for this grant. This contract period is 04/01/12 through 03/31/13.

Issues and Opportunities: We were able to provide weatherization services for 132 dwelling units with use of these grant funds in the last allocation period. The department utilizes this program to obtain a goal of assisting low-income households in achieving a level of energy efficiency, giving priority to households with one or more persons age 60 or above and/or an individual with a disability. Priority also is given to those households with young children age six and under and to those with the lowest incomes that pay the highest portion of their incomes for home energy.

It should be noted that this contract is made available electronically to Travis County from the Texas Department of Housing and Community Affairs. Therefore, in addition to the Commissioners Court authorizing Judge Biscoe to sign the hard copy of the contract, it is also necessary for the Judge to authorize the County Purchasing Agent to sign off on the electronically transmitted contract.

cc: Leslie Browder, County Executive, Planning and Budget Office
Diana Ramirez, Budget Analyst Sr., Planning and Budget Office
Nicki Riley, CPA, Travis County Auditor
Jose Palacios, Chief Assistant County Auditor
Michelle Gable, Auditor Analyst II, Travis County Auditor
Mary Etta Gerhardt, Assistant County Attorney
Cyd Grimes C.P.M., CPPO, Travis County Purchasing Agent
Scott Worthington, Travis County Purchasing Office
Deborah Britton, Division Director, Community Services
Lance Pearson, Housing Manager, Housing Services

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NUMBER. 56120001492 FOR THE
DEPARTMENT OF ENERGY WEATHERIZATION ASSISTANCE PROGRAM
(CFDA#81.042)

SECTION 1. PARTIES TO THE CONTRACT

This DOE Weatherization Assistance Program Contract (hereinafter "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (hereinafter the "Department") and Travis County a political subdivision of the State of Texas (hereinafter the "Subrecipient").

SECTION 2. CONTRACT TERM

The period for performance of this Contract, unless earlier terminated, is April 01, 2012 through March 31, 2013 (hereinafter the "Contract Term").

SECTION 3. SUBRECIPIENT PERFORMANCE

Subrecipient shall, on an equitable basis throughout its service area, develop and implement a Weatherization Assistance Program (WAP) in the counties and in accordance with the terms of this Contract and the "Budget and Performance Statement" attached as Exhibit A to this Contract and incorporated herein for all relevant purposes. Subrecipient shall develop and implement the WAP to assist in achieving a prescribed level of energy efficiency in the dwellings of low-income persons. WAP services will be provided to owner occupied units as well as rental units. Priority will be given, in no particular order, to (1) households with Elderly Persons as defined in WAP state rules, (2) Persons with Disabilities as defined in WAP state rules, (3) households with young children that are age five (5) or younger, and/or (4) households with a high energy burden and households with high energy consumption. Subrecipient shall implement WAP in accordance with the provisions of Part A of the Energy Conservation in Existing Buildings Act of 1976, as amended (42 U.S.C. §6861 et seq.) (hereinafter, the "WAP Act"), the Department of Energy Act as amended (42 U.S.C. §8621 et seq.) (hereinafter, the "DOE Act"), the U.S. Department of Energy (DOE) implementing regulations codified in 10 C.F.R. Parts 440 and 600 (hereinafter, the "WAP Regulations"), the implementing regulations codified in 45 C.F.R. Part 96 (hereinafter, the "LIHEAP Regulations"), any applicable Office of Management and Budget (OMB) Circulars, the Texas DOE State Plan; the implementing State regulations at Title 10, Part 1, Chapter 5, Subchapters A, E and F of the Texas Administrative Code as amended or supplemented from time to time (hereinafter, the "WAP State Rules"). Before commencing any weatherization work, Subrecipients are required to complete energy audits. The work will be completed in accordance with the International Energy Conservation Code and the minimum requirements set in the State of Texas adopted International Residential Code or in jurisdictions authorized by State law to adopt later editions.

SECTION 4. DEPARTMENT FINANCIAL OBLIGATIONS

A. In consideration of Subrecipient's satisfactory performance of this Contract, Department shall reimburse Subrecipient for the actual allowable costs incurred by Subrecipient in the amount specified in the "Budget and Performance Statement" attached hereto as Exhibit A.

B. Department's obligations under this Contract are contingent upon the actual receipt by Department of adequate WAP federal funds. If sufficient funds are not available, Department shall notify Subrecipient in writing within a reasonable time after such fact is determined. Department shall then terminate this Contract and will not be liable for the failure to make any payment to Subrecipient under this Contract.

C. Department is not liable for any cost incurred by Subrecipient which:

- (1) is incurred to weatherize a dwelling unit which is not an eligible dwelling unit as defined in §440.22 of the WAP Regulations;
- (2) is incurred to weatherize a dwelling unit which is designated for acquisition or clearance by a federal, state, or local program within twelve months from the date weatherization of the dwelling unit is scheduled to be completed;
- (3) is incurred to weatherize a dwelling unit previously weatherized with WAP funds, except as provided for in §440.18(e)(2) of the WAP Regulations;

- (4) is for Subrecipient's administrative costs incurred in excess of the maximum limitation set forth in Section 9 of this Contract;
- (5) is not incurred during the Contract Term;
- (6) is not reported to Department on a monthly DOE expenditure report and/or a monthly DOE performance report, within sixty (60) days of the termination of the Contract Term;
- (7) is subject to reimbursement by a source other than Department; or
- (8) is made in violation of any provision of this Contract or any provision of federal or state law or regulation, including, but not limited to, those enumerated in this Contract.

D. Subrecipient shall refund, within fifteen (15) days of Department's request, any sum of money paid to Subrecipient which Department determines has resulted in an overpayment or has not been spent in accordance with the terms of this Contract. Department may offset or withhold any amount otherwise owed to Subrecipient under this Contract against any amount owed by Subrecipient to Department arising under this or any other contract between the parties.

E. Notwithstanding any other provision of this Contract, the total of all payments and other obligations incurred by the Department under this Contract shall not exceed the sum of **\$60,471.00**.

SECTION 5. METHOD OF PAYMENT/CASH BALANCES

- A. Each month, Subrecipient may request an advance payment of WAP funds under this Contract by submitting a monthly expenditure report to Department (through the electronic reporting system) at its offices in Travis County, Texas. Subrecipient must maintain and follow written procedures to minimize the time elapsing between the transfer of funds from Department and the disbursement of such funds by Subrecipient.
- B. Subrecipient's requests for advances shall be limited to the minimum amount needed to perform contractual obligations and timed to be in accordance with actual, immediate cash requirements of the Subrecipient in carrying out the purpose of this Contract. The timing and amount of cash advances shall be as close as administratively feasible, not to exceed a 30 day projection of the actual disbursements by the Subrecipient to direct program costs and the proportionate share of any allowable indirect costs.
- C. Subsection 5(A) notwithstanding, Department reserves the right to use a cost reimbursement method of payment for all funds if (1) Department determines that Subrecipient has maintained excess cash balances; (2) Department identifies any deficiency in the cash controls or financial management system maintained by Subrecipient; (3) Department determines that a cost reimbursement method would benefit the program; (4) Department's funding sources require the use of a cost reimbursement method; or (5) Subrecipient fails to comply with any of the reporting requirements of Section 10.
- D. All funds paid to Subrecipient under this Contract are paid in trust for the exclusive benefit of the eligible dwelling units of the weatherization assistance program and for the payment of the allowable expenditures identified in Section 8 of this Contract.

SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in §5.10 of the WAP State Rules, provided, however, that all references therein to "local government" shall be construed to mean Subrecipient.
- B. Uniform cost principles for governments are set forth in Office of Management and Budget ("OMB") Circular A-87 as implemented by 2 C.F.R. Part 225. Uniform administrative requirements for governments are set forth in OMB Circular A-102. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under Circular A-133 is \$500,000.
- C. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for costs incurred or performances rendered for activities specified in the WAP Act.

SECTION 7. TERMINATION AND SUSPENSION

- A. Department may terminate this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this Contract. Department shall notify Subrecipient in writing at least thirty (30) days before the date of termination.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this Contract.
- C. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the exact amount of damages due to Department is agreed upon or is otherwise determined in writing between Parties.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- E. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient.
- F. Subrecipient's failure to expend the funds provided under this Contract in a timely manner may result in either the termination of this Contract or Subrecipient's ineligibility to receive additional funding under WAP, or a reduction in the original allocation of funds to Subrecipient.

SECTION 8. ALLOWABLE EXPENDITURES

- A. The allowability of Subrecipient's costs incurred in the performance of this Contract shall be determined in accordance with the provisions of Section 4 and the regulations set forth in §440.18 of the WAP Regulations, subject to the limitations and exceptions set forth in this Section.
- B. To the maximum extent practicable, Subrecipient shall utilize funds provided under this Contract for the purchase of weatherization materials. All weatherization measures installed must have an approved State of Texas Energy Audit savings-to-investment ratio (SIR) of one or greater unless otherwise indicated as health and safety or incidental repair items. Weatherization measures installed shall begin with those having the greatest SIR (on approved State of Texas Energy Audit) and proceed in descending order to the measures with the smallest SIR or until the maximum allowable per unit expenditures are achieved. Subrecipient shall weatherize eligible dwelling units using only weatherization materials which meet or exceed the standards prescribed by DOE in Appendix A of Part 440 of the WAP Regulations, State of Texas adopted International Residential Code (IRC) or jurisdictions authorized by State law to adopt later editions.

Allowable WAP expenditures under this Contract include:

- (1) purchase and delivery of weatherization materials as defined in §440.3 of the WAP Regulations, but not to include storm doors;
 - (2) labor costs for doors, primary windows and storm windows that will result in approved energy savings with SIR of one or greater in accordance with §440.19 of the WAP Regulations;
 - (3) weatherization materials and labor for heating and cooling system tune ups, repairs, modification, or replacements if such will result in improved energy efficiency as demonstrated by SIR of one or better in the approved State of Texas Energy Audit and, whenever available, heating and cooling systems must have an Energy Star rating;
 - (4) transportation of weatherization and repair materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;
 - (5) maintenance, operation, and insurance of vehicles used to transport weatherization materials;
 - (6) maintenance of tools and equipment;
 - (7) purchase or lease of tools, equipment, and vehicles (purchase of vehicles must be approved in advance by DOE);
 - (8) employment of on-site supervisory personnel;
 - (9) storage of weatherization materials, tools, and equipment;
 - (10) incidental repairs (such as repairs to roofs, walls, floors, and other parts of a dwelling unit) if such repairs are necessary for the effective performance or preservation of weatherization measures (If incidental repairs are necessary to make the installation of the weatherization measures effective, the cost of incidental repair measures charged to WAP funds awarded under this Contract shall not exceed the cost of weatherization measures charged to WAP funds and shall have a whole house SIR of one (1) or greater on the approved State of Texas Energy Audit.);
 - (11) allowable health and safety measures; and
 - (12) allowable base load reduction measures. Health and Safety funds not expended may be moved to the labor, materials, and program support category. These changes will require a contract action; therefore, Subrecipient must provide written notification to the Department at least 90 days prior to the end of the Contract Term before these funds can be moved.
- C. Administrative costs incurred by Subrecipient in performing this Contract are to be based on actual programmatic expenditures and shall be allowed up to the amount outlined in the "Budget and Performance Statement" attached hereto as Exhibit A. Allowable administrative costs may include reasonable costs associated with Subrecipient's administrative personnel, travel office space, equipment, and supplies which are necessary for the administration of WAP. Administrative costs are earned based upon the allowable percentage of total allowable expenditures, excluding the allowance for Department/DOE Training Travel or special equipment purchases. Subrecipient may use any or all of the funds allowed for administrative purposes under this Contract for the purchase and delivery of weatherization materials. These changes will require a contract action; therefore, Subrecipient must provide written notification to the Department at least 90 days prior to the end of the Contract Term before these funds can be moved.

- D. The cost of liability insurance for the weatherization program for personal injury and for property damage, not to exceed Two Thousand Dollars (\$2,000.00) shall be an allowable WAP expenditure under the "Budget and Performance Statement" attached hereto as Exhibit A, Subrecipient may request in writing a waiver of the limit on liability insurance. The waiver request must provide price quotes from at least three (3) insurance carriers. If Subrecipient is allowed to waive the liability insurance limit, amounts in excess of the \$2,000 may be charged to the administrative or program support category. The liability insurance category has increased to enable Subrecipient to purchase pollution occurrence insurance in addition to the general liability insurance. Generally, regular liability insurance policies do not provide coverage for potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. Subrecipient should review existing policies to ensure that lead is covered and if not, secure adequate coverage for all units to be weatherized. Subrecipients' insurance must cover the pollution occurrence insurance coverage for their independent contractors or the independent contractors must obtain the coverage. Note: The pollution occurrence insurance is based on the number of units the Subrecipient plans to weatherize with all of the different funding sources, such as LIHEAP and DOE funds.
- E. Fiscal audit expenses for the weatherization program not to exceed One Thousand Dollars (\$1,000.00) shall be allowed under the "Budget and Performance Statement" attached hereto as Exhibit A, subject to Section 15, "Procurement Standards.
- F. To the maximum extent practicable, Subrecipient shall secure the services of volunteers to weatherize dwelling units under the direction of qualified supervisors.

SECTION 9. RECORD KEEPING REQUIREMENTS

- A. Subrecipient shall comply with the record keeping requirements set forth at §440.24 of the WAP Regulations and §5.22 of the WAP State Rules and with such additional record keeping requirements as specified by Department.
- B. For each dwelling unit weatherized with funds received from WAP under this Contract, Subrecipient shall maintain a file containing the following information, including the following Department forms found in the Community Affairs Division section of the Department's website at <http://www.tdhca.state.tx.us/ea/forms/index.htm> :
- (1) Signed and completed Application for Weatherization Services indicating the ages of the residents, presence in the household of children age five (5) or younger, Elderly Persons (60 years or older), as defined in the WAP State Rules, and Persons with Disabilities as defined in the WAP State Rules;
 - (2) 12 month customer billing history for utilities or consumption disclosure release form;
 - (3) Eligibility documentation (proof of income eligibility shall consist of checks, check stubs, award letters, employer statements, or other similar documents including total income and public assistance payments); no dwelling unit shall be weatherized without documentation that the dwelling unit is an eligible dwelling unit as defined in §440.22 of the WAP Regulations. All proof of income must reflect earnings from within 12 months of the start date indicated on the building weatherization report (BWR). Proof of income documentation requirements are the same for both single and multifamily housing; all new applications must have proof of income or a complete, signed and notarized, Declaration of Income Statement form, for the previous 30 days;
 - (4) BWR to include certification of final inspection and Justification for Omission of Priorities if applicable;
 - (5) Invoices of materials purchased and/or inventory removal sheets;
 - (6) Invoices of labor;
 - (7) If a rental unit, Landlord Agreement form, Landlord Financial Participation form and Landlord Permission to Perform Assessment & Inspections for Rental Units" form and all other landlord forms found in the Community Affairs Division section of the Department's website at <http://www.tdhca.state.tx.us/ea/forms/index.htm> ;
 - (8) "Notice of Denial and Appeal Rights," if applicable;
 - (9) Signed and dated "Building Assessment" form, to include at a minimum, existing efficiencies of all heating and cooling appliances;
 - (10) "Attic Inspection" form (local design allowed);
 - (11) "Wall Inspection" form (local design allowed);

- (12) Documentation of pre weatherization carbon monoxide readings for all combustible appliances;
 - (13) Documentation of post weatherization carbon monoxide readings for all combustible appliances;
 - (14) "Blower Door Performance Standards and Data Sheet";
 - (15) "Duct Blower Data Sheet";
 - (16) Refrigerator metering information;
 - (17) Signed client "Refrigerator Replacement Form" (if applicable);
 - (18) Completed, signed and dated "Priority List" form (if applicable);
 - (19) A complete copy of the approved State of Texas Energy Audit;
 - (20) A complete "Energy Audit Data Collection Form" (local design allowed);
 - (21) A complete electronic copy of the approved State of Texas Energy Audit;
 - (22) Signed client receipt of the "Unified Weatherization Elements Notification Form" that includes Lead Hazard information, identification of Mold Like Substance, and State Historical Preservation information; and
 - (23) Signed client receipt of "Mold-Like Substance Notification and Release Form for Texas Weatherization Programs"
- C. For each multi-family project weatherized with funds received from WAP under this Contract, Subrecipient shall maintain a master file containing the following information:
- (1) "Multifamily Project Building Data Checklist";
 - (2) "Multifamily Project Completion Checklist";
 - (3) "Landlord Permission to Perform an Assessment and Inspections for Rental Units";
 - (4) "Landlord Agreement" form;
 - (5) "Landlord Financial Participation Form"; and
 - (6) Significant Data Required in all Multifamily Projects
- D. Materials standards documentation for weatherization materials purchased under this Contract must be maintained. These standards must meet the requirements according to Appendix A of Part §440 of the WAP Regulations.
- E. Subrecipient shall give the federal and state funding agencies, the Comptroller General of the United States, and Department access to and the right to reproduce all records pertaining to this Contract. All such records shall be maintained for at least three years after final payment has been made and all other pending matters are closed and in accordance with §§600.153 and 600.642 of the WAP Regulations. Subrecipient shall include the requirements of this Subsection in all subcontracts.
- F. All WAP records maintained by Subrecipient, except records made confidential by law, shall be available for inspection by the public during Subrecipient's normal business hours to the extent required by the Texas Public Information Act (Chapter 552 of the Texas Government Code).
- G. All subrecipients must conduct a full household assessment addressing all possible allowable weatherization measures.

SECTION 10. REPORTING REQUIREMENTS

- A. Subrecipient shall electronically submit to Department no later than fifteen (15) days after the end of each month of the Contract Term a performance report listing demographic information on all units completed in the previous month and an expenditure report listing all expenditures of funds under this Contract during the previous month. These reports are due even if Subrecipient has no new activity to report during the month. Both reports shall be submitted electronically.
- B. Subrecipient shall electronically submit to Department no later than sixty (60) days after the end of the Contract Term a final expenditure and programmatic report. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract may result in ineligibility to receive additional funds or additional contracts.
- C. Subrecipient shall submit to Department no later than sixty (60) days after the end of the Contract Term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000.00 or more and a useful life of more than one year, if purchased in whole or in part with funds received under this or previous weatherization assistance program contracts. The inventory shall reflect the vehicles, tools, and equipment on hand as of the last day of the Contract Term.
- D. Subrecipient shall submit other reports, data, and information on the performance of this Contract as may be required by DOE pursuant to §440.25 of the WAP Regulations, by the U.S. Department of Health and Human Services, or by Department.
- E. If Subrecipient fails to submit, in a timely and satisfactory manner, any report or response required by this Contract, including responses to monitoring reports, Department may withhold any and all payments otherwise due or requested by Subrecipient hereunder. Payments may be withheld until such time as the delinquent report or response is received by Department. If the delinquent report or response is not received within forty-five (45) days of its due date, Department may suspend or terminate this Contract. If Subrecipient receives Weatherization Program funds from the Department over two or more Contracts of subsequent terms, funds may be withheld or this Contract suspended or terminated by Subrecipient's failure to submit a past due report or response (including a report of audit) from a prior Contract Term.
- F. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet and the current CCR number must be submitted from a document retrieved from the website at <https://www.bpn.gov/ccr/default.aspx> . These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Term.

SECTION 11. CHANGES AND AMENDMENTS

- A. Any change, addition or deletion to the terms of this Contract required by a change in federal or state law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulation, so long as the amendment request is submitted to the Department in writing and the Department approves it.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature.

SECTION 12. PROGRAM INCOME

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this contract in accordance with the Uniform Grant Management Standards, Common Rule, §_25, OMB Circular A-102, Attachment, 2e.

SECTION 13. TECHNICAL GUIDANCE

Department may issue technical guidance to explain the rules and provide directions on the terms of this Contract.

SECTION 14. INDEPENDENT SUBRECIPIENT

It is agreed that Department is contracting with Subrecipient as an independent contractor. To the extent allowed by law, Subrecipient agrees to indemnify Department against any disallowed costs or other claims, which may be asserted by any third party in connection with the services to be performed by Subrecipient under this Contract.

SECTION 15. PROCUREMENT STANDARDS

- A. Subrecipient shall comply with OMB Circular A-102, 10 C.F.R. §600.236(b-i) and 10 TAC §5.10.
- B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase
- C. Upon the termination or non-renewal of this Contract, Department may transfer title to any such property or equipment having a useful life of one year or more or a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000 or more to itself or to any other entity receiving Department funding.

SECTION 16. SUBCONTRACTS

- A. Subrecipient shall ensure that its subcontractors comply with all applicable terms of this Contract as if the performance rendered by the subcontractor was being rendered by Subrecipient. Subrecipient shall inspect all subcontractors' work and shall be responsible for ensuring that it is completed in a good and workmanlike manner. Subrecipient shall make no payment to subcontractor until all work is complete and has passed a final inspection.
- B. Every initial assessment, every approved State of Texas Energy Audit, and every final inspection is the sole responsibility of the Subrecipient. Subrecipients may request in writing that the Department permit the Subrecipient to subcontract the performance of assessments, audits and final inspections. The Department will review each request separately to determine whether the request will be granted.

SECTION 17. AUDIT

- A. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Contract, subject to the following conditions and limitations:
 - (1) Subrecipients expending \$500,000 or more in total Federal awards or \$500,000 in total state financial assistance shall have an audit performed in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" issued June 30, 1997. For purposes of Section 17, "federal financial assistance" means assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with OMB guidelines. The term includes awards of federal financial assistance received directly from federal agencies, or indirectly through other units of state and local government.
 - (2) Subrecipient may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this Contract.
 - (3) Subrecipient shall submit three (3) copies of such audit report and any associated management letter to Department.; two (2) copies of the audit report to Department's Compliance and Asset Oversight Division and one (1) copy of the audit report to the Department's Community Affairs Division within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subrecipient shall make the audit report available for public inspection within thirty (30) days after receipt of the audit report(s). Audits performed under this Section 17 are subject to review and resolution by Department or its authorized representative. Subrecipient shall submit such audit report to the Federal clearinghouse designated by OMB in accordance with OMB A-133.

- (4) The audit report must include verification of all expenditures by budget category, in accordance with the "Budget and Performance Statement" attached as Exhibit A to this Contract.
- B. The cost of auditing services for a Subrecipient expending less than \$500,000 in total Federal awards per fiscal year is not an allowable charge under Federal awards.
- C. Subsection A of this Section 17 notwithstanding, Department reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.
- D. Subrecipient understands and agrees that it shall be liable to Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.
- E. Subrecipient shall take such action to facilitate the performance of such audit or audits conducted pursuant to this section as Department may require of Subrecipient.
- F. Subrecipient shall procure audit services by a process approved by the Commissioner Court provided that the process meets the requirements of OMB A-133 and all other applicable state and federal laws and regulations including but not limited to 10 TAC 5.10, 45 CFR §92.26 and 45 CFR §92.36. The auditor shall retain working papers and reports for a minimum of the three years after the date of directive of the auditor's report to the Subrecipient. Audit working papers shall be made available upon request to Department at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this Section. Access to working papers includes the right to obtain copies of working papers, as is reasonable and necessary.
- G. For any fiscal year ending within or immediately after the Grant Period, Subrecipient must submit an "Audit Certification Form (available from the Department) within sixty (60) days after the Subrecipient's fiscal year end.

SECTION 18. MANAGEMENT OF EQUIPMENT AND INVENTORY

- A. Subrecipient acknowledges that any vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with funds received under this or previous weatherization assistance program Contracts, are not assets of either the Subrecipient or the Department but are held in trust for the Weatherization Assistance Program and as such are assets of the Weatherization Assistance Program. Any equipment, tools, or vehicles having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit must receive prior approval from the Department before the purchase is made.
- B. Subrecipient shall develop and implement a property management system, which conforms to the uniform administrative requirements referenced in Section 6. Subrecipient shall not use, transfer, or dispose of any property acquired in whole or in part with funds provided under this or a previous weatherization assistance program contract except in accordance with its own property management system
- C. Upon termination or non-renewal of this Contract, the Department may transfer the title of equipment to a third party named by the Department. Such a transfer shall be subject to the following standards:
- (1) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.
 - (2) The Department will issue disposition instructions after receipt of final inventory.
- D. Subrecipient shall establish adequate safeguards to prevent loss, damage, or theft of property acquired hereunder and shall promptly report to Department any loss, damage, or theft of property with an acquisition cost of \$5,000 or more.

E. In addition to the inventory of vehicles, tools, and equipment required under Section 10, Subrecipient shall take a physical inventory of all WAP materials and shall reconcile the results with its property records at least once every year. Any differences between quantities determined by the inventory and those shown in the property records shall be investigated by Subrecipient to determine the cause of the difference.

SECTION 19. INSURANCE REQUIREMENTS

Subrecipient shall maintain adequate personal injury and property damage liability insurance or, if Subrecipient is a unit of local government, shall maintain sufficient reserves to protect against the hazards arising out of or in connection with the performance of this Contract. Subrecipient is encouraged to obtain pollution occurrence insurance in addition to the general liability insurance. Generally, regular liability insurance policies do not provide coverage for potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. Subrecipient should review existing policies to determine if lead contamination is covered. If it is not, Subrecipient should consider securing adequate coverage for all units to be weatherized. Additional liability insurance costs may be paid from administrative or program support categories. The Department strongly recommends the Subrecipient require their contractors to carry pollution occurrence insurance to avoid being liable for any mistakes the contractors may make. Each agency should get a legal opinion regarding the best course to take for implementing the pollution occurrence insurance coverage.

If Subrecipient is not a unit of local government, Subrecipient shall provide Department with certificates of insurance evidencing Subrecipient's current and effective insurance coverage. Subrecipient agrees to notify the Department immediately upon receipt of notification of the termination, cancellation, expiration, or modification of any insurance coverage or required policy endorsements. Subrecipient agrees to suspend the performance of all work performed under this Contract until Subrecipient satisfies the coverage requirements and obtains the policy endorsements, and has delivered to Department certificates of insurance evidencing that such coverage and policy endorsements are current and effective, and has been notified by Department that such performance of the work under this Contract may recommence. Subrecipients must also require all contracting independent subcontractors to have general liability insurance. Subrecipients' insurance must cover the pollution occurrence insurance coverage for their independent subcontractors or the independent subcontractors must obtain the coverage.

SECTION 20. LITIGATION AND CLAIMS

Subrecipient shall give Department immediate written notice of any claim or action filed with a court or administrative agency against Subrecipient and arising out of the performance of this Contract or any subcontract hereunder. Subrecipient shall furnish to Department copies of all pertinent papers received by Subrecipient with respect to such action or claim.

SECTION 21. TECHNICAL ASSISTANCE AND MONITORING

Department or its designee may conduct on and off-site monitoring and evaluation of Subrecipient's compliance with the terms of this Contract. Department's monitoring may include a review of the efficiency, economy, and efficacy of Subrecipient's performance. Department will notify Subrecipient in writing of any deficiencies noted during such monitoring. Department may provide training and technical assistance to Subrecipient in correcting the deficiencies noted. Department may request corrective action to remedy deficiencies noted in Subrecipient's accounting, personnel, procurement, and management procedures and systems in order to comply with State or Federal requirements. Department may conduct follow-up visits to review the previously noted deficiencies and to assess the Subrecipient's efforts made to correct them. Repeated deficiencies may result in disallowed costs. Department may terminate or suspend this Contract or invoke other remedies Department determines to be appropriate in the event monitoring reveals material deficiencies in Subrecipient's performance, or Subrecipient fails to correct any deficiency within a reasonable period of time, as determined by the Department. Department or its designee may conduct an ongoing program evaluation throughout the Contract Term.

SECTION 22. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been authorized by Subrecipient to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to all terms, provisions and performances herein.
- C. Department shall have the right to suspend or terminate this Contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this Contract on behalf of Subrecipient, to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received for performance of the provisions of this Contract, if the Department has terminated this Contract for reason enumerated in this Section 22.

SECTION 23. COMPLIANCE WITH LAWS

- A. FEDERAL, STATE AND LOCAL LAW. Subrecipient shall comply with the WAP Act, WAP Regulations, any applicable Office of Management and Budget (OMB) Circulars, the Texas DOE WAP State Plan; the WAP State Rules, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. DRUG-FREE WORKPLACE ACT OF 1988. The Subrecipient affirms by signing this Contract that it is implementing the Drug-Free Workplace Act of 1988.
- C. PRO-CHILDREN ACT OF 1994. Subrecipient shall follow the requirements of the Pro-Children Act of 1994, (20 U.S.C. Sec. 6081 et seq.) which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.
- D. LIMITED ENGLISH PROFICIENCY (LEP). Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

SECTION 24. PREVENTION OF FRAUD AND ABUSE

- A. Subrecipient shall establish, maintain, and utilize internal control systems and procedures sufficient to prevent, detect, and correct incidents of waste, fraud, and abuse in the WAP and to provide for the proper and effective management of all program and fiscal activities funded by this Contract. Subrecipient's internal control systems and all transactions and other significant events must be clearly documented and the documentation made readily available for review by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the weatherization program. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse. Subrecipient shall immediately notify the Department of any identified instances of waste, fraud, or abuse.
- C. Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this Contract or of any law or regulation to Department or to any appropriate law enforcement authority, if the report is made in good faith.

SECTION 25. CERTIFICATION REGARDING UNDOCUMENTED WORKERS

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient certifies that it, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a(f), Subrecipient shall repay the public subsidy with interest, at a rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

SECTION 26. CONFLICT OF INTEREST/NEPOTISM

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award.
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.
- D. Subrecipients who are local governmental entities shall, in addition to the requirements of this Section, follow the requirements of Chapter 171 of the Local Government Code regarding conflicts of interest of officers of municipalities, counties, and certain other local governments.
- E. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.

SECTION 27. POLITICAL ACTIVITY PROHIBITED

- A. Funds provided under this Contract shall not be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. Funds provided under this Contract may not be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.

SECTION 28. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

- A. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- C. Subrecipient will include the substance of this Section 28 in all subcontracts.

SECTION 29. CERTIFICATION REGARDING CERTAIN DISASTER RELIEF CONTRACTS

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Subrecipient hereby certifies that it is eligible to participate in this Program and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

SECTION 30. TRAINING AND TECHNICAL ASSISTANCE FUNDS

A. Training and technical assistance funds shall be used for State sponsored, DOE sponsored, and other relevant workshops and conferences provided the agenda includes topics directly related to administering WAP in accordance with §5.532 of the WAP State Rules.

B. Travel funds are to be used only for Department-approved training events. Subrecipient shall adhere to OMB Circular A-122 and either its board-approved travel policy, or in the absence of such a policy, the State of Texas travel policies.

SECTION 31. MAINTENANCE OF EFFORT

Funds provided to Subrecipient under this Contract may not be substituted for funds or resources from any other source, nor may they in any way serve to reduce the funds or resources, which would have been available to or provided through Subrecipient, had this Contract never been executed.

SECTION 32. DEBARRED AND SUSPENDED PARTIES

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not make any award provided by this Contract to any party which is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the EPLS at <http://www.epls.gov/> or by collecting a certification form from the potential subcontractor.

SECTION 33. NO WAIVER

Any right or remedy given to Department by this Contract shall not preclude the existence of any other right or remedy; neither shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

SECTION 34. ORAL AND WRITTEN AGREEMENTS

- A. All oral and written agreements between the Parties relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
 - 1. Exhibit A, Budget and Performance Statement
 - 2. Exhibit B, Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements
 - 3. Exhibit C, PRWORA Requirements
 - 4. Exhibit D, Documentation of Disability

SECTION 35. SEVERABILITY

If any section or provision portion of this Contract is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

SECTION 36. HISTORICAL PRESERVATION

Prior to the expenditure of Federal funds to alter any structure or site, the Subrecipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470) (NHPA). The Department has provided guidance through the Memorandum of Understanding with the Texas Historical Commission posted on the Department's website under the Plans and Agreements section at <http://www.tdhca.state.tx.us/recovery/detail-wap.htm#plans>.

SECTION 37. USE OF ALCOHOLIC BEVERAGES

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

SECTION 38. APPEALS PROCESS

In compliance with the WAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner, according to §5.505 of the WAP State Rules.

SECTION 39. FORCE MAJURE

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

SECTION 40. TIME IS OF THE ESSENCE

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

SECTION 41. COUNTERPARTS AND FACSIMILIE SIGNATURES

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

SECTION 42. NUMBER, GENDER

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

SECTION 43. NOTICE

A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

As to Department:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P.O. Box 13941
Austin, Texas 78711-3941
Attention: Michael De Young
Telephone: (512) 475-2125
Fax: (512) 475-3935
E-mail address: michael.deyoung@tdhca.state.tx.us

As to Subrecipient:

Travis County
PO Box 1748
Austin, TX 78767
Attention: Sherri Fleming, County Executive
Telephone: (512) 854-4100 Fax: (512) 279-1608 Email: sherri.fleming@co.travis.tx.us

B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 43.

SECTION 44. VENUE AND JURISDICTION

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on : 4/1/2012

Travis County

a political subdivision of the State of Texas

BY: Samuel T. Biscoe, Travis County Judge on _____ Date _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

a public and official agency of the State of Texas

By:

Title: Its duly authorized officer or representative

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NUMBER 56120001492 FOR THE 2012
DOE WEATHERIZATION ASSISTANCE PROGRAM (CFDA# 81.042)
EXHIBIT A

BUDGET AND PERFORMANCE DOCUMENT

Travis County
a political subdivision of the State of Texas

DEPARTMENT FINANCIAL OBLIGATIONS

\$ 59,971.00	LIHEAP FUNDS CURRENTLY AVAILABLE
\$ 500.00	TRAINING & TECHNICAL ASSISTANCE FUNDS CURRENTLY AVAILABLE
\$ 59,971.00	TOTAL ANTICIPATED LIHEAP FUNDS
\$ 500.00	TOTAL ANTICIPATED TRAINING & TECHNICAL ASSISTANCE FUNDS

Additional funds may be obligated via Amendment(s). Funds may only be obligated and expended during the current Contract Term. Unexpended fund balances will be recaptured.

BUDGET FOR AVAILABLE ALLOCATIONS

1

CATEGORIES	FUNDS
² Administration	\$ 5,997.00
Liability / Pollution Occurrence Insurance	\$ 5,408.00
Fiscal Audit	\$ 800.00
³ Materials / Program Support / Labor	\$ 38,213.00
⁴ Health and Safety	\$ 9,553.00
SUB-TOTAL	\$ 59,971.00
⁵ Training and Technical Assistance	\$ 500.00
TOTAL	\$ 60,471.00

FOOTNOTES TO BUDGET FOR AVAILABLE ALLOCATIONS:

¹ Denotes that the Subrecipient must request in writing any adjustment needed to a budget category before TDHCA will make any adjustments to the budget categories. The only categories that can be reduced are the Administration, Insurance, Fiscal Audit and/or in the Health and Safety categories. Subrecipients are limited to two (2) requested budget revisions during the current Contract Term. Only those written request(s) from the subrecipients received at least 90 days prior to the end of the Contract Term will be reviewed. TDHCA may decline to review written requests received during the final 90 days of the Contract Term.

² Denotes maximum for administration based on 10.00% of total allowable expenditures.

³ Denotes \$2,000 for liability insurance and the remaining balance for pollution occurrence insurance.

⁴ Denotes the maximum allowed for Health and Safety expenditures.

⁵ Department approved training / travel only.

PERFORMANCE

Subrecipient's service area consists of the following Texas counties:

TRAVIS

Subrecipient shall provide weatherization program services sufficient to expend the Contract funds during the Contract Term. WAP costs per unit, excluding health and safety expenses, shall not exceed \$6,769.00 without prior written approval from the Department.

By signing this Contract the parties expressly understand and agree to the terms set forth word for word therein. This Contract shall be binding upon the parties hereto and their respective successors and assigns.

Effective Date of Budget: 4/1/2012

Travis County

BY: Samuel T. Biscoe, Travis County Judge on _____ Date
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

By:

This Contract is not effective unless signed by the Executive Director of the Department or their authorized designee.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 56120001492 FOR THE 2012
DOE WEATHERIZATION ASSISTANCE PROGRAM (CFDA# 81.042)
EXHIBIT B

CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

Travis County
a political subdivision of the State of Texas

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Travis County
a political subdivision of the State of Texas

By:

Title:

Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 56120001492 FOR THE FY 2012
DOE WEATHERIZATION ASSISTANCE PROGRAM (CFDA # 81.042)
EXHIBIT C

PRWORA REQUIREMENTS

Travis County ,
a political subdivision of the State of Texas

If an individual is applying for WAP funds, a subrecipient must verify that the individual applying for WAP funds is a qualified recipient for funding under the Personal Responsibility and Work Opportunity Act of 1996, ("PRWORA"), Pub. L. 104-193, 110 Stat. 2105, codified at 8 U.S.C. § 1601 et. seq., as amended by the Omnibus Appropriations Act, 1997, Pub. L. 104-208.

To ensure that a non-qualified applicant does not receive "federal public benefits," a unit of general purpose government that administers "federal public benefit programs" is required to determine, and to verify, the individual's alienage status before granting eligibility. 8 U.S.C. §1642 (a) and (b). Subrecipient must use the SAVE verification system to verify and document qualified alien eligibility.

An exception to the requirement of verification of alienage status applies when the applicant's eligibility is determined by a non-profit charitable organization. To be eligible for this exemption, an organization must be both "nonprofit" and "charitable." An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its member or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" should be interpreted in its generally accepted legal sense as developed by judicial decisions. It includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously-affiliated organizations and educational organizations. Federal Register on November 17, 1997 at 62 Fed. Reg. 61344.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 56120001492 FOR THE FY 2012
DOE WEATHERIZATION ASSISTANCE PROGRAM (CFDA # 81.042)
EXHIBIT D

DOCUMENTATION OF DISABILITY

Travis County ,
a political subdivision of the State of Texas

1. All WAP repairs, purchases and/or replacements of heating/cooling units are allowable only for eligible units for which a whole house assessment has been completed and either health and safety issues documented or an Energy Audit showing a Savings-to-Investment Ratio of 1 or greater for the repair, purchase and/or replacement has been completed. No other reason for repair, purchase and/or replacements, including medical reasons, shall be accepted. Under NO CIRCUMSTANCES should clients' medical information be collected or kept by Subrecipients.
2. Documentation of Disability must NOT include documentation from a medical professional such as a doctor's letter, but only other forms of documentation of disability such as Social Security or a Supplemental Security Income statement, and shall be kept in client's file to validate eligibility.



TRAVIS COUNTY FY 13 GRANT SUMMARY SHEET

Check One:	Application Approval: <input type="checkbox"/>	Permission to Continue: <input type="checkbox"/>
	Contract Approval: <input checked="" type="checkbox"/>	Status Report: <input type="checkbox"/>
Check One:	Original: <input checked="" type="checkbox"/>	Amendment: <input type="checkbox"/>
Check One:	New Grant: <input type="checkbox"/>	Continuation Grant: <input checked="" type="checkbox"/>
Department/Division:	1580110001	
Contact Person/Title:	Lisa Sindermann / Financial Analyst Lead	
Phone Number:	854-4594	

Grant Title:	Atmos Energy Share the Warmth		
Grant Period:	From: <input type="text" value="Nov 1, 2012"/>	To: <input type="text" value="Oct 31, 2013"/>	
Fund Source:	Federal: <input type="checkbox"/>	State: <input type="checkbox"/>	Local: <input checked="" type="checkbox"/>
Grantor:	Atmos Energy Corporation		
Will County provide grant funds to a sub-recipient?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
Are the grant funds pass-through from another agency? If yes, list originating agency below.	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
Originating Grantor:			

Budget Categories	Grant Funds	County Cost Share	Budgeted County Contribution #595010 (Cash Match)	In-Kind	TOTAL
Personnel:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Operating:	\$ 11,870	\$ 0	\$ 0	\$ 0	\$ 11,870
Capital Equipment:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Indirect Costs:	\$ 1,318	\$ 0	\$ 0	\$ 0	\$ 1,318
Totals:	\$ 13,188	\$ 0	\$ 0	\$ 0	\$ 13,188
FTEs:	0.00	0.00	0.00	0.00	0.00

Permission to Continue Information					
Funding Source (Cost Center)	Personnel Cost	Operating Cost	Estimated Total	Filled FTE	PTC Expiration Date
	\$ 0	\$ 0	\$ 0	0.00	

Department	Review	Staff Initials	Comments
County Auditor	<input checked="" type="checkbox"/>	JM	
County Attorney	<input checked="" type="checkbox"/>	MEG	

Performance Measures					
#	Measure	Actual FY 11 Measure	Projected FY 12 Measure	Projected FY 13 Measure	Projected FY 14 Measure
+ - Applicable Departmental Measures					
1.	Number of individuals receiving utility assistance	28,358	15,000	15,000	15,000
2.					
3.					
+ - Measures for the Grant					
1.	Number of Households receiving Share the Warmth assistance	131	131	131	131
Outcome Impact Description		Utility assistance provided by this program is to address a household energy crisis situation. This program's funding is to provide assistance to Atmos Energy customers only.			
2.					
Outcome Impact Description					
3.					
Outcome Impact Description					

PBO Recommendation:

Health and Human Services and Veterans Service has submitted a request to approve the annual contract to continue the Share the Warmth Program with the Atmos Energy Corporation. The grant provides utility assistance for those qualified households needing assistance with their Atmos Energy natural gas bills. The estimated award is \$13,188 and will serve 131 households.

For the first time, this grant includes an indirect cost allocation of \$1,318 for administrative costs.

There is no County match or long term commitment requirements of the program. PBO recommends approval to continue the existing program.

1. Brief Narrative - Summary of Grant: What is the goal of the program? How does the grant fit into the current activities of the department? Is the grant starting a new program, or is it enhancing an existing one?

The funds given for this assistance program will provide needed assistance to customers of Atmos Energy experiencing an energy crisis. Those qualified must be natural gas utility customers of this company. Atmos Energy serves natural gas customers in the northeast portion of the County. The department will use this program funding along with the other utility assistance program funds to provide utility assistance to those in need during times of greatest household energy burden.

2. Departmental Resource Commitment: What are the long term County funding requirements of the grant?

No additional funds are required.

3. County Commitment to the Grant: Is a county match required? If so, how does the department propose to fund the grant match? Please explain.

There is no commitment by the Commissioners Court to fund these services if funds are discontinued.

4. Does the grant program have an indirect cost allocation, in accordance with the grant rules? If not, please explain why not.

The program does allow for indirect cost allocations in the amount of 10% of the funding we receive for the program. This is the first year the funding source has given an administrative costs allocation to the program. In years past all of the funds received from Atmos Energy were dedicated to direct services.

5. County Commitment to the Program Upon Termination of the Grant: Will the program end upon termination of the grant funding: Yes or No? If No, what is the proposed funding mechanism: (1) Request additional funding or (2) Use departmental resources. If (2), provide details about what internal resources are to be provided and what other programs will be discontinued as a result.

Yes

6. If this is a new program, please provide information why the County should expand into this area.

N/A

7. Please explain how this program will affect your current operations. Please tie the performance measures for this program back to the critical performance measures for your department or office.

Travis County Health and Human Services and Veterans Service Family Support Services division staff will perform client eligibility interviews with clients seeking utility assistance provided by this program and the other programs available through the department. This program funds utility assistance for qualified customers of Atmos Energy who are experiencing an energy crisis with the Atmos Energy natural gas bills. Funding from this program is sometimes used in conjunction with other program funding the department receives, and makes an impact on the number of requests that can be met by the department for utility assistance from Travis County residents.



**TRAVIS COUNTY HEALTH and HUMAN SERVICES
and VETERANS SERVICE**

100 North I.H. 35
P. O. Box 1748
Austin, Texas 78767

Sherri E. Fleming
County Executive
(512) 854-4100
Fax (512) 854-4115

DATE: November 1, 2012

TO: MEMBERS OF THE COMMISSIONERS COURT

FROM: *Sherri E. Fleming*
Sherri E. Fleming, County Executive
Travis County Health and Human Services and Veterans Service

SUBJECT: Acceptance of 2012 Atmos Energy Share the Warmth Program Contract

Proposed Motion: Consider and take appropriate action to approve the contract with Atmos Energy Corporation for the Share the Warmth Program for 2012.

Summary and Staff Recommendation: Staff requests the acceptance of this contract from Atmos Energy Corporation. Atmos Energy had established the fund to which charitable contributions are made for the use of assistance to eligible households under the Share the Warmth Program. From this fund, Atmos Energy Corporation will forward quarterly allocations to Travis County. The estimated total allocation will be \$11,870, this is based on the allocations that we have received for the program in the past program year. The department will use this funding to provide utility assistance for those qualified households needing assistance with their Atmos Energy natural gas bills.

Budgetary and Fiscal Impact: We are able to use the Share the Warmth funds for direct service costs and also 10% of the allocation will be for administrative costs. These funds will be budgeted in an indigent utility assistance GL account specific for this grant fund. No matching funds are required for this contract. The contract period will begin November 1, 2012. The contract has a term of one year from the effective date. The contract agreement will renew automatically for successive one year periods. The contract will terminate upon receipt of a written notice from either party requesting the termination.

Issues and Opportunities: The funds given by this program are a means to provide needed assistance to persons in financial distress who need to meet their energy related costs. Those

qualified must be Travis County residents and natural gas utility customers of Atmos Energy Corporation. The Atmos Energy service area is located in the northeast portion of Travis County. Within the last program year, the department has assisted 131 households with funds provided by this program.

cc: Leslie Browder, County Executive, Planning and Budget Office
Diana Ramirez, Budget Analyst Sr., Planning and Budget Office
Nicki Riley, CPA, Travis County Auditor
Jose Palacios, Chief Assistant County Auditor
Jessie Mars, Auditor Analyst III, County Auditors Office
Cyd Grimes, CPM, Travis County Purchasing Agent
Mary Etta Gerhardt, Assistant County Attorney
Jim Lehrman, Social Services Director, Family Support Services



SHARING THE WARMTH AGREEMENT

This Sharing the Warmth Agreement ("Agreement"), including all exhibits (A, B, C) is made and entered into as of the 1st day of November 2012, ("Effective Date") by and between Atmos Energy Corporation, a Texas and Virginia corporation ("Atmos Energy") and Travis County, a political subdivision of the State of Texas ("Agency").

BACKGROUND:

Atmos Energy and Agency recognize the need for providing charitable assistance to persons in financial distress to meet energy related costs essential to their health and welfare.

Atmos Energy has developed the Sharing the Warmth Program ("Sharing the Warmth") as a supplement to government and community aid programs designed to assist persons in financial distress pay their natural gas bill from Atmos Energy.

Agency is organized, inter alia, to provide charitable assistance to persons in financial distress, and Agency recognizes that Sharing the Warmth is a program for providing charitable assistance to individuals.

Atmos Energy will act merely as a conduit for contributions made by others so that Agency and such other nonprofit charitable organizations can use and apply such contributions for the charitable purposes of the Sharing the Warmth Program in meeting the needs of the poor, disabled, sick and disadvantaged for gas service.

AGREEMENT:

In consideration of the mutual covenants hereinafter set forth, Atmos Energy and Agency hereby agree as follows:

1. Sharing the Warmth

Agency acknowledges that Atmos Energy has established Sharing the Warmth and that said program is funded by voluntary contributions from Atmos, its customers, employees and third parties. Agency further acknowledges that the policies and procedures governing the collection and the disbursement of the funds contributed to Sharing the Warmth (the "**Sharing the Warmth Funds**") shall be established and may be modified by Atmos Energy from time to time (with written notice to Agency), provided that Sharing the Warmth Funds shall always be disbursed to one or more Agencies, and shall never be retained by Atmos for any other purpose.

2. Funds

Any Sharing the Warmth Funds obtained by Atmos Energy are deemed to be collected on behalf of one or more Agencies for the purposes described above. Atmos Energy will act merely as a conduit for contributions made by others so that Agency and such other nonprofit charitable organizations can use and apply such contributions for the charitable purposes of the Sharing the Warmth Program.

3. Fund Guidelines

The Agency shall have the sole right to determine who receives the Sharing the Warmth Funds (such person being a "Beneficiary") subject, however, to the terms of this Agreement, including but not limited to Exhibit "C," "Terms of Service Agreement," and the following conditions and restrictions:

3.1 Although a Beneficiary does not have to meet federal poverty income guidelines in order to be eligible to receive Sharing the Warmth Funds, such Beneficiary shall be a person experiencing financial hardship as determined by Agency guidelines.

3.2 A Beneficiary must be the named person or full-time resident on the Atmos gas account for which assistance is being requested.

3.3 Sharing the Warmth Funds may only be used to pay Atmos Energy natural gas bills, which may include, without limitation, customary monthly charges, past due amounts, late fees, and service charges.

3.4 Sharing the Warmth Funds may also be used to replace or repair the main customer owned natural gas supply line(s) necessary to provide safe operation and restore services.

3.5 A Beneficiary will not be entitled to receive Sharing the Warmth Funds unless the Beneficiary has executed an information release form granting Atmos Energy the right to share Beneficiary's payment history, account balance and other information with Agency and other parties. The release described above will be in the form attached hereto as Exhibit "B," "Agreement Concerning Use of Account Information and Release of Atmos Energy Corporation," and all original executed copies shall be kept on file at the offices of Agency.

3.6 **All information received by Agency from Atmos Energy with respect to a Beneficiary (including, without limitation, payment history, account balance, address and personal information) shall be treated as confidential information and shall not be disclosed to any third party, other than as may be required by law or pursuant to the Release included in this Agreement.**

3.7 Upon receipt by Agency of Atmos Sharing the Warmth Funds, Agency will utilize such funds in accordance with this Agreement, including but not limited to this Section 3.7 and Exhibit "A," "Schedule of Payment:"

- (a) Deposit said funds in the appropriate line item;
- (b) Deduct ten percent (10%) of the total amount to be use by Agency for reimbursement of administrative costs of the program;
- (c) Retain the remaining amount in the budget for the program administered pursuant to this Agreement;
- (d) Provide payment to Atmos in the amount determined to be payable on the account of an eligible beneficiary.

4. Sharing the Warmth Report

4.1 Atmos Energy has developed a Web-based program to allow Agency and other charitable programs to pledge Sharing the Warmth Funds and other state and federal funds to a particular Beneficiary's account. The address of such website is: <http://www.atmosenergy.com/>. Agency shall use the Web-based program, or other method as approved by Atmos, to pledge and

thereafter remit funds to Atmos Energy in accordance with the rules established from time to time by Atmos Energy with respect to such program.

4.2 In the event Atmos Energy ceases to use the Web-based program for any reason, Agency agrees to complete a Sharing the Warmth Report in the form and content provided by Atmos (the "**Sharing the Warmth Report**") for each month during the term of this Agreement. The Sharing the Warmth Report shall be sent to Atmos Energy no later than the tenth (10th) day of the month following the month for which the report was prepared. Atmos may from time to time amend the form, content and information requested in the Sharing the Warmth Report by providing thirty (30) day advance written notice to Agency. The monthly report is not required during periods when Agency does not have Sharing the Warmth Funds available to disburse to Beneficiaries.

5. Sharing the Warmth File

Agency will maintain a file and record of each and every transfer of Sharing the Warmth Funds. Such file shall contain, without limitation, the following:

5.1 A copy of all checks evidencing monies received from Atmos Energy or third parties or in conjunction with Sharing the Warmth; and

5.2 A copy of each completed Sharing the Warmth Report or a record of the amounts pledged on the Web-based program, as applicable.

6. Right to Audit

Atmos Energy and its designated agents, representatives, accountants and attorneys shall have full access, at all reasonable times, to the properties, books and records of Agency related to this Agreement for examination of Agency's administration of Sharing the Warmth Funds and compliance with Section 7 below; provided however, this Section shall not be interpreted as granting Atmos Energy the right to control how Agency determines which Beneficiaries will be entitled to receive Sharing the Warmth Funds or how Agency governs its day to day business.

7. Compliance with Codes

Agency represents and warrants that either:

7.1 It is a state, county, or municipal agency whose function includes providing energy assistance to low income individuals (for example, Comprehensive Energy Aid Programs, LIHEAP or CEAPs); or

7.2 It is and shall continue to be during the term of this Agreement an organization described in Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may be amended from time to time (the "**Code**"), is exempt from federal income taxes under Section 501(a) of the Code, and contributions to Agency are deductible from federal income taxes of the donor, within limits and guidelines of Section 170 of the Code. Agency covenants and agrees that it will take no action or omit to perform any act that will prejudice its status under said provisions of the Code.

Agency will immediately notify Atmos Energy if at any time during the term of this Agreement any of the representations made in this Section cease to be true.

8. Non-exclusive Agreement

Agency acknowledges that Atmos Energy may enter into one or more agreements with other charitable organizations, including charitable organization located within Agency's service area, pursuant to which such organization will be eligible to participate in Sharing the Warmth.

9. Term and Termination

The term of this Agreement is for one year beginning on the Effective Date and ending one year thereafter. This Agreement shall automatically renew for successive one year periods. Either Agency or Atmos Energy may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party.

10. Miscellaneous

10.1 Governing Law. This Agreement will be governed by the laws of the State of Texas without regard to conflicts of laws principles, and that any lawsuit, litigation or dispute arising out of or relating to this Agreement.

10.2 Waiver. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by either party in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege. No single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of such party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement.

10.3 Binding Effect; Delegation of Duties Prohibited. This Agreement inures to the benefit of, and is binding upon, the parties hereto and their respective successors, assigns, heirs and legal representatives, including any entity with which the Atmos Energy may merge or consolidate or to which all or substantially all of its assets may be transferred. The duties and covenants of the Agency under this Agreement, being personal, may not be delegated.

10.4 Notices. Whenever it is provided in this Agreement that any notice, demand, request, consent, approval, declaration or other communication be given to or served upon any of the parties by another, such notice, demand, request, consent, approval, declaration or other communication will be in writing and will be deemed to have been duly given (i) when received if personally delivered, (ii) when transmitted if transmitted by telecopy (except that telecopies transmitted after 5:00 p.m. in the recipient's time zone will be deemed delivered the next business day), electronic or digital transmission method, (iii) the business day after it is sent, if sent for next business day delivery to a domestic address by a nationally recognized overnight delivery service (i.e. Federal Express) and (iv) three business days after it is sent, if sent by certified or registered mail, return receipt requested. In each case notice will be sent to:

If to Atmos Energy:
Atmos Energy Corporation
Attn: Sharing the Warmth Program
P.O. Box 650205
Dallas, TX 75265-0205

If to Agency:

Sherri E. Fleming, County Executive
Travis County Health, Human Services and Veterans Service
P. O. Box 1748
Austin, Texas 78767

or at such other address as the intended recipient will from time to time designate by written notice delivered in accordance herewith.

10.5 Entire Agreement; Amendments. This Agreement contains the entire agreement between the parties with respect to subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the parties hereto with respect to the subject matter hereof. This Agreement may not be amended orally, but only by an agreement in writing signed by each of the parties hereto. It is acknowledged by Atmos that no officer, agent, employee or representative of Agency other than the Travis County Commissioners Court has any authority to sign any document or make any agreement obligating Agency.

10.6 Section Headings and Construction. The headings of Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Section" refer to the corresponding Section of this Agreement unless otherwise specified. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

10.7 Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

10.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

10.9 Attachments. The attachments enumerated and denominated below are hereby made a part of this Contract, and constitute promised performances by Contractor in accordance with all terms of this Contract.

- (a) Exhibit A – Schedule of Payment
- (b) Exhibit B – Agreement Concerning Use of Account Information and Release of Atmos Energy Corporation
- (c) Exhibit C – Terms of Service Agreement

10.10 Immunity or Defense. It is expressly understood and agreed by Agency and Atmos that, neither the execution of this Agreement, nor any conduct of any representative of Agency relating to this contract, shall be considered to waive, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit.

10.11 Independent Contractor. Atmos and Agency agree that the parties enter into this agreement as independent contractors and that each assumes all of the rights, obligations and liabilities applicable to that party as an independent contractor.

10.12 Public Purpose. By execution of this Agreement, Commissioners Court hereby finds that the issues, problems and needs to be addressed by the services to be provided under the terms of this agreement constitute a significant public concern impacting members of the indigent population which the County serves, and that services provided under this agreement will further the public purpose of addressing those health and human services issues, problems and needs.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date above first written above.

ATMOS ENERGY CORPORATION

a Texas and Virginia corporation

Energy Assistance Program Manager

TRAVIS COUNTY THROUGH
TRAVIS COUNTY HEALTH AND
HUMAN SERVICES

a
Political Subdivision of the State of Texas

BY: _____
Samuel T. Biscoe
Travis County Judge

Exhibit

A

**Schedule of
Payment to
Administer the
Sharing the Warmth Program**

In consideration for the strict adherence to the terms and conditions of the Agreement and subject to the Agency performance of the work set forth in the Agreement, to the satisfaction of Atmos Energy Corporation's authorized representative, Atmos Energy agrees to compensate the Agency in the following manner.

Upon receipt of funds for utility bill assistance from Atmos Energy, The Agency will retain ten (10) percent of those amounts to offset its costs of administering utility bill assistance activities specific to Atmos Energy. The remaining ninety (90) percent of funds received shall be returned to Atmos Energy for application to customers' accounts as directed by the Agency, specifically as provided under Section 3.7 of this Agreement.

Exhibit B
Agreement Concerning the Use of Account Information
And
Release of Atmos Energy Corporation

Sharing the Warmth Program

You have requested financial assistance from an agency (an "Agency") that participates in the Sharing the Warmth program (the "Program") sponsored by Atmos Energy Corporation ("Atmos Energy"). Your eligibility to obtain financial assistance from the Program (the "Sharing the Warmth Funds") is conditioned upon your acceptance of the terms and conditions contained or referenced in this agreement (the "Agreement"). Please read this Agreement carefully.

Sharing of Customer Information

By accepting the terms of this Agreement, you are authorizing Atmos Energy to share your customer information with an Agency to facilitate the pledge of Sharing the Warmth Funds to your Atmos Energy account. The customer information that Atmos Energy will share with an Agency may include your current and former name(s), account number, payment history, street address, gas usage, and any other information Atmos Energy may have in its possession. This may include information that you consider confidential or private. All Customer information referred to in the preceding sentence is defined as the "Customer Information."

Release and Indemnity

YOU AGREE TO RELEASE, INDEMNIFY, DEFEND AND HOLD ATMOS ENERGY, ITS AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND AFFILIATES, AND AGENCY, ITS AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND AFFILIATES, HARMLESS FROM ALL LIABILITIES, CLAIMS AND EXPENSES, INCLUDING ATTORNEY'S FEES, FROM CLAIMS RELATING TO OR ARISING UNDER THE PROGRAM OR THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE DISCLOSURE OF YOUR CUSTOMER INFORMATION TO AN AGENCY, OR AN AGENCY'S SUBSEQUENT USE AND/OR DISCLOSURE OF YOUR CUSTOMER INFORMATION. THIS RELEASE AND INDEMNIFICATION WILL SURVIVE THE TERMINATION OF THIS AGREEMENT AND/OR THE SHARING THE WARMTH AGREEMENT.

Limitation of Liability

NEITHER ATMOS ENERGY NOR AGENCY SHALL BE LIABLE TO YOU IN ANY WAY FOR DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, ACTUAL, DIRECT, COMPENSATORY, SPECIAL, INCIDENTAL, EXEMPLARY, LOST PROFITS, LOSS OF REVENUE, AND/OR CONSEQUENTIAL DAMAGES ARISING OUT THE PROGRAM OR THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE DISCLOSURE OF YOUR CUSTOMER INFORMATION TO AN AGENCY, OR AN AGENCY'S SUBSEQUENT USE AND/OR DISCLOSURE OF YOUR CUSTOMER INFORMATION.

Reservation of Rights

Atmos Energy reserves the right to modify in part or in whole, or temporarily or permanently discontinue the Program for any reason and at anytime without notice.

Jurisdiction

This Agreement shall be construed in accordance with the laws of the state of Texas. All disputes arising from your use of this Website or under this Agreement shall be resolved in a court located in Travis County, Texas, without reference to conflict of laws or choice of laws statute.

Exhibit C - Terms of Service Agreement

Acceptance of Terms

The Sharing the Warmth website, and all of its content and services (collectively, the "Website"), are owned by Atmos Energy Corporation ("Atmos Energy"). Your use of this Website is conditioned upon your acceptance of the terms, conditions, and notices contained or referenced in this Terms of Service Agreement (the "Agreement").

Use of Website

By accepting the terms of this Agreement, you are requesting that Atmos Energy grant you access to the Website to facilitate your donation of Sharing the Warmth funds (the "Funds") to customers of Atmos Energy. The details your agreement with Atmos Energy with respect to the Funds, and the Sharing the Warmth program generally, are set forth in the Sharing the Warmth Agreement which you have signed. If you have not yet signed the Sharing the Warmth Agreement, then you nonetheless agree to be bound by its terms if you use this Website. You shall not grant any third party the right to access the Website or otherwise assign or transfer your right to use the Website.

Access to Customer Information on Website

You will, in the course of using the Website: (i) be required to provide certain information about an Atmos Energy customer ("Customer") prior to pledging Funds, such as an account number, and (ii) have access to sensitive information about a Customer, including payment history and street address. All Customer information referred to in the preceding sentence is defined as the "Customer Information." You certify that the Customer has authorized you to access and obtain the Customer Information. You further certify and warrant that any Customer Information that you obtain through the Website will be used solely for the Sharing the Warmth program, will not be disclosed to any other person, and will be treated as confidential information.

Disclaimer of Warranties

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